

PENNSYLVANIA BULLETIN

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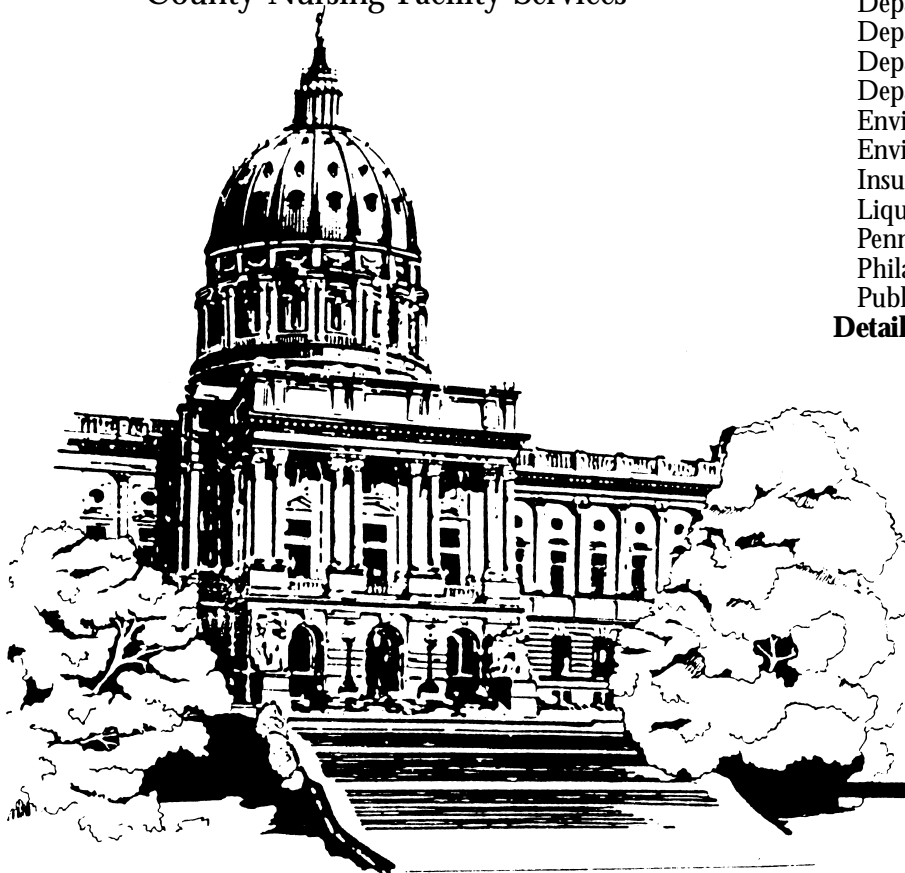
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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

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 2006.

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THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200]

Amendment to the Note to Rule 236(d) Governing Notice by Prothonotary of Order or Judgment; No. 457 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 12th day of June, 2006, the note to Pennsylvania Rule of Civil Procedure 236(d) is amended to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2006.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 236. Notice by Prothonotary of Entry of Order or Judgment

* * * * *

(d) The prothonotary may give the notice required by subdivision (a) or notice of other matters by facsimile transmission or other electronic means if the party to whom the notice is to be given or the party's attorney has filed a written request for such method of notification or has included a facsimile or other electronic address on a prior legal paper filed in the action.

Official Note: Except as provided by subdivision (a)(1) relating to the entry of a judgment by confession, Rule 236 does not prescribe a particular method of giving notice. **Methods of notice properly used by the prothonotary include, but are not limited to, service via United States mail and courthouse mail.** Subdivision (d) governs facsimile transmission and other electronic means if the prothonotary chooses to use such a method.

* * * * *

Explanatory Comment

Rule 236 governs the notice to be given by the prothonotary of the entry of an order or judgment. The amendment to the first paragraph of the note to subdivision (d) of the rule arises from a suggestion that Rule 236 specifically provide for notice by courthouse mail, i.e., placing a copy of the order in the attorney's courthouse mailbox.

Except with respect to subdivision (a)(1) which provides for notice by "ordinary mail" of the entry of a judgment by confession, the rule "does not prescribe a particular method of giving notice." Subdivision (d) relating to notice by facsimile transmission is applicable only if the prothonotary chooses that method of notice.

Since the rule does not prescribe a particular means of notice except as to judgments entered by confession, the rule already accommodates notice by courthouse mail.

The proposed revision to the first paragraph of the note to subdivision (d) expressly states the existing availability of courthouse mail as a method of giving notice. The revision effects no change in practice or procedure.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 06-1155. Filed for public inspection June 23, 2006, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 2]

Order Amending Rule 241; No. 346 Criminal Proce- dural Rules; Doc. No. 2

Order

Per Curiam:

And Now, this 7th day of June, 2006, the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 241 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective immediately.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 2. INVESTIGATIONS

PART B(2). Statewide or Regional Investigating Grand Juries

Rule 241. Summoning Jurors for Statewide or Re- gional Investigating Grand Juries

(A) Grand Jury Having Statewide Jurisdiction:

(1) Upon receipt of an application to convene an investigating grand jury having statewide jurisdiction, the Court shall cause the Court Administrator of Pennsylvania to draw 6 counties at random from the [**statewide pool of 67 counties**] **district where the grand jury will be located**, which are to be weighted on the basis of their approximate relative populations. The 6 counties so drawn plus the county or counties to be designated as locations of the investigating grand jury, shall together supply jurors for the investigating grand jury. The Court Administrator of Pennsylvania shall establish the number of names of persons to be forwarded from each county, as provided in (A)(2), based on the approximate relative populations of the respective counties involved. The Court Administrator of Pennsylvania shall then submit this information to the Court.

* * * * *

(C) **Definitions:**

(1) "District" means the Eastern District, Middle District, and Western District.

(2) "Eastern District" consists of Berks, Bucks, Carbon, Chester, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, Susquehanna, Wayne, and Wyoming counties.

(3) "Middle District" consists of Adams, Bradford, Cameron, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Perry, Potter, Schuylkill, Snyder, Sullivan, Tioga, Union, and York counties.

(4) "Western District" consists of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland counties.

* * * * *

[Pa.B. Doc. No. 06-1156. Filed for public inspection June 23, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Adoption of Local Rule of Criminal Procedure
39—708; Administration Doc. No. CP-28-AD-2-
2006

Order of Court

May 31, 2006, the following Criminal Action Rule is adopted for the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin and Fulton County Branches: Rule 39—708, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

JOHN R. WALKER,
President Judge

Rule 39—708 Rules and Special Conditions for Probation and Parole Supervision and Procedures for Adding Special Conditions by the Probation Department Subsequent to Sentencing.

(A) The Franklin and Fulton County Probation Departments are directed and authorized to implement the following Rules and Conditions which have been approved by the Court for probation and parole supervision and which shall be standard Rules of Supervision applicable to all offenders placed under the supervision of the respective County Adult Probation Departments:

1. Rules and Special Conditions for General Supervision.

2. Rules and Conditions for House Arrest/Electronic Monitoring and Intense Supervision.

3. Rules and Conditions for the Pre-Trial Release Program which shall comply with the conditions of Pennsylvania Rules of Criminal Procedure 520 et seq.

4. Rules and Conditions for the Pre-Release Program.

Each Probation Department will be required to maintain all of the above Rules for Probation and Parole Supervision on file at the Probation Department.

From time to time the Chief Adult Probation Officer will review the Rules and Conditions and make recommendations to the Court for any updates and modifications.

Such modifications and updates must be approved by the Court. The Rules and Conditions currently in effect must be available for inspection and copying by probationers and parolees, their counsel and for any other interested parties, including the public, in general. The Probation Department is responsible for insuring that any modifications or updates approved by the Court are immediately included in the Probation Department's file of Rules and Conditions.

(B) Probationers and parolees placed under the supervision of either Franklin or Fulton County Adult Probation Department shall be subject to the Conditions of Supervision approved by the Court as described above, as well as any Special Conditions imposed by the Court at the time of sentencing or by Order of Court thereafter.

Probationers and parolees shall be subject to any Special Conditions of supervision relating to the protection of society and/or the likelihood of the defendant's success in rehabilitation and/or living as a law-abiding citizen. In the event it is necessary to add or modify Special Conditions of probation/parole subsequent to the imposition of sentence, the conditions must be approved by the Court and an appropriate Order must be entered.

Each Probation Department must provide notice to all interested parties and an opportunity to be heard unless a voluntary Waiver of these rights is obtained from the probation/parolee.

In the event Special Conditions of supervision must be added by either the Franklin or Fulton County Adult Probation Department after the imposition of sentence, the probation officer must obtain the approval of the sentencing judge. The probation/parole officer will complete the Special Conditions of Supervision Form, which notifies the defendant, in writing, of the Special Condition(s) being imposed and the reasons for imposing the conditions. The defendant may agree to the additional conditions and sign a Waiver of his right to a hearing before the Court prior to the imposition of the new conditions. In the event the defendant does not agree to the addition of Special Condition(s) after sentencing, the Probation Department will schedule the matter for a hearing before the Court and provide notice thereof to the defendant. The Special Conditions of Supervision Form must be signed by the supervising officer, a supervisor or the Chief Adult Probation Officer, in addition to the defendant. The completed form will be sent to the Sentencing Judge for review. If approved by the Judge, the Order of Court imposing the Special Condition(s) will be signed and filed with the Clerk of Courts.

[Pa.B. Doc. No. 06-1157. Filed for public inspection June 23, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 149]

Manufactured Housing Improvement Program

The Department of Community and Economic Development (Department), under section 5 of the Manufactured Housing Improvement Act (act) (35 P. S. § 1658.5), adds Chapter 149 (relating to manufactured housing improvement program). This final-form rulemaking establishes an installation standard for new manufactured homes being installed in this Commonwealth; certifies manufactured home installers; provides training to manufactured home installers and installation inspectors; ensures the construction, installation and completion of new manufactured homes is consistent with the manufacturer's Design Approval Primary Inspection Agency (DAPIA) approved designs; establishes a mechanism to verify that manufactured homes are completed and installed by a Department certified installer and are compliant with the Manufactured Home Construction and Safety Standards and applicable building codes; establishes appropriate fees for education programs, testing and certification of manufactured home installers; and establishes procedures under which the Department will issue warnings, suspensions, revocations or monetary fines for violations of the act or regulations.

Introduction

The Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426) provides for the establishment of practical, uniform and, to the extent possible, performance-based construction standards for manufactured homes. The act was passed in response to the amendments in 2000 which require each state to establish an installation program by December 27, 2005. The act requires the Department to promulgate regulations to establish an installation standard for new manufactured homes being installed in this Commonwealth, certify manufactured home installers and provide training to manufactured home installers and installation inspectors. In response to the proposed rulemaking published at 35 Pa.B. 6902 (December 24, 2005), the Department received comments from the Pennsylvania Association of Building Code Officials, Inc., the Pennsylvania Manufactured Housing Association and the Independent Regulatory Review Commission (IRRC).

The Pennsylvania Association of Building Code Officials, Inc. had concerns regarding the use of the term "building code official;" the need to test and certify inspectors; the lack of a requirement that installers obtain a Uniform Construction Code permit prior to installation of the manufactured home; lack of a requirement that installers forward the Certification of Completion to the inspector; and the possibility that inspectors could be fined.

The Pennsylvania Manufactured Housing Association had concerns regarding the lack of the issuance of a

warning prior to suspension or certification revocation, as well as the lack of clarity regarding the number and amount of any penalty.

IRRC voiced concerns regarding the lack of statutory citations in some parts of the regulation; the definition of "manufacturer's approved design;" the use of the term "should" in § 149.3(d) (relating to installation standard); the vagueness of the words "other information" in § 149.4(a)(2) (relating to installer training and certification); the need for the training provider to consult with the Department on tuition costs; the lack of clarity regarding the entity to provide the application forms for certification; the lack of clarity with respect to the training of building code officials; the lack of clarity regarding those items covered by the Certificate of Compliance; the lack of a requirement that the building code official receive a copy of the Certificate of Compliance; the inconsistency of the mechanism established to set fees; the failure of the Department to address the issuance of warnings; the lack of clarity with respect to receipt of complaints; and the lack of clarity regarding the amount and number of penalties. The Department reviewed and considered each comment in the drafting of this final-form rulemaking.

Analysis

Section 149.1 (relating to definitions) defines the terms used in the final-form rulemaking. The terms "construction code official" and "utility connections" have been deleted as neither was used in the text of the proposed rulemaking.

The Department also removed language from the definition of "manufacturer's approved design" which was substantive in nature, as suggested by IRRC.

The definition of "building code official" remains unchanged. The act clearly defines this term, which cannot be replaced by the term "construction code official," as suggested by the Pennsylvania Association of Building Code Officials, Inc.

Section 149.2 (relating to purpose) describes the purpose of the chapter, which is to establish administrative procedures for the implementation of the act. The Department deleted language from § 149.2(6) which erroneously extended the establishment of fees, testing and certification to those who inspect the installation of manufactured homes.

Section 149.3 sets forth the installation standard. This section requires the manufacturer to provide DAPIA approved designs and installation instructions for all new manufactured homes. It also provides that all new manufactured homes be installed under the manufacturer's DAPIA approved designs for the particular home. This section prohibits a building code official from rejecting a manufacturer's approved design and provides a procedure to be followed if a building code official believes a design was approved by a DAPIA in error or questions the validity of a DAPIA approved design.

Section 149.3(a) was changed to specify that a copy of the manufacturer's approved design must be provided with each home. Reference to the actual entity to which the manufacturer's approved design must be provided was deleted. The Department also changed "should" to "may" in the last sentence of § 149.3(d).

Section 149.4 sets forth the process for installer training and certification. Under this section, the Department

is required to develop or designate acceptable training curricula and approve trainers. This section requires training providers to provide the Department with a list of those successfully completing the training course along with the required fee for each participant. This section provides that the approved training curriculum will be published annually in the *Pennsylvania Bulletin* and can be obtained directly from the Department. This section provides that installer applicants must successfully complete the designated training curriculum and pay the required fee to the Department, to be certified as installers of new manufactured homes. This section establishes that certification will be valid for 1 year from the date of Department issuance and an installer will be required to successfully complete a specified training curriculum at least every 3 years. This section also permits individuals who successfully completed a Department approved training curriculum prior to the effective date of this chapter to be certified initially without taking additional training curriculum.

Section 149.4(a)(ii) was revised to clarify that the Department may request additional information from individuals submitting training applications during the application evaluation process.

Cross references regarding fees were added to § 149.4(a)(iii) and (b)(i) as requested by IRRC. Section 149.4(b)(i) was also revised to add language specifying that the application form for installer certification would be provided by the Department.

Language in § 149.5 (relating to building code official training) that addressed the training requirements for building code officials who inspect new manufactured home installation was deleted and replaced with language which more closely resembles § 149.4(a). Under this section, the Department is required to develop or designate acceptable training curricula and approve trainers. This section requires training providers to provide the Department with a list of individuals successfully completing the training course and provide a certificate of course completion to the course participant. This section also provides that the approved training curriculum will be published annually in the *Pennsylvania Bulletin* and can be obtained directly from the Department. Unlike § 149.4(a), there are no required fees and no requirement that the building code official submit any paperwork to the Department. As in the proposed rulemaking, building code officials must successfully complete a Department approved course or workshop and must do so every 3 years to continue inspecting new manufactured home installations. This section also provides that the Department will accept a copy of a written certificate signed by the training provider as evidence that the building code official has complied with the training requirements established in this section.

Section 149.6 (relating to Certificate of Compliance) sets forth the Certificate of Compliance process. Section 149.6(a) provides that an installer must complete a Certificate of Compliance upon completion of a new manufactured home installation. Section 149.6(a) was revised to clarify what may not be included in the Certificate of Compliance. Section 149.6(b) requires the Certificate of Compliance to be completed by the installer and forwarded to the Department within 5 calendar days of completion of the new manufactured home installation. Section 149.6(b) was revised to require the installer to forward the Certificate of Compliance to the appropriate building code official, if known. Section 149.6(c) prohibits a building code official from issuing a certificate of

occupancy for a new manufacture home, unless the building code official has received a completed copy of the Certificate of Compliance filed with the Department. Section 149.6(d) requires the new manufactured home installer to attach the original completed Certificate of Compliance to the installation instructions that remain with the home or hand deliver to the purchaser the Certificate of Compliance and installation instructions. Section 149.6(e) provides that if the manufacturer or retailer has not agreed in writing to be responsible to the purchaser for the new manufactured home installation before the execution of the sales documents, the manufacturer or retailer must provide the purchaser with a written statement that the home must be installed under § 149.3(b) and (c), and that the Certificate of Compliance must be completed and signed by an installer certified under § 149.4(b). At the same time, the manufacturer or retailer must provide the purchaser with a list of installers known to him or obtained from the Department. Section 149.6(e) also provides that by providing the list, the manufacturer or retailer does not warrant the quality of the installers' work, nor is the purchaser under any obligation to use any particular installer.

Section 149.7 (relating to fees) sets forth the types of fees to be charged by the Department under the act. Section 149.7 was revised to remove any reference to the amount of each fee and to include a provision permitting the Department to set the fee rates by publication of a notice in the *Pennsylvania Bulletin*.

Section 149.8(a) (relating to penalties) provides that the Department may suspend or revoke the certification of any person who violates the provisions of the act or the regulations or from whom the Department receives adverse performance information and sets forth the procedures for these actions. Language was added to § 149.8(a) to set forth the acceptable method of receiving complaints. Language was added to § 149.8(b) to permit the Department to issue written warnings and to set forth the requirements for these warnings. Language originally appearing in § 149.8(b) was moved to § 148.8(c). Section 148.8(c) provides that the Department may impose a civil penalty on anyone who violates the provisions of the act. The language was revised to clarify that the \$1,000 penalty which could be imposed by the Department was the amount per violation and establish that the aggregate amount of penalties on any person may not exceed \$1 million.

Fiscal Impact

Commonwealth. The impact upon the Commonwealth is minimal. The Department will incur costs associated with the creation, printing and processing of applications and certificates of compliance by existing Department staff. Fees generated from the regulations will be sufficient to address any additional clerical or record keeping costs to the Department.

Political subdivisions. There will be no fiscal impact on political subdivisions.

Public. Upon submission of training curricula for evaluation by the Department, training providers must submit a fee to the Department. Also, a training provider must submit a fee per enrollee. A person seeking certification as a manufactured home installer must submit an annual fee and successfully complete a designated training program every 3 years. The fees will be established by publication of a notice in the *Pennsylvania Bulletin*.

Paperwork

This final-form rulemaking requires manufactured home installers to complete an application form for submittal to the Department. Upon completion of each new home installation, a Certificate of Compliance will be submitted to the building code official, the Department and the homeowner.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 22, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 6902, to IRRC and the Chairpersons of the House Commerce Committee and the Senate Community and Economic Development Committee for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 17, 2006, the final-form rulemaking was deemed approved by the House Committee and deemed approved by the Senate Committee. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 18, 2006, and approved the final-form rulemaking.

Effective Date/Sunset Date

The regulations will become effective August 23, 2006. The regulations will be monitored on a regular basis and updated as needed.

Contact Person

For an explanation of this final-form rulemaking, contact Jill Busch, Deputy Chief Counsel, Office of Chief Counsel, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120 (717) 720-7314; or Mark Conte, Chief, Housing Standards Division, Office of Community Development, Department of Community and Economic Development, Commonwealth Keystone Building, 4th Floor, 400 North Street, Harrisburg, PA 17120, (717) 720-7416.

Findings

The Department finds that:

- (1) Public notice of intention to adopt the regulations adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) The final-form rulemaking is necessary and appropriate for the implementation of the Manufactured Housing Improvement Act Program.

Order

The Department, acting under the authorizing statute, orders that:

- (a) The regulations of the Department, 12 Pa. Code, are amended by adding §§ 149.1—149.8 to read as set forth in Annex A.
- (b) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(c) This order shall take effect August 23, 2006.

DENNIS YABLONSKY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2781 (June 3, 2006).)

Fiscal Note: Fiscal Note 4-82 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

Subpart C. COMMUNITY DEVELOPMENT AND HOUSING

CHAPTER 149. MANUFACTURED HOUSING IMPROVEMENT PROGRAM

Sec.	
149.1.	Definitions.
149.2.	Purpose.
149.3.	Installation standard.
149.4.	Installer training and certification.
149.5.	Building code official training.
149.6.	Certificate of Compliance.
149.7.	Fees.
149.8.	Penalties.

§ 149.1. Definitions.

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

Act—The Manufactured Housing Improvement Act (35 P. S. §§ 1658.1—1658.6).

Attachment—Wind storm protection accomplished by one of the following:

- (i) Securing the manufactured home to the foundation.
- (ii) An alternative system, which is approved for use by the manufacturer through its DAPIA approved design, to secure the manufactured home to the foundation.
- (iii) Other requirements of the manufacturer necessary to provide an integrated, fully compliant manufactured home.

Building code official—As defined in section 3 of the act (35 P. S. § 1658.3).

Certificate of Compliance—A form developed by the Department which bears the signature of the installer of a new manufactured home and certifies that the new manufactured home was installed in accordance with the manufacturer's approved design and complies with all nonconstruction requirements of the Uniform Construction Code, relating to the installation of a new manufactured home, which are not addressed by the Manufactured Home Construction and Safety Standards.

DAPIA—Design Approval Primary Inspection Agency as defined in the Manufactured Home Procedural and Enforcement Regulations (24 CFR 3282.361 (relating to Design Approval Primary Inspection Agency (DAPIA))).

Department—The Department of Community and Economic Development of the Commonwealth.

HUD—The United States Department of Housing and Urban Development.

Installation—As defined in section 3 of the act.

Installer—As defined in section 3 of the act.

Manufactured Home Construction and Safety Standards—As defined in section 3 of the act.

Manufactured housing or manufactured home—As defined in section 3 of the act.

Manufacturer—A person engaged in manufacturing or assembling manufactured homes, including a person engaged in importing manufactured homes for resale.

Manufacturer's approved design—

(i) As defined in section 3 of the act.

(ii) The term includes drawings, instructions, illustrations, documentation or procedures submitted by a manufacturer and approved by the manufacturer's DAPIA.

Purchaser—The first person purchasing a new manufactured home for purposes other than resale.

Retailer—A person engaged in the sale, leasing or distribution of a new manufactured home directly to a purchaser.

UCC—Uniform Construction Code—The Uniform Construction Code adopted under section 7210.301 of the Pennsylvania Construction Code Act (35 P.S. § 7210.301).

§ 149.2. Purpose.

This chapter interprets and makes specific the provisions of the act. This chapter establishes administrative procedures for the implementation of the act, which comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5404—5426) and the Manufactured Home Construction and Safety Standards. More specifically, this chapter is intended to achieve the following objectives:

(1) Designate appropriate training programs for those persons that install new manufactured homes, to provide them with a thorough understanding of manufactured home construction and to assure that the manufactured homes they install comply with the act, the Manufactured Home Construction and Safety Standards and the UCC, as applicable.

(2) Establish a system to certify those persons who successfully complete the training program as installers of new manufactured homes.

(3) Provide training for those persons who inspect new manufactured home installations under the act, the Manufactured Home Construction and Safety Standards and the UCC.

(4) Provide that new manufactured home construction, installations and completion onsite be performed in a manner consistent with the home manufacturer's DAPIA approved designs.

(5) Establish a mechanism to verify to the Department, building code officials and purchasers that new manufactured homes are completed and installed by an installer of manufactured homes who was certified by the Department and that the homes comply with the Manufactured Home Construction and Safety Standards and applicable building codes.

(6) Establish appropriate fees for the educational programs, testing and certification of installers of manufactured homes.

(7) Establish procedures for the Department to issue warnings, suspensions, revocations or monetary fines against persons who violate the act or this chapter.

§ 149.3. Installation standard.

(a) In accordance with the Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401—5426), a manufacturer of a new manufactured home shall provide a copy of the manufacturer's approved design, which includes instructions for the installation of the new manufactured home, with each home.

(b) In accordance with the Manufactured Housing Construction and Safety Standards Act of 1974, a new manufactured home shall be installed consistent with the manufacturer's approved design. The manufacturer's approved design must be current, complete, easily understood and compatible with the home being installed. The manufacturer's approved design must fully address the support, attachment, assembly and all other aspects of manufactured home construction and installation to assure that the manufactured home performs as a fully integrated structure and complies with all elements of the Manufactured Home Construction and Safety Standards.

(c) A design other than the manufacturer's approved design may not be utilized in the installation of a new manufactured home without authorization of the manufacturer and evaluation and approval by the manufacturer's DAPIA.

(d) A building code official may not reject a manufacturer's approved design for any reason, including, but not limited to, the fact that the material was not reviewed, approved, sealed or certified by an engineer, architect or similar person licensed in this Commonwealth. If a building code official believes a manufacturer's approved design was approved by a DAPIA in error, or questions the validity of a manufacturer's approved design, the building code official may contact the Department, which will investigate the matter.

§ 149.4. Installer training and certification.

(a) *Training.*

(1) The Department will develop or designate acceptable training curricula for individuals seeking certification as an installer. The Department will annually review the training curricula.

(2) Those desiring to provide training should submit an application to the Department. The application must contain the application fee, and the proposed curriculum. During the application evaluation process, the Department may request the submission of additional information from those desiring to provide training.

(3) Upon approval of a training curriculum, a training provider shall coordinate the scheduling of courses with the Department. Upon completion of each course, a training provider shall submit to the Department a list of course participants and the required fee, established in § 149.7 (relating to fees), for each participant. A training provider shall indicate on the list of course participants which participants successfully completed the course.

(4) The Department will publish annually a list of approved curriculum in the *Pennsylvania Bulletin*. Individuals seeking certification as an installer may also contact the Department to obtain a listing of the approved curriculum.

(b) *Certification.*

(1) Individuals seeking certification as an installer shall successfully complete the designated training curriculum; provide evidence of the successful completion of the designated training curriculum at the time of application; and pay the required fee, established in § 149.7, to

the Department. Application shall be made on a form provided by the Department. An individual does not qualify as and may not represent himself to be an installer until the individual has received written certification from the Department.

(2) Certification as an installer is valid for 1 year from the date of issuance by the Department. Installers shall reapply for certification each year.

(3) An installer is required to successfully complete a specified training curriculum at least every 3 years.

(4) A person who has successfully completed a training curriculum approved by the Department as described in subsection (a), prior to June 24, 2006, may apply for certification as an installer in the manner provided in this section without successfully completing an additional training curriculum. However, if the training curriculum was successfully completed more than 2 years before June 24, 2006, the applicant has 12 months to comply with subparagraph (iii).

§ 149.5. Building code official training.

(a) The Department will develop or designate acceptable workshops and training programs for those persons that inspect the installation of new manufactured homes. The Department will annually review the content of the workshops or training programs.

(b) Those desiring to provide training should submit an application to the Department. The application must contain the proposed elements that address Manufactured Housing. During the application evaluation process, the Department may request the submission of additional information from those desiring to provide training.

(c) Upon approval of a workshop or training program, a training provider shall coordinate the scheduling of workshops or training programs. Upon completion of each workshop or training program, a training provider shall submit to the Department a list of workshop or training program participants. A training provider shall indicate on the list of workshop or training program participants which participants successfully completed the workshop or training program. A training provider shall provide each participant who successfully completed the workshop or training program with a written certificate signed by the training provider. The written certificate must specify the title of the workshop or training program and the date of successful completion.

(d) The Department will publish annually a list of approved workshops and training programs in the *Pennsylvania Bulletin*. Building code officials may also contact the Department to obtain a listing of approved workshops and training programs.

(e) Building code officials who inspect the installation of new manufactured homes shall successfully complete a workshop or training program approved by the Department and shall do so every 3 years to continue inspecting the installation of new manufactured homes.

(f) The Department will accept a copy of a written certificate signed by the training provider as evidence that the building code official successfully completed a workshop or training program required under subsection (e).

§ 149.6. Certificate of Compliance.

(a) Upon completion of the installation of a new manufactured home, an installer shall complete a Certificate of Compliance. A Certificate of Compliance may not reference items that are not part of the manufacturer's

approved design or covered by the Manufactured Home Construction and Safety Standards.

(b) Within 5 calendar days of completion of the installation of a new manufactured home, the installer of the new manufactured home shall forward the Certificate of Compliance to the Department and the appropriate building code official, if known.

(c) A building code official may not issue a certificate of occupancy for a new manufactured home until he has received a completed copy of the Certificate of Compliance filed with the Department.

(d) The installer of a new manufactured home shall attach the original completed Certificate of Compliance to the installation instructions that remain with the home or hand deliver the Certificate of Compliance and the installation instructions to the purchaser.

(e) If the manufacturer or retailer has not agreed in writing to be responsible to the purchaser for the installation of the new manufactured home prior to the execution of the sales documents, the manufacturer or retailer shall provide the purchaser with a written statement that the home shall be installed as described in § 149.3(b) and (c) (relating to installation standard), and that the Certificate of Compliance shall be completed and signed by an installer certified under § 149.4(b) (relating to installation training and certification). At that same time, the manufacturer or retailer shall provide the purchaser with a list of installers known to him or obtained from the Department. By providing the list, the manufacturer or retailer does not warrant the quality of the installers' work, nor is the purchaser under any obligation to use any particular installer.

§ 149.7. Fees.

(a) The Department will charge training providers a fee for each:

(1) Curriculum evaluated by the Department payable upon submission of the application.

(2) Person registered to participate in an approved training curriculum.

(b) The Department will charge installers an annual fee for the issuance of an individual installer certification.

(c) The Department will establish the fee rates by publication of a notice in the *Pennsylvania Bulletin*.

§ 149.8. Penalties.

(a) *General.*

(1) The Department may suspend or revoke the certification of any person who violates the provisions of the act or this chapter or for whom the Department receives:

(i) Homeowner complaints.

(ii) Complaints from building code officials regarding performance of duties.

(iii) Evidence of a conviction of moral turpitude or similar crime.

(iv) Information that indicates a repeated failure to properly install manufactured homes.

(v) Evidence of fraud.

(vi) Evidence of loss of licensure or certification issued by another state or HUD.

(vii) Evidence of a violation of the Manufactured Home Procedural and Enforcement Regulations.

(2) Persons who wish to lodge a complaint with the Department may do so by any means of communication. If the complaint is made verbally, it must be followed up in writing. Before the Department suspends or revokes a certification, the Department will provide written notification to the certified person. The Department will specify in the notification the reason for the suspension or revocation and a time and place for a hearing on the matter, to be held within thirty days of notification.

(b) Prior to the issuance of written notification of suspension or revocation to the certified person, the Department may issue written warnings to the certified person. Written warnings will specify the alleged violations and may include a request for a written response to the allegations set forth in the written warnings from the certified person.

(c) Additionally, the Department may impose a civil penalty of up to \$1,000 per violation, not to exceed \$1,000,000 in the aggregate, on any person who violates the provisions of the act or this chapter. The Department may impose the penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure).

[Pa.B. Doc. No. 06-1158. Filed for public inspection June 23, 2006, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 59]

[L-00050172]

Gas Service; Safety Code

The Pennsylvania Public Utility Commission, on March 16, 2006, adopted a final rulemaking order amending § 59.33(b) (relating to safety) so that future amendments to 49 CFR Parts 191—193 and 199 are automatically adopted by the Commission.

Executive Summary

On February 3, 2005, the Commission adopted a proposed rulemaking order at L-00050172 to amend § 59.33(b) so that future amendments to the Federal pipeline safety laws can be automatically adopted by the Commission. The proposed rulemaking was published at 35 Pa.B. 6775 (December 17, 2005), with a 30-day public comment period. The Commission did not receive comments from the public concerning this rulemaking, nor did the Independent Regulatory Review Commission (IRRC) or the House and Senate Committees file comments. The final rulemaking language does not contain any changes to the proposed rulemaking language. On March 17, 2006, the Commission entered a final rulemaking order adopting the final regulation language.

Section 59.33(b) sets forth the minimum safety standards for all gas transmission and distribution facilities in this Commonwealth and provides that these safety standards are the same as those issued under the Federal pipeline safety laws in 49 U.S.C.A. §§ 60101—60503, and implemented in 49 CFR Parts 191—193 and 199. Under the current language of § 59.33(b), the Commission is required to review, ratify and publish amendments to the Federal pipeline safety regulations prior to the Commission's adoption of laws. The amendment to § 59.33(b)

removes the burdensome review and ratification requirements that unnecessarily delay the Commission's incorporation of amendments to the Federal safety standards. The rulemaking provides that any future amendments to the Federal pipeline safety regulations will result in an amendment to § 59.33(b), effective 60 days after the effective date of the Federal amendment unless the Commission determines that specific amendments should not be adopted. As a result of the rulemaking, the Commission's Gas Safety Division will eliminate several hundred hours from the amount of time it currently spends on regulatory review and approval.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 7, 2005, the Commission submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 6775 (December 17, 2005), to IRRC and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 16, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, this final-form rulemaking was deemed approved by IRRC, effective May 17, 2006.

Public Meeting held
March 16, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

Final Rulemaking Amending 52 Pa. Code § 59.33(b) (Gas Service: Safety Code); Doc. No. L-00050172

Final Rulemaking Order

By the Commission:

On February 3, 2005, the Commission adopted a proposed rulemaking order amending 52 Pa. Code § 59.33(b) (relating to safety) so that future amendments to the federal pipeline safety laws can be automatically adopted by the Commission. On December 7, 2005, the Commission submitted the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. The proposed rulemaking was published in the *Pennsylvania Bulletin* on December 17, 2005, at 35 Pa.B. 6775, with a 30-day public comment period. The Commission did not receive any comments from the public concerning this rulemaking, nor did IRRC or the Committees file comments. Thus, the final rulemaking language does not contain any changes to the proposed rulemaking language.

Section 59.33(b) sets forth the minimum safety standards for all gas transmission and distribution facilities in Pennsylvania and provides that these safety standards are the same as those issued under the federal pipeline

safety laws, as set forth in 49 U.S.C.A. §§ 60101, et seq., and implemented in 49 CFR Parts 191—193 and 199. Currently, § 59.33(b) requires the Commission to review and ratify all amendments to the federal safety laws prior to the Commission's adoption of such laws. Amendments to the federal safety laws do not become effective until the entry date of a Commission ratification order or, in the case of publication, the date of the order's publication in the *Pennsylvania Bulletin*.

The purpose of this final rulemaking is to modify the current language of § 59.33(b) so that future amendments to the federal safety laws can be automatically adopted by the Commission. The final rulemaking eliminates the language in the current regulation that requires the Commission to review, ratify, and publish amendments to the federal pipeline safety regulations. Additionally, the final rulemaking language provides that any future amendments to the federal pipeline safety laws will result in an amendment to § 59.33(b), effective 60 days after the effective date of the federal amendment unless the Commission publishes a notice in the *Pennsylvania Bulletin* identifying specific amendments that should not be adopted.

Accordingly, under 66 Pa.C.S. §§ 501 and 1501, sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5, section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b), section 5 of the Regulatory Review Act (71 P. S. § 745.5) and section 612 of The Administrative Code of 1929 (71 P. S. § 232), we propose to amend our regulations as set forth at 35 Pa.B. 6775; *Therefore,*

It Is Ordered That:

1. This docket adopts the final regulation as set forth at 35 Pa.B. 6775.

2. The Secretary shall submit this order and 35 Pa.B. 6775 to the Office of Attorney General for approval as to form and legality.

3. The Secretary shall submit this order and 35 Pa.B. 6775 to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and 35 Pa.B. 6775 for review by the designated standing committees of both Houses of the General Assembly, and for review by the Independent Regulatory Review Commission.

5. The Secretary shall certify this order and 35 Pa.B. 6775 and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. The amendment of § 59.33(b) shall become effective upon publication in the *Pennsylvania Bulletin*.

7. The contact persons for this rulemaking are (technical) Paul J. Metro, Chief, Gas Safety Division, (717) 787-1063 and (legal) Jaime M. McClintock, Assistant Counsel, Law Bureau, (717) 783-2811. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 2781 (June 3, 2006).)

Fiscal Note: Fiscal Note 57-238 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1159. Filed for public inspection June 23, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF CORRECTIONS

[37 PA. CODE CH. 95]

County Correctional Institutions

The Department of Corrections (Department) proposes to amend Chapter 95 (relating to county correctional institutions) to read as set forth in Annex A.

Statutory Authority

The Department is acting under the authority of section 506 of The Administrative Code of 1929 (71 P. S. § 186). Under section 506 of the Administrative Code of 1929, the Department is empowered to prescribe rules and regulations for the performance of the Department's business. A portion of the Department's business includes establishing standards for county jails and prisons, including physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates. See section 3(3) of the act of December 27, 1965 (P. L. 1237, No. 502) (Act 502) (61 P. S. § 460.3(3)). The Department is also empowered by section 3(4) of Act 502 to inspect county jails and to classify them, in accordance with the standards for county jails and prisons the Department adopted, as eligible to receive prisoners sentenced to maximum terms of 6 months or more but less than 5 years.

Purpose and Background

The Department undertook a review of its regulations regarding county correctional institutions. Based on this review, the Department found that many of the regulations are outdated, too technical and do not afford county prison administrators sufficient flexibility to address prison management problems that are strictly local in nature.

During the first phase of this process, the Department amended 12 sections of Chapter 95. This final-form rulemaking was published at 30 Pa.B. 866 (February 19, 2000). This proposed rulemaking amends a total of 22 sections of Chapter 95 and creates 1 new section. This proposed rulemaking completes the revision of outdated regulations and makes the minimum standards consistent with recognized professional standards for adult local detention facilities.

In addition to updating the outdated provisions, this proposed rulemaking enhances the inspection process by rewarding facilities reaching full compliance with the minimum standards and focuses greater attention on facilities with compliance problems. The proposed rulemaking proceduralizes the declassification of county prisons with serious issues of noncompliance with security-related minimum standards. The proposed rulemaking also expands the inspection process by the offering or ordering of a vulnerability assessment of a county prison. The enhancements to the inspection process are designed to assist county prisons in identifying and correcting deficiencies particularly those serious deficiencies that may threaten the security and safety of a county prison and by extension the public safety. Therefore, the Department proposes amendments to Chapter 95 to read as set forth in Annex A.

In September of 2000, the Department initiated a Review Planning Committee to allow for input from

county prison wardens and county commissioners when drafting amendments to the sections of Chapter 95 that were not updated and amended at 30 Pa.B. 866. Following an initial meeting of the Review Planning Committee, regional workshops were held during October 2000 in the Northwest, Northeast, Southwest and Southeast regions of this Commonwealth, as well as in Philadelphia County. The regional workshops were held to solicit input from county prison officials from all areas of this Commonwealth. The Review Planning Committee and regional workshops also involved Department personnel from the Office of Chief Counsel, Bureau of Operations, Bureau of Health Care Services, Office of Grants and Special Projects and the Deputy Secretary for Intergovernmental Relations. The Review Planning Committee periodically met and corresponded about revisions to Chapter 95 through December 2002.

Periodic meetings and ongoing correspondence regarding the draft amendments to Chapter 95 marked the Review Planning Committee activity. Additional regional workshops were conducted in 2003 and 2004 to expand the review and discussion of the proposed amendments to Chapter 95. The Department has also provided presentations on the proposed amendments to the County Commissioners Association of Pennsylvania (CCAP), as well as the Pennsylvania Prison Wardens Association membership.

The following meetings and presentations took place with the intent of involving the regulated parties in the revision process:

September 26, 2000	Review Planning Committee Meeting
October 3, 10, 17, 24 and 31, 2000	Five Regional Workshops—Southwest, Northwest, Northeast, Southeast and Philadelphia
November 14, 2000	Review Planning Committee Meeting
July 25, 2001	Review Planning Committee Meeting
October 30 and 31, 2001	Department Fall Forum for County Wardens and County Commissioners
December 11, 2002	Review Planning Committee Meeting
April 11, 2003	Pennsylvania Prison Wardens Association Spring Conference
December 14—17, 2003	Four Regional Workshops—Southeast, Northeast, Northwest and Southwest
March 22, 2004	CCAP Roundtable
March 29—31 and April 1, 2004	Four Regional Workshops—Southwest, Northwest, Northeast and Southeast
May 27, 2004	County/State Liaison Committee

Summary of Proposed Amendments

§ 95.220a. Definitions.

A number of definitions have been added to clarify new terms used in the proposed rulemaking.

§ 95.220b. Scope.

The proposed rulemaking removes the ability for county prisons to receive a waiver of compliance with the requirements of this chapter for facilities achieving American Correctional Association accreditation and accreditation from the National Commission on Correctional Health Care. This will ensure onsite audits or inspections, or both, of a county correctional facility on a periodic basis.

The proposed rulemaking enhances the inspection process by allowing county prisons achieving full compliance with the minimum requirements of this chapter to be on a 24-month inspection cycle rather than being subject to an annual inspection. Preinspection audits have been added to assist county prisons by identifying deficiencies and allowing time for correcting deficiencies prior to inspection.

The proposed amendments to the inspection process allow the Department to focus resources towards county prisons with compliance problems while relieving facilities in full compliance from the burden of additional visits.

The proposed rulemaking establishes the availability of a vulnerability assessment of a county prison either when requested by the county or when a preinspection audit or inspection finds certain violations of the minimum requirements that may seriously impact the safety and security of the county prison, prison staff, inmates or the public.

The proposed rulemaking defines the circumstances in which a hearing may be ordered to determine if a county prison should be declassified from receiving prisoners sentenced with a maximum term of 6 months or more but less than 5 years.

§§ 95.223, 95.224, 95.229, 95.230, 95.233, 95.235, 95.237 and 95.241—95.248

These sections have been completely replaced as part of the final phase of the Department's efforts to replace outdated standards. Each section requires that the county jail establish a written policy on the subject matter and that the policy contain or address the minimum requirements described in the regulation. In each instance, the requirements are consistent with recognized professional standards for adult local detention facilities. Whenever possible, the Department eliminates requirements that are too technical and devises the minimum requirements so that county prison administrators are afforded flexibility in addressing prison management issues.

§ 95.233a. Telephone communication.

This new section establishes the minimum requirements for telephone communication if a county prison makes that available to the inmate population. This section expands on what is currently only briefly mentioned in § 95.233 (relating to visiting).

§§ 95.221, 95.222, 95.232, 95.239 and 95.240

These sections, which were updated and revised in February 2000, are amended to address new issues of importance, issues previously not addressed or to simply update the minimum standards.

Fiscal Impact

The proposed rulemaking is not expected to have significant negative fiscal impact upon the Commonwealth, its political subdivisions or the general public.

Paperwork Requirements

The Department does not expect the new requirements to have significant effect on the paperwork requirements of the Commonwealth, its political subdivisions or the public.

Contact Person

Interested persons are invited to submit in writing comments, suggestions or objections regarding the proposed rulemaking to David B. Farney, Assistant Counsel, Department of Corrections, Office of Chief Counsel, 55 Utley Drive, Camp Hill, PA 17011, (717) 731-0444 within 30 days following publication of this proposed rulemaking.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 9, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Judiciary Committees. A copy of this material is available to the public upon request.

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

Effective Date

The proposed rulemaking will take effect upon completion of the regulatory review process and final-form publication in the *Pennsylvania Bulletin*.

JEFFREY A. BEARD, Ph.D.
Secretary

Fiscal Note: 19-7. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart B. DEPARTMENT OF CORRECTIONS

CHAPTER 95. COUNTY CORRECTIONAL INSTITUTIONS

Subchapter B. ADMINISTRATIVE STANDARDS, REGULATIONS AND FACILITIES

COUNTY JAILS

§ 95.220a. Definitions.

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

Alcohol and other drugs treatment—A treatment service designed to address the impact and ramifications of use or abuse of alcohol and other drugs, or both, to prevent illegal or destructive, or both, conduct and avoid addiction.

Alternative menu—Meal plans that are prepared and served as an alternative to the regular meal plan.

Bed capacity—The number of beds that a prison may utilize consistent with recognized professional standards on unencumbered space and that are only utilized in areas approved for residential occupancy by the Department of Labor and Industry or local code authority.

Building code—Federal, State or local regulations that dictate the construction of a prison.

Classification—A process for determining an inmate's needs and requirements and for assigning the inmate to appropriate housing units and programs according to the inmate's needs and existing resources.

Code of conduct and ethics—A set of rules describing acceptable standards of conduct for all prison staff.

Community resources—Human service agencies, service clubs, citizen interest groups, self-help groups and individual citizen volunteers that offer services, facilities or other functions that assist inmates. These various resources, which may be public or private, National or local, may assist with material and financial support, guidance, counseling and supportive services.

Compensation—Incentives such as monetary compensation, extra privileges, good time credits, credit toward applicable fines and costs or other items of value that are given for inmate participation in a work program.

Contact visitation—A program inside or outside the prison that permits inmates to visit with designated persons without obstacles or barriers to physical contact.

Contraband—An item possessed by an individual or found within the prison or on prison grounds that is prohibited by law or expressly prohibited by those legally charged with the administration and operation of the prison.

Counseling—A treatment service using planned interpersonal relationships to promote social adjustment. Counseling programs provide opportunities to express feelings verbally with the goal of resolving the individual's problems. At least three types of counseling may be provided:

- (i) Individual (a one-to-one relationship).
- (ii) Small-group counseling.
- (iii) Large-group counseling.

* * * * *

Education—A treatment service using formal academic education or a vocational training activity designed to improve knowledge or employment capability, or both.

Financial audit—An examination of prison records or accounts to check their accuracy, which is conducted by persons not directly involved in the creation and maintenance of these records or accounts. An independent audit results in an opinion that either affirms or disaffirms the accuracy of records or accounts.

First aid—Care for a condition that requires immediate assistance from an individual trained in first aid care and the use of the prison's first aid kits.

Force, use of—Physical force used in instances of justifiable self-defense, protection of others, protection of property or prevention of escape.

Force option—Actions beginning with the least amount of force and progressing through the degrees of nondeadly and deadly force, as necessary.

Governing county prison authority—The individual or board, established by law, having administrative oversight and policy-setting responsibility for the county prison.

Grievance—A formal written complaint by an inmate related to a problem encountered during the course of his confinement.

Grievance process—The procedure established to review and respond to inmate grievances.

* * * * *

Health care provider—An [employee] employee or contractor of the prison who is responsible for ensuring that adequate health care is provided to inmates.

Health care screening—A process developed by the prison's health care provider to assess inmates upon admission as set forth in written local policy. The process must include a structured inquiry and observation designed to identify newly-committed inmates who pose a health or safety threat to themselves or others. Screening can be performed by health care professionals or by health-trained correctional staff at the time of admission.

Health care training—Training required by the county prison's health care provider as part of the prison's health care delivery system as set forth in written local policy. Correctional staff may be trained and appropriately supervised to carry out specific duties with regard to the administration of health care screening upon admission.

Inmate—An individual who is legally confined in a county prison.

Intake interview—A process developed by the prison's treatment services provider to assess inmates upon admission as set forth in written local policy.

Life safety code—A manual published and updated by the National Fire Protection Association specifying minimum standards for fire safety necessary in the public interest. Two chapters are devoted to correctional facilities.

Major infraction—

(i) A rule infraction involving a grievous loss and requiring use of a hearing procedure for resolution.

(ii) The term includes violations:

(A) That may result in disciplinary detention or administrative segregation.

(B) For which punishment may tend to increase an inmate's sentence, such as extending parole eligibility.

(C) That may result in forfeiture, such as loss of earned time.

(D) That may be referred for criminal prosecution.

Minor infraction—A violation of a prison's rules of conduct that does not require a hearing procedure and can be resolved without the imposition of

serious penalties. Minor infractions do not violate any State or Federal statutes and may be resolved informally by reporting staff.

Noncontact visitation—A program that restricts inmates from having physical contact with visitors by the use of physical barriers such as screens or glass, or both. Voice communications between parties are normally accomplished with phones or speakers.

Preinspection audit—An onsite operational audit of a county prison by one or more Department inspectors consisting of staff and inmate interviews, policy and policy compliance reviews and a physical examination of the prison. The audit is intended to assist the county prison by identifying areas where the prison is not in compliance with the minimum standards and offering other observations prior to the prison inspection approximately 6 months thereafter.

Preventive maintenance—A system designed to enhance the longevity and usefulness of buildings and equipment in accordance with a planned schedule.

Prison—A place, institution, building (or part thereof), set of buildings or area (whether or not enclosing a building or set of buildings) that is used for the lawful custody of individuals.

Prison administrator—The official, regardless of local title, who has the day-to-day responsibility for managing and operating the county prison.

Prison inspection—An onsite visit of a county prison by one or more Department inspectors as the formal follow-up to the preinspection audit. The inspection specifically reviews those areas and practices identified by the preinspection audit report to determine whether the county prison is in compliance with the minimum requirements of this chapter.

Procedures—The detailed and sequential actions that must be executed to ensure that a policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs action required to perform a specific task within the guidelines of the policy.

Restraint—An authorized device used to prevent escapes, prevent an inmate from injuring himself or other persons or prevent property damage.

Security devices—

(i) Locks, gates, doors, bars, fences, screens, ceilings, floors, walls and barriers used to confine and control inmates.

(ii) The term also includes electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies and other equipment used to maintain prison security.

Security perimeter—The outer portions of a prison that provide for secure confinement of prison inmates. The design of the perimeter may vary depending upon the security classification of the prison.

Segregation—The separation of an inmate from the general population. Segregation provides for separate and distinct conditions of confinement

that ensures that medical/mental health and gender requirements of inmates are being met.

Social services—A treatment service designed to promote the welfare of the community and the inmate, as through aid for physically and mentally handicapped, health maintenance, family development and employment opportunities.

Training—

(i) An organized, planned and evaluated activity designed to achieve specific learning objectives and enhance the job performance of personnel. Training may occur onsite, at an academy or training center, during professional meetings or through supervised on-the-job training.

(ii) Training includes an agenda and is conducted by an instructor, manager or official. The activity must be part of an overall training program.

Training plan—A set of long-range or short-range training activities that equip staff with the knowledge, skills and attitudes they need to accomplish the goals of the organization.

Treatment professional—An individual who is assigned to or is a supervisor of inmate casework, counseling and treatment services. This individual possesses a bachelor's degree and advanced training in the social or behavioral sciences.

Treatment services provider—An employee or contractor of the county prison who is responsible for providing treatment services to inmates.

Treatment training—Training required by the county prison's treatment services provider as part of the prison's treatment delivery system as set forth in local written policy. Correctional staff may be trained and appropriately supervised to carry out specific duties with regard to the administration of treatment intake screening upon admission.

Unclothed search—An examination of an inmate's unclothed body for weapons, contraband and physical abnormalities.

Vulnerability analysis—

(i) A systematic and measurable performance-based evaluation of a prison. This approach integrates people, policies, procedures, equipment and detection systems within the overall assessment of a prison in an effort to ascertain potential avenues of escape, inmate violence or contraband vulnerabilities. This evaluation also attempts to identify and test the physical protection systems in place in an effort to prevent or limit opportunity for the threat to occur.

(ii) The term includes a prison analysis, planning, prison characterization, threat definition, identification of undesirable events, performance-testing physical protection systems, generation of adversary sequence diagrams, scenario development, timeline development and determination of risk for worst-case scenarios.

Work release—An arrangement sanctioned by law that enables an inmate to be released into the community to maintain approved employment or other approved activity, or both.

* * * * *

§ 95.220b. Scope.

Each section sets forth minimum requirements, which are mandatory. [For those counties achieving American Correctional Association accreditation using Adult Local Detention Facilities standards, this subchapter will be waived in its entirety. Section 95.232 (relating to medical and health services) will be waived for those counties which achieve National Commission on Correctional Health Care accreditation.]

(1) Every county prison shall be subject to a prison inspection cycle. An inspection cycle will consist of a preinspection audit and, if necessary, a prison inspection. A preinspection audit will be scheduled at least every 24 months. The prison inspection, if necessary, will be conducted approximately 6 months after the preinspection audit. This inspection cycle will determine if the county prison is in compliance with the minimum requirements. An immediate prison inspection may be ordered by the Secretary following an emergency situation at a county prison, including, but not limited to, a riot or disturbance, a fatality following a serious assault or an assault by an inmate using a deadly weapon resulting in serious injury. The inspection will be conducted to determine possible violations of the minimum requirements.

(2) The Department will issue a Preinspection Audit Report following the preinspection audit of the county prison. The report will be issued to the county prison administrator and the governing county prison authority. The report will, at a minimum, identify any instances of the county prison failing to comply with the minimum requirements.

(3) If the preinspection audit finds that the county prison is in full compliance with the minimum requirements, the subsequent prison inspection will be waived and the county prison will be on a 24-month prison inspection cycle. The next preinspection audit will be scheduled approximately 24 months after the preinspection audit.

(4) A prison inspection will be conducted any time the preinspection audit finds the county prison is not in compliance with the minimum requirements. The Department will issue a Compliance Report following the prison inspection. The report will be issued to the county prison administrator and the governing county prison authority. The report will identify whether the county prison has corrected the instances of noncompliance set forth in the Preinspection Audit Report.

(i) If the Compliance Report finds that the county prison is in full compliance with the minimum requirements, the county prison will continue on a 24-month inspection cycle. The next preinspection audit will be scheduled approximately 18 months after the prison inspection.

(ii) If the Compliance Report finds that the county prison remains in violation of the minimum requirements previously identified in the Preinspection Audit Report, the county prison administrator and the governing county prison authority will be issued a Notice of Deficiency as part of the report and subject to a 12-month inspection cycle. The next preinspection audit will be scheduled approximately 6 months after the prison inspection.

(iii) If the Compliance Report finds that the county prison remains in violation of the same minimum requirements for the second consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a warning that if the instances of noncompliance are not corrected by the time of the next 12-month prison inspection, a Citation of Noncompliance will be issued.

(iv) If the Compliance Report finds that the county prison remains in violation of the same minimum requirements for the third consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a Citation of Noncompliance.

(5) Within 60 days of receipt of any Compliance Report citing instances of noncompliance with the minimum requirements, the governing county prison authority shall file a written reply that includes a written plan that describes the actions that will be taken and the time frame for bringing the county prison into compliance with the minimum requirements.

(6) The Secretary may authorize the conducting of a vulnerability analysis of a county prison when a preinspection audit or prison inspection finds one or more violations of the minimum requirements of the following sections and it is determined those violations may significantly impact the safety and security of the county prison, prison staff, inmates or the public:

- (i) Section 221—Personnel.
- (ii) Section 223—Orientation.
- (iii) Section 224—Rules and Regulations.
- (iv) Section 230—Food Service.
- (v) Section 232—Medical and Health Care Services.
- (vi) Section 240—Inmate Discipline Procedures.
- (vii) Section 241—Security.
- (viii) Section 243—Treatment Services.
- (ix) Section 248—Sanitation and Safety.

(7) A vulnerability analysis report will be issued to the governing county prison authority and the county prison administrator following the vulnerability analysis. The report will present an analysis of the overall operations of the prison and an analysis of potential threats to the safety and security of the county prison, prison staff, inmates and the public.

(8) A governing county prison authority may at any time request the Department to conduct a vulnerability analysis to assist in evaluating the operations of the county prison.

(9) The Secretary may order a hearing on why the county prison should not be declassified and declared ineligible to receive prisoners sentenced to a maximum term of 6 months or more but less than 5 years under the following conditions:

(i) If a vulnerability analysis report finds one or more violations of the standards identified in paragraph (6) and concludes that those violations present a significant threat to the safety and security of the county prison, prison staff, inmates or public safety.

(ii) If the county prison continues in subsequent prison inspections to violate the minimum standards for which it has been issued, a Citation of Noncompliance in accordance with paragraph (4)(iv) and the governing county prison authority's written response to the Compliance Reports fails to show a good faith effort to correct those violations.

(10) The hearing will be scheduled promptly, but no sooner than 20 days after receipt of the hearing notice. The proceedings will be conducted in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(11) Following the hearing, a final order will be issued resulting in one of the following:

(i) Declassification of the county prison resulting in the prison being ineligible to receive prisoners sentenced to a maximum term of 6 months or more but less than 5 years.

(ii) The Citation of Noncompliance remains in effect, but the county prison is subject to a 12-month prison inspection cycle as of the issuance of the hearing report. If following the inspection the Compliance Report finds the county prison to be in violation of some or all of the minimum requirements for which the hearing was conducted, the Secretary may order another hearing in accordance with paragraph (9)(ii).

(iii) The Citation of Noncompliance may be rescinded based on findings that the county prison is now in compliance with the minimum requirements. The county prison will be returned to a prison inspection cycle consistent with paragraphs (3) and (4).

§ 95.221. Personnel.

The following are the minimum requirements [applicable] apply to personnel at county prisons:

(1) Before being assigned duties, all corrections personnel shall be given training as to the contents/application of this chapter and in their general and specific responsibilities, including the use of force, prohibition on the seeking and dispensing of favors to and from the inmate population and instruction in the [facility's] prison's code of conduct and ethics. A record of this training shall be documented in each employee's personnel file.

* * * * *

(5) An annual training plan shall be prepared that identifies the subjects and number of hours required for preassignment, basic and staff development training. The training plan shall be reviewed annually by prison administrator or designee.

(6) Written local policy must provide for a prison personnel policy manual that is available for employee reference. This manual must include, but not be limited to the following:

- (i) Organization chart.
- (ii) Recruitment and promotion.
- (iii) Job specifications and qualifications.
- (iv) Code of conduct and ethics.
- (v) Sexual harassment/sexual misconduct.
- (vi) Employee evaluation.

(vii) Staff disciplinary process.

(viii) Grievance and appeals process.

(7) The prison administrator or designee shall conduct a documented review of the prison personnel policy manual annually and revise as needed.

(8) Written local policy must mandate a drug-free workplace for all prison staff including, but not being limited to the following:

- (i) Prohibition on the use of illegal drugs.
- (ii) Prohibition of possession of any illegal drug except in the performance of job duties.
- (iii) Procedures to ensure compliance.
- (iv) Availability of treatment or counseling, or both for drug abuse.
- (v) Penalties for violation of the policy.

(9) Written local policy must specifically and strictly prohibit sexual misconduct and sexual harassment by prison staff. Written local policy must inform prison staff that they may be subject to disciplinary action or criminal charges, or both, if found to have engaged in that conduct.

§ 95.222. Admission and release.

The following are the minimum requirements applicable to admissions and releases:

(1) Admission.

[(1)] (i) With all admissions to the prison, commitment under proper legal authority and completeness of paperwork shall be verified.

[(2)] (ii) * * *

[(3)] (iii) Admission procedures relating to [contraband searches,] property disposition, notification and medical assessments and personal hygiene [shall] must be specified in written local policy.

(iv) Written local policy must specify the type of contraband search to be performed, including a restriction as to the use of an unclothed search on an arrestee. An unclothed search of an arrestee at intake shall only be conducted when there is reasonable belief or suspicion that the arrestee may be in the possession of an item of contraband. Reasonable belief may be based upon the following:

- (A) Current charges or prior conviction for escape, drugs/weapons or any crimes of violence.
- (B) Current or historical institutional behaviors of contraband possession or refusals to be searched.
- (C) Other factors recognized by courts of competent jurisdiction.

[(4)] (v) As part of the admission process, basic personal information shall be obtained for identification and classification purposes. This basic information [shall] must include:

- [(i)] (A) * * *
- [(ii)] (B) * * *
- [(iii)] (C) * * *
- [(iv)] (D) * * *
- [(v)] (E) * * *
- [(vi)] (F) * * *

- [(vii)] (G) * * *
- [(viii)] (H) * * *
- [(ix)] (I) * * *
- [(x)] (J) * * *
- [(xi)] (K) * * *
- [(xii)] (L) * * *
- [(xiii)] (M) * * *
- [(xiv)] (N) * * *
- [(xv)] (O) * * *
- [(xvi)] (P) * * *
- [(xvii)] (Q) * * *
- [(xviii)] (R) * * *
- [(ixx)] (S) * * *
- [(xx)] (T) * * *
- [(xxi)] (U) * * *
- [(xxii)] (V) * * *
- [(xxiii)] (W) * * *

[(5)] (vi) Upon admission, a copy of the rules of the prison shall be provided to each inmate.

[(6)] (vii) Written local policy shall specify how an inmate can notify a relative of the inmate's location.

(viii) When non-United States citizens are detained, the detainee shall be advised of the right to have his consular officials notified or the nearest consular officials shall be notified of the detention, if required by the Vienna Convention. Consular officials shall be given access to non-United States citizen detainees and shall be allowed to provide consular assistance. Consular officials shall also be notified in the event of the death of a non-United States citizen detainee.

(2) *Release.*

(i) With all releases from the prison, release under proper legal authority and completeness of paperwork shall be verified.

(ii) Written local policy must specify release procedures to include the following:

- (A) Proper identification of inmate.
- (B) Review of inmate file for detainers.
- (C) Disposition of prison and personal property.
- (D) Information exchange.
- (E) Medication supply and medication instructions, as required.
- (F) Victim notification.

§ 95.223. Orientation.

[*Minimum requirements.* The minimum requirements for the orientation of prisoners shall be as follows:

(1) Every prisoner upon admission shall be provided with written information about the regulations of the institution.

(2) If the prisoner is illiterate, the information shall be conveyed to him orally.

(3) The orientation should include, but not necessarily be limited to, the following:

(i) Regulations covering the treatment of prisoners.

(ii) Rules of conduct for the institution.

(iii) Information regarding work programs, education and vocational training, counseling programs, and other institutional programs offered in the jail.

(iv) The following provisions apply to communications with the staff:

(A) The prisoner should know that he is allowed to make requests or enter complaints to the administrator of the jail or to a jail officer.

(B) The prisoner should know that he may make requests or enter complaints to the jail inspector during his inspection. He should be permitted to talk to the inspector without the administrator or other members of the jail staff being present.

(C) The prisoner should know that he is allowed to make a request or enter a complaint without censorship as to substance to the administrator, the judiciary or other proper authorities.

(D) Unless requests or complaints arising from such communication are obviously frivolous or groundless, the jail staff shall promptly deal with them.

(v) Information necessary to enable the prisoner to understand both his rights and his obligations.

(vi) Additional information necessary for the prisoner to adapt himself to the life of the institution.]

The following are the minimum requirements applicable to the orientation of inmates:

(1) Written local policy must require orientation for every inmate within 14 days of admission of the following:

- (i) Prison rules of conduct.
- (ii) Consequences for violation of the rules of conduct.
- (iii) Mail, visiting and telephone procedures.
- (iv) Access to medical care.
- (v) Fees, charges or co-payments that may apply.
- (vi) Prison grievance process.
- (vii) Available treatment programs.
- (viii) Available work programs.

(2) Orientation must be in written, oral, audio or video format. Written local policy must provide for the orientation of illiterate and non-English speaking inmates. Orientation of each inmate shall be documented in the inmate file.

(3) Written local policy must describe an inmate grievance process. The policy must include:

(i) The methods available for submitting a grievance.

(ii) The staff persons responsible for responding to a grievance. Grievances must have a written response for record.

(iii) An appeal process of at least one level.

(iv) Time frames for responses and appeals.

(4) Written local policy must permit every inmate to make a request or submit a grievance to the prison administration, the judiciary or other proper authorities without censorship as to substance.

§ 95.224. [Rules and regulations] Inmate rules and staff procedures.

[The minimum requirements applicable for institutional rules and regulations are as follows:

(1) Each jail shall have well phrased and reasonable rules and regulations. The rules shall be constructed so that they eliminate confusion in both the staff and the prisoner's mind as to what behavior is correct. The regulations shall be constructed so that they inform the prisoners and staff how things are done in the jail and when and where activities take place.

(2) New prisoners shall be given information about the rules and regulations. Each new prisoner shall be told during orientation the standard of conduct which is expected.

(3) Jail rules and regulations shall be provided to inmates in the form of a printed manual.

(4) Each institution shall insure that its rules and regulations are constructed so that prisoners are assisted in following a course of conduct which is most likely to achieve the individual inmate's correction and insure the security, control and orderly administration of the jail.

(5) An act viewed by jail personnel as inconsistent with the provisions set forth in paragraph

(4) is a breach of discipline. The act shall subject the person committing it to some form of corrective measure, not necessarily punitive.

(6) Serious types of misconduct include: escape; introduction of hazardous contraband into the institution; assault with a weapon; agitation of group disturbance; and deliberate disobedience with marked disrespect.

(7) Other offenses may be accidental. They may occur through carelessness, a lack of a sense of values or poor judgment. Even so, the infraction may jeopardize the population, others nearby or be a threat to orderly administration. On the other hand, such an offense may only affect the individual offender, and, therefore, simply reflect a deficiency on his part.

(8) Jail rules and regulations shall be subject to change when necessary.

(9) The jail administrator should provide written rules for the guidance of all staff members. The information should include copies of all legislative acts pertinent to custody, control and treatment; plans and procedures for emergencies such as fire, escape and riot. A copy of the organizational chart for the institution approved by the jail administrator should also be provided.

(10) Each jail should establish particular assignments for jail officers while on duty.

(11) Specific post orders and duties for each assignment should include at least the following:

(i) Hours of duty.

(ii) Specific duties to be performed at particular times.

(iii) Time, methods and techniques to be followed in making security checks.

(iv) Time, methods and techniques to be followed in making counts.

(v) Specific responsibilities in case of fire, disturbances, attempted escapes or other emergencies.]

The following are the minimum requirements applicable to inmate rules and staff procedures:

(1) Written local policy must specify inmate rules that insure the security, control, safety and orderly administration of the county prison. These rules must indicate to both inmates and staff what inmate behavior is unacceptable and the consequences of unacceptable behavior.

(2) Inmates and staff shall have access to inmate rules. New or revised inmate rules shall be disseminated to staff and, when appropriate, inmates prior to implementation.

(3) Written local policy must specify procedures that direct staff in the operation and maintenance of the county prison. The procedures must contain general and specific instructions for each duty post for the prison. The instructions must include the methods, techniques and time frames necessary to perform the duties of a particular duty post.

(4) Written local policy must specify procedures that direct staff in the event of fire emergencies, escapes and riots. These procedures must direct staff as to what actions are to be performed in a given duty assignment or duty post in these situations. These procedures must instruct staff as to the methods, techniques and time frames necessary to carry out the assigned duties.

(5) Operation and maintenance procedures and emergency procedures shall be disseminated to staff prior to implementation. Staff shall have ongoing access to these procedures.

(6) Inmate rules and staff procedures shall be reviewed by the prison administration on an annual basis. This review shall determine if updates are necessary due to operational changes, changes in the law, constitutional standards or recognized professional standards. The annual review and updates shall be documented.

§ 95.229. Bedding.

[(a) *Minimum requirements.* The minimum requirements regarding bedding for prisoners are as follows:

(1) Each prisoner shall be provided with a bed, mattress, sheets and blankets appropriate for the temperature.

(2) Each prisoner shall be provided a pillow and pillowcase.

(3) Sheets and pillowcases shall be cleaned on a weekly basis and before reissue.

(4) Blankets shall be laundered or sterilized on a regular basis.

(5) Mattresses shall have a waterproof and fire resistant cover and shall be sterilized on a regular basis for the maintenance of good hygiene.

(6) Pillows shall have a waterproof and fire resistant cover and be sterilized on a regular basis for the maintenance of good hygiene.

(b) *Recommended guidelines.* Some jails have canvas bunks. Each jurisdiction having such accommodations for prisoners should immediately take steps to provide the conventional jail bed and mattress. This shall be made a minimum requirement following a reasonable time to allow county authorities, in counties still having canvas bunks, to purchase and install the conventional bedding.]

The following are the minimum requirements applicable to bedding:

(1) Written local policy must specify that inmates be provided a bed, mattress (not to exclude a mattress with integrated pillow), bed sheet, pillow, pillowcase, towel and blanket. The bed must be a sleeping surface and mattress that allows the inmate to be at least 12 inches off the floor. The mattress and pillow must have a waterproof and fire retardant cover. The bed must be located in an area preapproved for residential occupancy by the Department of Labor and Industry or local code authority.

(2) The prison administrator shall have discretion to issue bedding items to or removing bedding items from an inmate when possession of those items by the inmate could compromise the order, security or safety of the prison.

(3) Written local policy must provide that each mattress and pillow is sanitized chemically or by another acceptable method and is in usable condition before reissue to another inmate. Each in-use mattress and pillow shall be sanitized at least annually.

(4) Written local policy shall provide for the laundering of bed sheets, pillowcases, towels and blankets before reissue to another inmate. In-use bed sheets, pillowcases and towels shall be laundered on a weekly basis. In-use blankets shall be laundered at least quarterly.

§ 95.230. Food services.

[(a) *Minimum requirements.* The following minimum requirements are applicable for food services:

(1) Prisoners shall be provided three meals per day at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

(2) Jails which hold prisoners in excess of 48 hours shall have an onsite kitchen facility whose supervisor and cook shall be an employee of the facility and is competent to plan, purchase and prepare a nutritionally adequate diet. It is acceptable, however, for adequate food services to be provided by other approved sources, as for example, the county home or an outside caterer.

(3) Jails may contract with an outside firm to provide prepackaged meals on a full-time basis

after a complete inspection and written approval from the Bureau of Correction, Division of County Correctional Services.

(4) The jail kitchen shall always reflect the highest standards of cleanliness, safety and sanitation.

(5) Jail staff and inmates shall be given a physical examination and certified to be free of communicable diseases before starting to work in the Food Service Department.

(6) The menus shall be designed to provide a daily diet, well balanced and nutritious. Menus shall be approved by a medical doctor. The services of a local dietician should be consulted, as for example the county home, county hospital or other acceptable facility having a qualified dietician.

(7) Eating utensils should be sterilized at a temperature of 180° F. Preferably a dishwasher should be used where the final rinse sterilizes. In the absence of a dishwasher, a three-compartmented stainless steel sink with a drainboard, one sink for washing, one for rinsing and the third for sterilization, may be substituted.

(8) Menus shall be developed several weeks or a month in advance and arranged in a nonmonotonous manner.

(9) Food shall be served as promptly as possible after it is prepared with hot foods served hot and cold foods cold.

(10) If the serving area is some distance from the kitchen, a heated or insulated food cart shall be used.

(11) If physical facilities permit, all prisoners shall be fed in a dining room or day room to assure good jail sanitation.

(12) Compartmented trays or paper plates and individual cups shall be utilized. More than one type of food should not be served in a noncompartmented tin bowl, or other type of individual container.

(13) If prisoners are fed in their cells, food trays and other eating utensils shall be removed from the cell as soon as the meal is finished.

(14) Food shall be stored in a proper manner to assure its freshness and to prevent spoilage and damage from insects and rodents.

(b) *Recommended guidelines.* Clean white hats, cloth or disposable paper throwaways, and clean white clothing should be worn by all food service workers.]

The following are the minimum requirements applicable to food services:

(1) Written local policy must specify that each inmate be provided a daily diet that is nutritionally adequate for the maintenance of good health. Written local policy must recognize dietary requirements for those inmates whose medical condition requires prescribed therapeutic attention, for those inmates whose religious beliefs require adherence to specified and approved religious dietary law and for those inmates under segregation or disciplinary status, or both, whose behavior requires a different meal consistency. Regular and alternative menus shall be approved and signed by a registered dieti-

cian or licensed physician, or both, and the prison administrator on an as needed basis, but at least on an annual basis.

(2) Written local policy must provide that food is prepared and served in a sanitary manner. The prison food preparation areas and food distribution areas shall be maintained in a safe and clean condition at all times. Food shall be stored and prepared in a proper manner to assure freshness and to prevent spoilage and damage from insects and rodents. Appropriate food service head cover, beard/facial hair cover and gloves shall be worn by staff, food service contractor and inmates engaged in food preparation or distribution or both. Written local policy must require that one supervisory food service employee become certified in food safety and sanitation. There shall always be a "person in charge" present during all hours of operations. If the "person in charge" is not certified, that person shall receive documented training as to the food safety and sanitation procedures as established by written local policy.

(3) Written local policy must provide for the control and use of culinary equipment. Culinary equipment shall be identified and accounted for on an inventory list. In addition, cutlery items shall be documented as to being checked in and out, to control use at all times. When not in use, cutlery shall be stored in a secure manner.

(4) Written local policy must establish preassignment and periodic medical clearance for staff, food service contractor and inmate food service workers. Food handlers shall wash their hands upon reporting to duty and after using toilet facilities.

(5) Written local policy shall identify the methods available to clean, rinse and sanitize prison-issued eating and drinking utensils at least weekly. These eating and drinking utensils shall be cleaned, rinsed and sanitized before being reissued to another inmate.

(6) Compartmented trays, plastic ware and paper products shall be utilized to serve the food. More than one type of food may not be served in a noncompartmented container during normal feeding operations. Food shall be served as promptly as possible, at the proper temperature.

§ 95.232. Medical and health services.

The following are the minimum requirements applicable to medical and health services:

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(3) Following review of the initial commitment screening by a health care professional, a medical history and physical examination shall be performed by the prison health care provider within 14 days following admission.

* * * * *

(8) Written policy [shall] must provide for access to emergency care 24 hours a day for all inmates. A written plan [shall] must outline onsite treatment, evacuation, transportation and security procedures and designate emergency facilities to be utilized. Corrections personnel shall be certified in basic first aid and cardiopulmonary resuscitation in accordance with the time frames established by the certifying health organization.

(9) Written local policy [shall] must provide for the management of pharmaceuticals. The policy must include:

(i) Formulary and prescription practices.

(ii) Medication procurement, receipt, dispensing, distribution, storage and disposal, as supervised by properly licensed personnel in accordance with State and Federal law.

(iii) Secure storage and inventory of all controlled substances, syringes and needles.

(10) Written local policy [shall] must provide for a suicide prevention and intervention program and [shall] outline the program review mechanisms utilized and staff training procedures for program implementation. Staff training shall occur on an annual basis.

(11) Medical and dental instruments, equipment and supplies shall be controlled and inventoried.

(12) Written local policy must specify the scope of dental treatment to be provided to an inmate. This treatment must include, but not necessarily be limited to, extraction and other work of an emergency nature as needed. Written local policy must specify how an inmate is to obtain the available dental treatment.

§ 95.233. Visiting.

[(a) Minimum requirements. The following are the minimum requirements relating to visiting prisoners:

(1) The jail shall publish rules and regulations concerning visits, letters and packages. The rules and regulations shall be provided for prisoners for sending to all persons on their approved list.

(2) Prisoners may not be denied visits or mail to family members or approved friends as punishment, unless the reason for the denial is due to serious violation of the visiting or mail rules and regulations or there is an obvious security threat.

(3) The length of a visit shall be no less than 1/2 hour every week and should be longer and more frequent if conditions permit.

(4) The children of a prisoner shall be able to visit him provided that the accompanying adult supervises them and keeps them under control.

(5) Periodic family visits in an open area shall be arranged if possible, as a privilege for selected prisoners. The selected prisoners shall meet conditions which all jail prisoners have an opportunity to attain.

(6) The jail administrator shall grant special visiting privileges to visitors who have traveled long distances, to those persons visiting seriously ill or injured prisoners and for other unusual circumstances.

(7) Visitors shall sign a register and show identification before being permitted to visit.

(8) The attorney and the minister of a prisoner shall be provided such surroundings during a visit that shall insure the privacy of their conversation.

(b) Recommended guidelines. The recommended guidelines governing visiting are as follows:

(1) Physical facilities, prisoner population, staff size and other factors place restrictions on visiting.

Nevertheless, every effort should be made to schedule visiting periods 7 days a week and during some evening hours to make maximum use of the visiting room facilities and to enlarge the opportunity of the prisoner to maintain his contacts with the free community.

(2) Security shall be enforced during visits but the maintenance of security should be done in as professional a manner as possible so as not to discourage visiting.

(3) Prisoners should be able to make an occasional phone call, within staff and physical limitations of the jail, to his family, friends and attorney.]

The following are the minimum requirements applicable to inmate visiting:

(1) Written local policy must explain inmate visiting procedures, including:

(i) Availability of contact or noncontact visitation, or both.

(ii) Visitor approval procedure.

(iii) Frequency and duration of visits.

(2) Written local policy must require that visitors register upon admission to the prison. Written local policy must describe the circumstances and the types of searches under which visitors are subjected.

(3) Each inmate shall be permitted at least 30 minutes of visitation time weekly. Restrictions may be placed on visiting, including denial of a visit, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Written local policy must, in accordance with the Official Visitation of Prisons Act (61 P. S. §§ 1091—1095), provide for visits by official visitors. Written local policy must require that accommodations be made to provide for the privacy of conversation during these official visits.

(5) Written local policy must allow for visits by an inmate's attorney or clergy. Written local policy must require that accommodations be made to provide for the privacy of conversation during these visits.

(6) Inmate visiting information shall be provided to each inmate upon admission. This information shall also be made available to the public.

§ 95.233a. Telephone communication.

The following are the minimum requirements applicable to telephone communication:

(1) Written local policy must specify whether inmates are permitted telephone communication. If so, the policy must explain telephone procedures, including:

(i) The hours during which telephone communication is available.

(ii) Any limitations on calls.

(iii) The cost/method of payment.

(2) Written local policy must, in accordance with 18 Pa.C.S. § 5704 (relating to exceptions to prohibition of interception and disclosure of communications), specify whether inmate telephone conversations are subject to intercepting, recording,

monitoring or divulging. If so, the policy must establish the guidelines which permit those activities.

(3) Restrictions may be placed on telephone communication, including denial of telephone usage, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Information about telephone communication shall be provided to each inmate upon admission. This information shall also be made available to the public.

§ 95.235. Work programs.

[(a) *Minimum requirements.* The following minimum requirements shall apply to work programs:

(1) Prisoners waiting trial and not sentenced in the jail shall not be required to work, except to keep their immediate area in the living quarters clean. However, a volunteer work program for unsentenced inmates should be developed.

(2) Prisoners sentenced to the jail shall be assigned work when it is available.

(3) All prisoners who work shall be paid. That pay may take the form of cash or credit toward pending court costs.

(4) The precautions laid down to protect the safety and health of workmen in the free society shall be equally observed in institutions. Proper clothing and tools shall be provided.

(b) *Recommended guidelines.* A good jail administrator shall utilize the furlough concept to enable selected prisoners to seek employment in the community.]

The following are the minimum requirements applicable to inmate work programs:

(1) Written local policy must identify any authorized inmate work programs to include, but not be limited to, work assignment program, industries program, public works/community service program or work release program. Written local policy must specifically prohibit prison staff from using their official position to secure privileges for themselves or others in association with an inmate work program.

(2) Sentenced inmates may be required to participate in a work program based upon availability. Unsented inmates may not be required to participate in a work program, but may request involvement in a work program.

(3) Inmates who participate in a work program (other than personal housekeeping and housing area cleaning) shall receive some form of compensation. Written local policy must specify the type and amount of compensation.

(4) Inmate working conditions must comply with all applicable Federal, State or local work safety laws and regulations. Appropriate clothing, supplies and tools shall be provided to the inmate for any work assignment program, industries program or public works/community service program. The inmate shall receive direction on the proper use of any equipment or tools to be used by the inmate

during any work assignment program, industries program or public works/community service program.

(5) Written local policy must specify that there is no discrimination regarding access to a work program based on an inmate's race, religion, national origin, gender or disability. If both genders are housed in the prison, all available work programs shall be comparable in accordance with applicable law.

§ 95.237. Religion.

[(a) *Minimum requirements.* Religion shall be governed by the following minimum requirements:

(1) Each prisoner shall be allowed to satisfy the needs of his religious life consistent with orderly administration of the jail.

(2) Religious services and counseling shall be on a voluntary basis.

(3) Scheduled religious services shall be held at regular intervals, in such a location and in such a manner that the prisoners who do not wish to participate are not exposed to the service.

(4) Prisoners requesting interviews and counseling regarding religious, personal or family problems with accredited clergy, nuns, seminarians and lay persons active in community church affairs shall be afforded this opportunity.

(5) Religious ornaments or medals pertinent to the beliefs of the prisoner shall be permitted in the jail and worn upon the person provided such ornaments or medals do not constitute contraband under the usual rules of the institution. Other religious paraphernalia should be permitted, provided it is kept and utilized in the living quarters of the prisoner and does not interfere with proper house-keeping and further provided that such paraphernalia does not constitute contraband under the usual institutional rules.

(6) Limited use of pork and pork products objectionable to certain religions shall be made in jail menus and menus will clearly indicate which foods contain any pork or pork products or were prepared with pork products.

(7) Insofar as it is possible, the religious activities of all groups shall be scheduled at times consistent with the religious beliefs of the group.

(8) Access to a person who has received ecclesiastical endorsement from his religious authority shall not be refused to any prisoner. If, however, any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

(b) *Recommended guidelines.* The recommended guidelines applicable for religion are as follows:

(1) Family and community participation in special religious activities should be permitted, subject to the requirements of security.

(2) Special food prepared and furnished from outside the jail may be allowed, provided it is required in the celebration of a major religious holiday.]

The following are the minimum requirements applicable to religion:

(1) Written local policy must provide that inmates have access to religious activities. Participation in religious activities shall be a matter of choice on the part of each inmate. Religious activities shall be conducted in a location and manner that does not impinge upon the choice of an inmate not to participate.

(2) Individuals seeking to provide religious guidance to inmates shall be screened and selected by the prison administrator or designee. Screening and selection must include qualifications associated with clinical pastoral education or equivalent specialized training and endorsement by the appropriate religious certifying body.

(3) Written local policy must provide for the accommodation of religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of a religious practice or activity.

(4) Written local policy must provide that inmates are permitted to possess religious objects consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request to possess religious objects that would otherwise be considered contraband.

(5) Written local policy must provide for the accommodation of special foods, diets and fasts as part of an inmate's religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of these practices.

§ 95.239. Commissary and other funds.

The following are the minimum requirements that apply to commissaries:

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(3) Written local policy must describe a fiscal system that accounts for all income and expenditures on an ongoing basis. Methods for collecting, safeguarding and disbursing moneys must comply with generally accepted accounting procedures. A financial audit of the prison shall be conducted annually by a certified, independent party using generally accepted accounting principles.

(4) Funds associated with inmate telephone services shall be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

(5) Funds associated with an industries program and a work release program shall be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

§ 95.240. Inmate disciplinary procedures.

The following are the minimum requirements applicable to inmate disciplinary procedures:

(1) County prisons shall operate a disciplinary process that provides clear notice of prohibited behavior and consistently applied sanctions for violations of prison rules. Disciplinary procedures governing inmate rule violations must address the following:

- (i) Rules.
- (ii) Minor and major infractions.
- (iii) Criminal offenses.
- (iv) Disciplinary reports.
- (v) Prehearing actions.
- (vi) Prehearing detention.
- (vii) Appeal of disciplinary decisions.

(2) Violation of prison rules may result in the imposition of discipline. **Violations shall be designated as being either a major infraction or a minor infraction. A major infraction charge requires use of a hearing procedure for resolution. A minor infraction charge may be resolved without a hearing procedure.**

(3) **Discipline for a minor infraction may not be imposed unless a written statement as to the rule violated is prepared and a person not involved in the rule violation reviews the statement and makes a decision as to guilt.**

(4) **Discipline for a major infraction may not be imposed unless the [prisoner] inmate has been informed of the offense charged in writing, has had an opportunity to present a defense and has been found guilty of the charge by an impartial party or board designated by the prison administrator. [(3)] Findings of guilt or innocence [shall be made by an impartial party to be designated by the prison administrator. Findings] shall be expressed in writing and based on information presented. Written findings of guilt [shall] must state the reasons for the finding.**

[(4)] (5) **Disciplinary charges and written findings relative to a major infraction shall be recorded and made a permanent part of an inmate's prison file.**

[(5)] (6) **Disciplinary sanctions imposed after a finding of guilt for a major infraction may include loss of privileges, segregation or other sanctions as set forth in written local policy.**

(7) **When an inmate in disciplinary status is deprived of any usual authorized items or activity, a report of the action is to be made to the prison administrator. If an inmate in disciplinary status uses food or food service equipment in a manner that is hazardous to self, staff or other inmates, an alternative meal may be provided, upon the approval of the prison administrator or designee and responsible health care provider.**

[(6)] (8) * * *

§ 95.241. Security.

[(a)] **Minimum requirements.** The minimum requirements applicable for security are as follows:

(1) **Generally.** The following general provisions shall be in effect:

(i) **Supervision on a 24-hour basis by trained personnel is required in jails housing any number of inmates. One jail officer with one additional officer on call for assistance shall be the minimum in all jails housing any number of prisoners up to ten. A jail having over ten inmates shall have at least two jail officers present for duty on the premises. In general, the minimum required custody ratio is one officer per shift for 15 inmates.**

For example, with a population 45, a jail shall have nine officers. An administrator may schedule those nine officers as he sees fit, as for example: four on the first shift; three on the second shift; and two on the third shift, or some other arrangement which would be appropriate to that particular jail. A good administrator, however, shall have a greater ratio than the minimum.

(ii) **A matron or other qualified female employe shall be present in the jail, awake and alert at all times, while a female prisoner is in custody. The same minimum ratio for female prisoners as for male prisoners is required.**

(iii) **Sufficient jail officers shall be present in the jail, awake and alert at all times, to provide adequate supervision while prisoners are in custody.**

(iv) **A male jail officer shall enter the female area only in the presence of a matron.**

(v) **In an institution holding both men and women, the part used for women shall be under the authority of a responsible woman officer who shall have the custody of the keys to all that part of the institution.**

(vi) **Prisoners shall never be permitted to assume any authority whatsoever over other prisoners.**

(vii) **Prisoners assigned as trustees should be supervised.**

(viii) **If trustees leave the jail premises for any reason they shall be thoroughly searched upon their return.**

(ix) **Inmates with detainers should be assigned to trusty status only if jail staff is aware of the circumstances.**

(2) **Weapons.** The following provision regarding weapons shall be in effect:

(i) **In the event of a general emergency, appropriate emergency plans shall be followed in accordance with previously established procedures.**

(ii) **The following guidelines shall govern the use of weapons:**

(A) **Weapons shall not be carried in normal prison operation. Tower or outside security assignments are exceptions.**

(B) **Adequate weapons, to include batons and chemical mace, shall be available in a locked security area accessible to prison administrator or his designated representative.**

(C) **The jail administrator or an officer designated by the jail administrator shall determine the need for carrying concealed mace or exposed batons or the use thereof during any movement of prisoners. He shall base his determination upon the physical facilities, type and attitude of the offender, and the personal safety of self and fellow officers.**

(D) **Any use of the baton or chemical mace upon any prisoner shall be recorded in writing and be reported to the Department of Corrections, Division of County Correctional Services, in accordance with established procedures for extraordinary occurrences reports.**

(iii) **Personnel shall be trained in security measures and in the handling of special incidents such as assaults, generalized disturbances, fires, escapes, and the like.**

(iv) Law enforcement personnel shall be provided with a locked security area for their weapons when visiting the jail. Personnel who normally carry weapons in their usual duties, including law enforcement officers, should be cautioned about leaving weapons inside cars in the prison parking area.

(v) Tear gas shall be used only as last resort to bring one or more prisoners under control. It shall be used only after thoroughly considering the hazards involved, including consideration for the area where it is to be used.

(vi) Permission to use tear gas shall be obtained from the jail administrator or an officer designated by him to supervise the use of tear gas.

(vii) Prisoners affected by tear gas shall be given a medical checkup as soon as possible after the incident is under control.

(viii) The key to the armory shall not be kept on the key board.

(ix) If the jail has a safe, the key to the armory shall be kept in it.

(3) *Key control.* The following provisions shall apply to the control of keys:

(i) Jail keys shall be stored in a secure locker when not in use, and a record of all keys shall be kept.

(ii) In addition to one set of keys in use, one or more sets shall be stored in a safe place.

(iii) Jail officers shall exercise every precaution while carrying keys or potentially dangerous articles in the presence of prisoners.

(iv) Under no circumstances will prisoners be permitted access to jail keys or personnel records or records of other inmates. This should not prevent inmates from having keys to personal lockers and honor cells if provided.

(v) Jail personnel shall be familiar with the locking system of the jail and shall be able to release prisoners in the event of a fire or other emergency.

(vi) If opening and closing cell block doors, all employees shall be alert to possible escape attempts.

(vii) Damaged or malfunctioning keys or locks shall be promptly repaired.

(viii) Ignition keys shall be removed from all motor vehicles in the jail parking area. Doors of motor vehicles shall be securely locked.

(ix) Cell block doors and doors opening into a corridor shall be kept locked, except when necessary to permit admission or exit of prisoners, visitors or employees.

(x) The key control center shall be the only place where keys may be checked in and out. It shall be secure from entry by prisoners.

(xi) The control center shall have a key book containing the following:

(A) The number of each key.

(B) The trade name of each lock and its location.

(C) The number of keys available for each lock.

(xii) Key rings shall contain either inside or outside keys, but not both.

(xiii) Lock malfunctions shall be reported immediately.

(xiv) Lock changes shall be reported immediately.

(xv) Prisoners shall never be permitted to handle keys.

(4) *Control of contraband.* The following shall apply to the control of contraband:

(i) Jail personnel shall understand what articles are considered to be contraband.

(ii) Prisoners shall be searched when they are admitted to the jail and periodically while confined.

(iii) Cells shall also be searched for contraband that has been missed or that somehow has found its way into the cell.

(iv) Prisoners permitted to leave the jail under a work program, to appear in court or for any other reason shall be searched before re-entering the jail.

(v) Both unoccupied and occupied cells shall be searched for contraband frequently but not according to a set and regular routine.

(vi) Unoccupied cells shall be kept locked at all times.

(vii) Eating utensils shall be accounted for and returned to the kitchen after each meal.

(viii) An officer shall be subject to search upon entering or leaving the jail.

(ix) Prisoners may not assist in searching of cells or in other security inspections.

(5) *Use of physical force.* The following shall govern the use of physical force:

(i) Physical force may not be used on prisoners unless necessary, and then only that amount of physical force which is required to achieve the purpose is justified.

(ii) The use of necessary physical force shall be restricted to the following situations:

(A) If absolutely necessary in self-defense or to prevent an assault on staff or other prisoners.

(B) To prevent escapes.

(C) To prevent serious destruction of property.

(iii) When physical force is used, an extraordinary occurrence report shall be written and filed with the Department of Corrections, Division of County Correctional Services.

(6) *Emergency plans.* The following shall govern emergency plans:

(i) Every jail shall have a written emergency plan. It is impossible to develop a single emergency plan that is useful for every jail.

(ii) Each plan shall contain basic information and instructions for all jail officers, to include at least the following:

(A) To whom shall the emergency be reported.

(B) Who is in charge.

(C) A description of duties for each kind of emergency.

(D) How these duties in an emergency are coordinated with the duties of other jail personnel.

(E) How to use emergency equipment.

(F) Outside police or other agencies to be contacted.

(7) *Instruments of restraint.* The following shall govern the use of instruments of restraints:

(i) Instruments of restraint, such as handcuffs, chains, irons, come-a-longs and straitjackets, may not be used as a punishment.

(ii) Instruments of restraint may be used in the following circumstances:

(A) As a precaution against escape during a transfer.

(B) On medical grounds by direction of a medical doctor.

(C) By order of the jail administrator or his appointed representative, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the jail administrator or his representative shall at once consult a medical doctor.

(iii) Instruments of restraint may not be applied for a longer length of time than is absolutely necessary. Use of restraints shall be recorded on inmate's file.

(iv) Whenever instruments of restraint are used outside of the process of prisoner transportation or for medical reasons within a hospital setting, a written extraordinary occurrence report shall be prepared and submitted to the Department of Corrections, Division of County Correctional Services.

(8) *Tools.* The following shall govern the use of tools:

(i) The work supervisor shall determine that the prisoner knows how to use the tools that are issued to him.

(ii) The work supervisor is responsible for insuring that the prisoners have been instructed in safety procedures.

(9) *Prison provided transportation.* The following shall govern transportation that is provided by prison officials:

(i) Vehicles used to move prisoners shall have adequate ventilation, lighting and shall be safe.

(ii) The prisoner may not be subjected to unnecessary physical hardships during the period of transportation.

(iii) The escort officer shall treat the prisoner firmly, but humanely and with consideration for his dignity and status as a human being.

(iv) The escort officer shall search the prisoner before any restraints are placed upon him.

(v) Restraints used shall be checked at intervals for security.

(vi) Firearms carried by the escorting officer shall be concealed and continuously protected so that they may not be taken by the prisoner.

(vii) Should a prisoner escape, the nearest law enforcement agency shall be notified.

(b) *Recommended guidelines.* The recommended guidelines for security are as follows:

(1) *Generally.* The following general provisions are recommended guidelines:

(i) Trustees should leave the jail proper only when accompanied by an officer.

(ii) Articles which may be converted into weapons should be removed from within reach of prisoners unless the article is being used by an inmate for an authorized purpose. Security type safety razors or battery type razors shall be used and removed from cell areas when not in use.

(iii) Keys should always be kept covered.

(2) *Tools.* The following are the recommended guidelines for tools:

(i) A receipting system for issuance of tools to employes should be maintained.

(ii) Tools of outside maintenance men should be carefully checked upon admittance to the jail and when they depart.

(iii) Prisoners should be allowed to use tools only under supervision.

(iv) Tools used within the jail or belonging to the jail should be numbered and recorded. They should be kept in a locked tool-storage area which is secure and is located outside the security perimeter of the jail.

(v) Tools should be checked out by the work supervisor.

(vi) Tools are returned at the end of the working day.

(vii) Tools should be inspected when returned.

(3) *Counting procedures.* The following are the recommended guidelines regarding counting procedures:

(i) A recorded inmate headcount should be made at least four times daily.

(ii) At least one official count should be made on each shift. In addition, any time there is mass movement of prisoners from one area to another, an official count should be made.

(iii) During the count the recommended guidelines are as follows:

(A) Prisoners should not move about.

(B) The officer making the count should be able to see the prisoner he is counting.

(C) Only a jail officer should conduct a count.

(D) Interruptions should not be permitted during the count.

(iv) Spot checks should be made at irregular intervals, both day and night.]

The following are the minimum requirements applicable to security:

(1) *Supervision of inmates.*

(i) Written local policy must specify the number of staff required to maintain care, custody and control of the inmate population on a 24-hour basis. Staff used to maintain the care, custody and control of the inmate population shall meet the minimum training requirements of § 95.221 (relating to personnel).

(ii) An initial staffing analysis shall be conducted to determine the staffing allotment and post assignments necessary to safely operate the prison. In determining the number of staff needed, relief factors are to be calculated for each classification of staff that is assigned to relieve posts or positions. Consideration must include, but not be limited to, annual leave, average sick leave usage, holidays, military leave, regular days off and training. The staffing analysis shall be reviewed and documented on an annual basis by the prison administrator. The results of this annual staffing analysis must serve as the required staffing allotment designated for the prison. Information on the number and type of positions filled and vacant shall be available at all times.

(iii) Written local policy must provide that assignments/posts shall be staffed without regard to gender except when reasonable accommodation to inmate privacy cannot be maintained. Prison staff of the opposite gender to that of the inmate population may not be given assignments/posts that require continuous and open viewing of unclothed inmates. When both male and female inmates are housed in the prison, at least one male corrections staff member and one female corrections staff member shall be on duty at all times.

(iv) Written local policy must require that inmates never be permitted to assume any authority over other inmates. Inmates may not be permitted access to prison employee records, the records of other inmates or other prison records.

(v) The prison shall maintain a 24-hour secure control center for monitoring and coordinating the prison's security, life safety and communications systems. Correctional staff assigned to the control center shall maintain a permanent log and shift reports that record routine information, emergency situations and unusual incidents.

(vi) Written local policy must provide that the prison administrator or assistant prison administrator and management staff designated by the prison administrator visit the prison's living and activity areas at least monthly to encourage contact with staff and inmates and observe living and working conditions. The visit shall be documented.

(2) Use of force.

(i) Force shall be restricted to instances of justifiable self-defense, protection of others, protection of property and prevention of escapes, and only the least amount of force necessary to achieve that purpose is authorized. Force may not be used as a means of punishment or revenge.

(ii) Written local policy must specify:

(A) Authorized purposes allowing for the use of force.

(B) Physical restraints, chemical agents, stun devices, batons or firearms permitted for use by prison staff.

(C) Appropriate limitations for the authorized use of force.

(D) Force options, beginning with the least amount of force and progressing through the degrees of nondeadly and deadly force.

(E) Secure storage arrangements for restraints, chemical agents, stun devices, batons and firearms. A written record shall be maintained as to the distribution of these items. A documented inventory of these items shall be conducted on a monthly basis to determine accountability and condition.

(F) Circumstances and types of force requiring specific authorization for use of force and who shall authorize.

(G) Medical consultation, review and treatment required when use of force occurs.

(H) Training for staff in the use of force. The training shall occur before staff is assigned to a post involving the possible use of authorized equipment. This training must cover the use, safety and care of the equipment and the limitations on its use. The prison staff authorized to use the equipment shall demonstrate competency in its use during the recognized certification period. Competency must be documented.

(iii) Law enforcement personnel conducting official business on prison premises who have in their possession equipment or weapons not permitted into the prison shall be provided a locked security area to properly secure the equipment or weapons.

(iv) Written local policy must require that each prison staff member involved in any use of force for other than routine inmate movement/escort/transportation shall submit a written report to the prison administrator or designee. In addition, this information shall be documented and reported to the Department, as required under § 95.242 (relating to statistical/informational reporting requirements).

(3) Emergency plans.

(i) Every prison shall have emergency plans for responding to emergency incidents, including escape, fire, disturbances, hostage taking, bomb threat, terrorism, biological/chemical incidents, utility outages, natural disasters and evacuation/relocation. The emergency plans must contain basic information and instructions for the prison staff including:

(A) To whom the emergency shall be reported.

(B) The chain of command during an emergency.

(C) The outside agencies to be contacted for response to an emergency.

(D) A description of duties of staff for each type of emergency.

(E) An identification of emergency keys/security devices and access location. There shall be a means for the immediate release of inmates from locked areas and provisions for a back-up system.

(F) An evacuation plan.

(G) How to use emergency equipment.

(H) Training for staff to handle emergencies. Prison personnel shall be trained annually in the implementation of the emergency plans. The training shall be documented.

(I) The written agreements with other jurisdictions for handling emergency incidents and the possible evacuation of inmates.

(ii) Emergency plans shall be reviewed by the prison administration on an annual basis. This review shall determine if updates are necessary due to operational changes, changes in the law, changes in constitutional standards or in recognized professional standards. The annual review and updates shall be documented.

(iii) Any emergency shall be documented and reported to the Department, as required by § 95.242.

(4) *Access control.* Written local policy must identify:

(i) Current listing of all keys/access cards.

(ii) Storage/back-up/protection arrangements for keys/access cards and accessible security devices. Keys/access cards shall be stored in a secure location when not in use. A set of emergency prison keys/access cards shall be stored in a controlled location outside the secure perimeter.

(iii) Criteria for use of keys/access cards and security devices.

(iv) Security measures required for the installation/maintenance/repair/replacement of keys/access cards and security devices. An inspection of all keys/access cards and security devices shall be conducted quarterly to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(v) Staff responsible for authorizing use of applicable keys/access cards and security devices. Inmates may not be permitted access to keys/access cards and security devices.

(vi) Inventory and receipt system to account for keys. Keys/access cards shall be checked out and checked in. A record shall be maintained to identify keys/access cards issued, identifying the person possessing and returning said key/access card. The record must allow a current accounting as to the location and possessor of keys/access cards.

(vii) Staff training required to use keys/security devices, particularly the ability to release inmates in the event of a fire or other emergency.

(5) *Contraband control.* Written local policy must describe time, methods and techniques and identify:

(i) What is considered contraband.

(ii) Procedures for conducting personal searches of inmates, vendors, volunteers, visitors and staff. All individuals shall be subject to search upon entering or leaving the prison. Inmates permitted to leave the prison for any reason shall be searched prior to reentering the prison.

(iii) Procedures for conducting cell/dormitory/area searches. Searches of all cell/dormitory/area locations are to be conducted at least twice annually to determine the presence of contraband and the security status of bars, doors and windows. The results shall be documented and submitted to the prison administrator or designee.

(iv) Procedures for conducting security checks of the interior and the security perimeter of the prison. At least one daily security check shall be conducted of all interior areas and the security

perimeter to determine matters such as staff and inmate concerns and faulty or unsafe conditions. The results of this security check shall be documented and submitted to the prison administrator or designee.

(v) Staff training required to conduct searches/security checks.

(f) *Tool/equipment control.*

(1) Written local policy must identify:

(i) The current listing of authorized tools/equipment.

(ii) The security measures required for the maintenance/repair/replacement of tools/equipment. An inspection of all tools/equipment shall be conducted semiannually to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(iii) The staff responsible for authorizing use of tools/equipment. Inmates may not be permitted access to these items, except as issued by authorized prison staff.

(iv) The storage arrangements for tools/equipment. Tools/equipment shall be stored in a secure locker or area when not in use. These items shall be stored so that their presence or absence can be immediately determined.

(v) An inventory and receipt system to account for all tools/equipment. These items shall be checked out and checked in by means of the designated maintenance area. This maintenance area shall be secure from entry by inmates. A record shall be maintained to document any tools/equipment issued, identifying the person possessing and returning said item. Tools/equipment shall be returned to the designated maintenance area daily, with a documented inventory done as to accountability and condition. There shall be a current accounting as to the location and possessor of these items.

(vi) The directions given to staff and inmates in the use of tools/equipment.

(vii) The safety procedures to protect persons who use tools/equipment.

(2) Inmates given assignments in the work assignment program, industrial program or the public works/community service program shall be supervised by persons designated by the prison administrator or designee. These inmates shall be subject to searches as prescribed by procedure.

(g) *Count control.* Written local policy must require that at least one formal, physical inmate headcount be conducted for each shift, with at least three headcounts being completed within each 24-hour period. Each headcount shall be documented in the prison's records. In the performance of the formal inmate headcounts, each inmate in attendance shall be observed as to flesh and movement. There shall be strict accountability for all temporary absences from the prison by an inmate. Only prison staff trained to conduct a formal inmate headcount shall perform the count. Written local policy must describe time, methods and techniques to be followed in making any counts and remedying count discrepancies.

(h) *Inmate transportation.* Written local policy must identify the circumstances and means for transporting inmates, including specifying the vehicles and persons authorized for that purpose. Written local policy must identify what restraint and search techniques are to be used and any special precautions. Written local policy must include contingency plans to be followed in the event of an accident, escape/security breach or medical emergency during transportation.

§ 95.242. [Extraordinary occurrences reports] Statistical/informational reporting.

[*Minimum requirements.* The following are the minimum requirements applicable to extraordinary occurrences reports:

(1) Extraordinary occurrences which involve or endanger the lives or physical welfare of jail officers or prisoners in the jail shall be reported to the Division of County Correctional Services, Department of Corrections, in writing on a form supplied by the Division within 48 hours.

(2) Extraordinary occurrences shall include the following:

(i) Death, including suicide or homicide, even if the person was transferred to a hospital before death occurred and thus did not actually expire in the jail.

(ii) Attempted suicide.

(iii) Escape.

(iv) Attempted escape.

(v) Fire.

(vi) Riot or serious disturbances.

(vii) Serious injuries.

(viii) Assault on officers.

(ix) Use of mace or gas.

(x) Use of instruments of restraint, other than in the transportation of prisoners and for medical reasons in a hospital setting.

(xi) Physical force used on a prisoner.

(xii) Outbreak of infectious diseases.]

The following are the minimum requirements applicable to the collection of statistics and other information by the Department:

(1) *Monthly county prison and jail data.* County prisons shall submit to the Department a completed County Data Monthly Report (Population Information) on designated report forms or by other available approved methods. The County Data Monthly Report (Population Information) shall be submitted within 30 days of the end of the reporting month.

(2) *Report of extraordinary occurrence.*

(i) County prisons shall submit to the Department a completed County Extraordinary Occurrence Monthly Report (Incident Information) on designated report forms or by other available approved methods. The County Extraordinary Occurrence Monthly Report (Incident Information) shall be submitted within 30 days of the end of the reporting month.

(ii) An incident qualifies as an extraordinary occurrence when an incident involves one or more of

the following and meets the associated conditions:

TYPE OF INCIDENT	ONLY COMPLETE IF
<i>Death</i>	— All cases
Natural	
Accidental	
Homicide	
Suicide	
<i>Escape</i>	— Law enforcement referral
Actual	
Walk-a-way	
Attempt	
<i>Infectious Diseases/Communicable Diseases</i>	— Department of Health reporting required
<i>Mental Health Commitment</i>	— All cases
Mental Health 302	
Mental Health 304	
<i>Attempted Suicide</i>	— Medical treatment beyond immediate first aid or mental health referral or both
<i>Use Of Force</i>	— Whenever utilized for other than routine use of restraints during inmate movement/escort/transportation
Physical	
Restraints	
Chemical agent	
Stun device	
Baton	
Firearms	
<i>Assault</i>	— Medical treatment beyond immediate first aid or law enforcement referral or both
On staff by inmate	
On inmate by staff	
On inmate by inmate	
<i>Emergency</i>	— Outside agency assistance or law enforcement referral or both
Fire	
Disturbance	
Hostage	
Bomb threat	
Terrorism	
Biological/chemical	
Utility outages	
Evacuation/relocation	

(iii) An incident qualifies as an extraordinary occurrence when an incident involves an inmate, prison employee, contractor, volunteer or visitor in a situation occurring within the prison, on prison property or while an inmate is under custody of the prison, or during the performance of a prison employee's official duties.

(3) County prisons shall submit to the Department a completed Annual County Prison General Information Report on designated report forms or by means of other available approved methods. The Annual County Prison General Information Report for the preceding calendar year shall be submitted by the first Monday in March of each year.

(4) The data and information submitted to the Department in the County Data Monthly Report, the County Extraordinary Occurrence Monthly Report and the Annual County Prison General Infor-

mation Report shall be collected for statistical, analytical and trending purposes only.

§ 95.243. Treatment services.

[(a) *Minimum requirements.* The following are the minimum requirements governing treatment services:

(1) Jails shall provide counseling services to the inmate population. Subject to the size of the inmate population, counseling services shall be available a minimum number of hours per week and may be offered by paid, qualified counselors; by negotiating contracts with existing public or private qualified agencies; by the use of professional volunteers; by self-help groups; or by a combination of any or all of these. The services shall be given by or be under the supervision of a qualified counselor, who may be hired on a part-time basis, according to the size of the inmate population, or who may be employed by a qualified agency with whom the jail contracts for services. Counseling shall include group and individual counseling of a general nature; vocational rehabilitation counseling; social casework and group work, including self-help groups such as Alcoholics Anonymous and similar groups; testing and clinical psychological services; and psychiatric services. A qualified counselor is one who has preferably a Master's Degree, but no less than a Bachelor's degree in one of the behavioral sciences and who meets the minimum standards of the profession for the job he or she is performing. A contracting agency may be either public or private, provided the employees who perform the services in the jail meet the standards for qualified counselor. A professionally qualified volunteer counselor is one who meets the standards for qualified counselor, is professionally employed or retired, and who volunteers his or her services.

(2) Counseling services shall be provided on the following basis:

(i) In jails with an average daily inmate population of ten or less, the administrator shall submit a letter to the Department of Corrections, Division of County Correctional Services, explaining how all inmates have access to counseling services.

(ii) Jails with an average daily inmate population of under 25 but over ten shall provide no less than eight hours of counseling services per week.

(iii) Jails with an average daily inmate population of under 50 but over 25 shall provide no less than 16 hours of counseling services per week.

(iv) Jails with an average daily inmate population of under 75 but over 50 shall provide no less than 40 hours of counseling services per week.

(v) Jails with an average daily inmate population of under 175, but over 75 shall have two full-time treatment personnel, one of whom shall be the treatment supervisor. Counseling services shall be available no less than five days per week. The treatment supervisor shall coordinate all counseling programs, the use of self-help groups, involve local qualified agencies both by promoting professional volunteers and by contracting for needed services, as well as provided services himself or herself. The treatment supervisor shall meet the minimum standards for qualified counselor. In jails

where a classification committee exists, the treatment supervisor shall be a member of the classification committee.

(vi) Jails with an average daily inmate population of 175 or more shall have, in addition to the treatment supervisor, one qualified counselor for every 75 inmates over the first 75. His duties shall be to provide direct services and help the overall treatment program under the direction of the treatment supervisor.

(3) The jail administrator shall develop a written plan as to how he plans to meet the minimal treatment standards and send it to the Department of Corrections, Division of County Correctional Services. Qualifications set forth in this section do not apply to personnel currently employed in treatment services if they pursue courses leading to the above stated qualifications.

(4) If the jail administrator is faced with unusual problems which make it unfeasible or impossible to meet the minimum requirements for treatment services, he or she should write to the Department of Corrections, Division of County Correctional Services and request an appropriate alternative.

(5) Jails not required to hire full-time treatment personnel may meet the minimum requirements by complying with the following:

(i) Hiring a part-time counselor.

(ii) Contracting with an existing qualified agency.

(iii) Utilizing the services of a professionally qualified volunteer.

(6) Jails not required to hire full-time treatment personnel shall appoint a liaison person to help the counselor or counselors operate in the jail with a maximum of efficiency and effectiveness and the minimum of red-tape. This liaison person may be the warden or some employee designated by the warden. Volunteers shall undergo a training and orientation program supervised by the warden.

(7) Jails shall have each prisoner interviewed as soon as possible after admission.

(8) On the basis of the initial interview, and with the aid of psychological testing if deemed necessary and feasible, a treatment plan shall be developed and discussed with the inmate. Within reasonable limits, the inmate should have the right to accept or refuse the treatment.

(9) An unsentenced inmate shall have the right to refuse treatment without qualification.

(10) If an inmate is found to be psychotic or otherwise mentally disturbed, he or she shall not be treated in the jail, but shall be transferred to a mental health facility in accordance with the provisions of the Mental Health Act (50 P. S. § 4412).

(b) *Recommended guidelines.* The following are the recommended guidelines for treatment services:

(1) Wherever possible, a sufficient number of other specialists such as psychologists, social workers, teachers, and trade instructors should be provided.

(2) Good jail administrators shall encourage diversionary measures wherever possible. The progressive administrator shall strive to make maxi-

mum use of community treatment centers, release on recognizance, bail bonding, and any other programs which shall protect the public and at the same time serve the best interests of justice.]

The following are the minimum requirements applicable to treatment services:

(1) Written local policy must:

(i) Designate that the delivery of treatment services shall be supervised by a treatment professional who is employed by the prison, someone under contract with the prison or who serves as a volunteer.

(ii) Identify treatment programs.

(iii) Designate who is responsible to provide each treatment program.

(iv) Identify the number of hours provided per week for each treatment program and the total number of hours provided per week for all treatment programs.

(2) Treatment services must include, but are not limited to, the following programs:

(i) Education.

(ii) Social services.

(iii) Alcohol and other drugs.

(iv) Counseling services.

(3) Treatment programs shall be provided by a treatment professional or a person certified, licensed or trained to provide that programming who is employed by the prison, under contract with the prison or who serves as a volunteer, or by any combination thereof.

(4) Written local policy must specify that all inmates admitted to the prison receive a treatment intake screening, performed and recorded by a person with treatment training. This screening must include, but not be limited to, the determination of current mental and emotional stability, medical status, immediate personal/family issues, the identification of legal representation, and the obtaining of the name of a relative or other person for notification in the event of an emergency. A record of the screening shall be kept as part of the permanent prison document.

(5) An inmate determined upon admission to be in need of immediate treatment services shall be assessed by a treatment professional within 7 days.

(6) Following review of the initial treatment intake screening by a treatment professional, a treatment needs assessment shall be conducted by a treatment professional within 14 days following admission. This assessment must identify individual treatment needs and, within available prison and community resources, provide for access to supportive and rehabilitative services. The assessment shall be recorded as part of the inmate's file. This assessment must include, but is not limited to:

(i) Review of history of psychotherapy, psycho-educational groups and classes or support groups.

(ii) Review of history of drug and alcohol treatment.

(iii) Review of educational history.

(iv) Review of history of sexual abuse-victimization and predatory behavior.

(v) Review of history of violence.

(7) Written local policy must identify the procedures for evaluating whether an inmate is mentally ill and proceedings under the Mental Health Procedures Act (50 P. S. §§ 7101—7503), should be initiated.

(8) Except when subject to an involuntary commitment under the Mental Health Procedures Act or unless otherwise directed by court order, inmates shall have the option to refuse treatment services.

(9) Written local policy must specify that there is no discrimination regarding treatment services access based on an inmate's race, religion, national origin, gender, or disability. If both genders are housed in the prison, all available services and programs shall be comparable.

§ 95.244. Community involvement.

[*Recommended guidelines.* The following are the recommended guidelines for community involvement:

(1) Community involvement with the jail and involvement of personnel and selected inmates in community activities should be encouraged. This may include the following:

(i) Tours of facilities by church groups, college classes, fraternal, civic and other responsible organizations. Such tours shall be conducted not only for viewing the physical plant, but as a means of interpreting treatment programs and correctional needs. Every effort should be made during such tours to respect the privacy of prisoners desiring such.

(ii) Participation of community organizations in meaningful institutional programs.

(iii) The use of volunteers who are trained and supervised in structured activities.

(iv) Speaking engagements by jail administrator and staff.

(v) Participation in community activities by inmate speakers, panels, choirs, and sports teams.

(2) Members of the news media with proper credentials should be encouraged to visit the jail. Such occasions should be utilized by the jail administrator, custodial, and professional staff to orient newsmen to jail management, inmate behavior, rehabilitation efforts, and to problems and limitations of the jail.]

The following are the minimum requirements applicable to community involvement:

(1) Written local policy must identify and explain any authorized community involvement activities. Adherence to inmate privacy rights shall be maintained and a waiver process shall be established.

(2) Written local policy must identify the criteria for permitting the interaction of members of the community with staff and inmates. Before participating in any activity, these individuals or groups shall receive documented direction as to their general and specific responsibilities, as well as the

rules of the prison. Individuals may only participate in activities consistent with their credentials, training or experience.

(3) Written local policy must identify the person responsible for coordinating and supervising community involvement activities.

§ 95.245. Incoming publications.

[*Recommended guidelines.* The following are the recommended guidelines for incoming publications:

(1) The jail administrator should give a wide latitude in allowing outside magazines, newspapers, reference materials, training manuals, religious tracts and pamphlets, fiction and nonfiction books, and legal publications to enter the jail whether a part of the library or as personal inmate purchase.

(2) A decision to declare a publication unacceptable should be based on a clear showing that admission of the publication shall jeopardize the discipline and good order of the jail.

(3) All prisoners should be permitted a reasonable quantity of reading materials and all legal materials necessary for research or preparation of his or her case, to be retained in his or her cell, locker, or dormitory. Neatness and good order should be of primary concern rather than a specified number of publications. Excessive quantities should be disposed of by amicable agreement with the inmate if at all possible.]

The following are the minimum requirements applicable to incoming publications:

(1) Written local policy must specify the procedure for receiving, reviewing and allowing publications into the prison, including the searching of incoming publications for contraband.

(2) Written local policy must establish the criteria for prohibiting a publication from coming into the prison, including the defining of obscene material. Incoming publications may be read and examined by the prison administrator or a designee. The criteria for prohibiting a publication from coming into the prison must be related to maintaining the order, security or safety of the prison or the exclusion of obscene material.

(3) Written local policy must identify the procedure for allowing access to both recreational and instructional reading materials for use by inmates.

§ 95.246. Investigations [of deaths]—deaths and sexual assaults/threats.

[*Minimum requirements.* The following are the minimum requirements for investigations of deaths of prisoners or jail staff:

(1) Whenever a prisoner or staff member dies within the jail or on jail property, whether the death be from suicide, violence, accident, or natural causes, an investigation by the local police or an appropriate law enforcement agency shall be requested. An extraordinary occurrence report shall be filed with the Department of Corrections, Division of County Correctional Services.

(2) The jail administrator or staff person in charge shall contact the county coroner and the local police via telephone and request an immedi-

ate investigation when notified of the death of a prisoner or a jail employe. A follow-up written request shall be made to the police or other law enforcement agency with an additional request that a copy of the investigation report be forwarded to the Department of Corrections, Division of County Correctional Services.]

The following are the minimum requirements for investigation of:

(1) *Deaths.*

(i) The prison administrator shall immediately notify the coroner and the appropriate law enforcement agency when an inmate dies within the prison, on prison property or while in the custody of prison staff. Immediate notification shall also be made to the coroner and the appropriate law enforcement agency when a prison employee, volunteer, contractor or visitor dies within the prison, on prison property or while in the performance of his official duties.

(ii) Written local policy must describe the procedure to be followed in the event of the death of an inmate, prison employee, volunteer, contractor or visitor. The policy must include identification of the coroner and the law enforcement agency to be notified. The policy must also specify who is responsible for contacting the coroner and the law enforcement agency, coordinating investigative efforts with the coroner and the law enforcement agency and completing and submitting a report to the governing county prison authority. Whenever such a death occurs, it shall be documented and be reported to the Department and the United States Department of Justice.

(2) *Sexual assaults/threats.*

(i) The prison administrator or designee shall immediately report occurrences of sexual assault or threat in accordance with the laws of the jurisdiction. The designated law enforcement agency shall be notified and an investigation requested when a sexual assault or threat occurs within the prison, on prison property or while in the custody of prison staff. An immediate request for investigation shall also be made when a prison employee, volunteer, contractor or visitor indicates that a sexual assault or threat has occurred within the prison, on prison property or while in the performance of his official duties.

(ii) Written local policy shall describe the procedure to be followed in the event of a sexual assault or threat involving an inmate, prison employee, volunteer, contractor or visitor. The policy must include identification of the law enforcement agency to be notified. The policy must also specify who is responsible for contacting the law enforcement agency, coordinating investigative efforts with that said agency and completing and submitting a report to the governing county prison authority. Whenever such a sexual assault or threat occurs, it shall be documented and shall be reported to the Department and the United States Department of Justice.

§ 95.247. Notification.

[*Minimum requirements.* The following are the minimum requirements governing notification of death of a prisoner, next of kin of a prisoner, or the transfer of the prisoner:

(1) A prisoner shall be informed at once of the death or serious illness of a family member. In such cases, if the family member resides in Pennsylvania, the prisoner may be authorized to go to the funeral or bedside either under escort or alone, with court approval.

(2) Upon the death or serious illness or serious injury to a prisoner, or his removal to an institution for the treatment of mental illness, the jail administrator shall at once inform the spouse, or nearest relative or other person previously designated by the prisoner.

(3) Every prisoner shall have the right to notify at once his family of his transfer to another institution. If the prisoner lacks funds, he shall be given a free letter to notify the family.]

The following are the minimum requirements applicable to notification:

(1) Written local policy shall provide for prompt notification by prison authorities of an inmate's listed emergency contact in the event of the inmate's death, serious illness or serious injury. The policy must also provide for prompt notification to an inmate in the event of the death, serious illness or serious injury to the inmate's immediate family member.

(2) Written local policy, in accordance with sections 201 and 214 of the Crime Victims Act (18 P. S. §§ 11.201 and 11.214), must establish a victim notification procedure. The procedure must identify how victims register for notification, the circumstances for which victims are notified, how this information will be maintained in a confidential manner and who is responsible for notifying the victim. If the inmate is a State prisoner on writ for local court proceedings, the county prison shall immediately contact the State correctional institution from which the inmate was transferred when circumstances exist requiring notification of the victim. In this instance, disclosure to the victim will be then handled by the Department.

(3) Written local policy must specify a procedure for the transfer of inmate information. The procedure must identify the information to be transferred between county and State correctional facilities, when this information is to be transferred, how this information is to be transferred and who is responsible for the transfer of information.

§ 95.248. Sanitation, maintenance and safety.

[*Minimum requirements.* The following minimum requirements shall apply to sanitation and safety:

(1) Local codes relating to fire, health and safety shall be followed.

(2) If available, fire safety standards shall follow guidelines of the local fire department. Otherwise a fire extinguisher, or hose assembly connectable to available water outlet, shall be required on every floor of the jail.

(3) If available, a fire safety plan shall be developed with the local fire department and evidence of this arrangement shall be on file.

(4) Jails shall follow the regulations set forth by the Department of Labor and Industry for safety standards and fire regulations.]

The following are the minimum requirements applicable to sanitation, maintenance and safety:

(1) The prison shall adhere to applicable governmental regulations regarding sanitation, maintenance and safety as promulgated by those agencies and departments so authorized by law.

(2) Written local policy must identify a sanitation and housekeeping plan. This plan must address all prison areas and provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates. Inmates shall be required to maintain their immediate living area and adjacent general space in a sanitary condition. The control of vermin and pests shall be addressed on a monthly basis by a qualified person, with documentation of the application of any pest or vermin control treatment. A sanitation inspection shall be conducted of all prison areas on a monthly basis to determine the health and safety status of the prison and the need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(3) Written local policy must identify a preventive maintenance program for the physical plant of the prison. This program must ensure the regular care and inspection of equipment that is essential for safe and efficient operation. A qualified person shall conduct an inspection of all equipment, at least semiannually, as specified by the manufacturer, to determine condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(4) Written local policy must provide for the inventory, control, storage and clean-up of toxic, caustic and flammable substances. Written local policy must also specify an exposure control plan for governing the handling of blood-borne pathogens.

(5) Prison operational support areas, to include laundry room, janitorial closets, mechanical room, electrical room, boiler room, maintenance room and storage room shall be maintained in a safe and clean condition at all times.

(6) The prison administrator shall maintain any required licenses or documentation of the prison's compliance with applicable building code/life safety code. Current licenses or certificates of occupancy, or both, shall be available for inspection in the prison.

(7) The approved bed capacity shall be specified annually. The actual in-house population may not exceed the prison's approved bed capacity. The in-house population shall be calculated as the average daily inmate population for the 6 calendar months prior to the date of the preinspection audit.

(8) An emergency power back-up system shall be available and in operational condition. This system shall be load tested at least on a quarterly basis, with this load test and the operating status of the system documented.

(9) Written local policy must identify a fire emergency/evacuation plan. This plan shall be reviewed annually by the prison administrator or designee and identify an existing agreement with a

responding fire departments. Staff training for the implementation of this plan shall be provided on an annual basis. All areas of the prison shall be involved and participate in fire drill exercises at least once each year, with all fire drills being documented. Written local policy shall also provide for a system of inspection, testing and certification by a qualified person of all fire/smoke detectors, fire/smoke alarms and panels and fire fighting equipment on an annual basis.

[Pa.B. Doc. No. 06-1160. Filed for public inspection June 23, 2006, 9:00 a.m.]

STATEMENTS OF POLICY

Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 16]

Corrective Amendment to § 16.24

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 16.24 (relating to metals criteria), as deposited with the Legislative Reference Bureau and published at 35 Pa.B. 1223, 1225 (February 12, 2005) and the official text as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 365 (April 2005)), and as currently appearing in the *Pennsylvania Code*. The entry for lead in the Conversion Factors Table was inaccurately reflected when the amendment was published.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code § 16.24. The corrective amendment to 25 Pa. Code § 16.24 is effective as of February 12, 2005, the date the defective text appeared in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 16.24 appears in Annex A, with ellipses referring to the existing text of the statement of policy.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart A. PRELIMINARY PROVISIONS

ARTICLE II. STATEMENTS OF POLICY

CHAPTER 16. WATER QUALITY TOXICS MANAGEMENT STRATEGY—STATEMENT OF POLICY

Subchapter A. GUIDELINES FOR DEVELOPMENT OF CRITERIA FOR TOXIC SUBSTANCES AND WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES

GUIDELINES FOR DEVELOPMENT OF AQUATIC LIFE CRITERIA

§ 16.24. Metals criteria.

* * * * *

(b) Dissolved criteria are indicated in Appendix A, Table 1 with A"*, and have been developed by applying the most current EPA conversion factors to the total recoverable criteria. The EPA factors are listed in the following Conversion Factors Table.

Conversion Factors Table			
	<i>Chronic</i>	<i>Acute</i>	<i>Source</i>
Arsenic	1.000 (As3+)	1.000 (As3+)	1,2
Cadmium	1.101672- (ln[H]x0.041838)	1.136672- (ln[H]x0.041838)	2
Chromium VI	0.962	0.982	1,2
Copper	0.960	0.960	1,2
Lead*	1.46203-(ln[H]x0.145712)		2
Mercury	0.85	0.85	1,2
Nickel	0.997	0.998	1,2
Selenium	0.922	0.922	1
Silver	NA	0.85	2
Zinc	0.986	0.978	1,2

* * * * *

[Pa.B. Doc. No. 06-1161. Filed for public inspection June 23, 2006, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action 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 June 13, 2006.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-8-06	First Commonwealth Financial Corporation, Indiana, to acquire 100% of the Laurel Capital Group, Inc., Allison Park	Indiana	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-8-06	First Commonwealth Bank, Indiana, and Laurel Savings Bank, Allison Park Surviving Institution— First Commonwealth Bank, Indiana	Indiana	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-25-06	New Century Bank Phoenixville Chester County	Lincoln Court Shopping Center Route 30 Malvern East Whiteland Township Chester County	Opened
6-6-06	Mauch Chunk Trust Company Jim Thorpe Carbon County	735 Blakeslee Drive East Lehighton Mahoning Township Carbon County	Opened
6-7-06	Berkshire Bank Wyomissing Berks County	Lots 1 and 2 Crestwood East Office Park Neversink and Hearthstone Court Reading Exeter Township Berks County	Filed
6-8-06	MoreBank Philadelphia Philadelphia County	7042—7062 Terminal Square Upper Darby Delaware County	Filed
6-12-06	Graystone Bank Lancaster Lancaster County	Chateau Place, Lot 1 Linglestown Road Harrisburg Dauphin County	Approved
6-12-06	CommunityBanks Millersburg Dauphin County	1201 Carlisle Road York West Manchester Township York County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-12-06	ESB Bank Ellwood City Lawrence County	To: SR 65, Ellwood Road New Castle Shenango Township Lawrence County	Approved

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> The Lawrence Village Plaza New Castle Shenango Township Lawrence County	
6-12-06	Coatesville Savings Bank Coatesville Chester County	<i>To:</i> 1099 Georgetown Road Bart Lancaster County	Approved
		<i>From:</i> 1082 Georgetown Road Bart Lancaster County	

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-8-06	Orrstown Bank Shippensburg Cumberland County	13 Center Square Greencastle Franklin County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Charter Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-8-06	Lehigh Valley Educators Credit Union Allentown Lehigh County	Allentown	Filed

Application represents request for conversion from occupational-based credit union to a community-based charter to serve "all people who live, work, worship, attend school in, and businesses and other legal entities in Lehigh and Northampton County, in the Commonwealth of Pennsylvania." The subject conversion will be completed by filing Articles of Amendment with the Department of State.

Branch Applications

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-12-06	Healthcare First Credit Union Johnstown Cambria County	1152 Franklin Street Johnstown Cambria County	Approved

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

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-1162. Filed for public inspection June 23, 2006, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of July 2006

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of July 2006 is 7 3/4%.

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

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate

on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 5.23 to which was added 2.50 percentage points for a total of 7.73 that by law is rounded off to the nearest quarter at 7 3/4%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-1163. Filed for public inspection June 23, 2006, 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

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAS 802214 (Stormwater)	North American Bulk Transport, Inc. 3190 Daniels Road Nazareth, PA 18064-9054	Nazareth Borough Northampton County	UNT to Moncacy Creek 2C	Y
PA-0061042 Sewage	Miller's Country Store, LLC 1148 Old Trail Road Clarks Summit, PA 18411	Lackawanna Glenburn Township	Wet Weather Channel to Ackerly Creek 4F	Y
PA0029149 (Sewage)	Matzel Development of Pocono Manor Pocono Manor Inn P. O. Box 38 Pocono Manor, PA 18349	Monroe County Pocono Township	Swiftwater Creek 1E	Y
PA0064092	Beach Lake Municipal Authority P. O. Box 151 Beach Lake, PA 18405	Berlin Township Wayne County	Beach Lake Creek 1A	Y
PA0061093	Monroe Career & Technical Institute P. O. Box 66 Laurel Run Drive Bartonsville, PA 18321	Pocono Township Monroe County	Pocono Creek 1E	Y

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

<i>NPDES No. Type</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0080829 (IW)	Keystone Protein Company P. O. Box 37 568 Chestnut Hill Road Fredericksburg, PA 17026	Lebanon County Bethel Township	UNT to Beach Run 7-D	Y
PA0082007 (Sew)	Kimberly A. Browell 6827 Bedford Valley Road Bedford, PA 15522-6114	Bedford County Cumberland Valley Township	Sand Spring Run 13-A	Y
PA0030597 (Sew)	Franklin County General Authority 5121A Coffey Avenue Chambersburg, PA 17201	Franklin County Letterkenny Township	Greene Township Rocky Spring Creek 13-C	Y
PA0021717 (Sew)	Marietta-Donegal Joint Authority P. O. Box 167 Marietta, PA 17547	Lancaster County Marietta Borough	Susquehanna River 7-G	Y
PA0035823 (Sew)	Kent Saunders Saunders Park 5909 Little Cove Road Mercersburg, PA 17236-9409	Franklin County Warren Township	Little Cove Creek 13-B	Y
PA0008486 (IW)	Ahlstrom Mount Holly Springs, LLC 122 West Butler Street Mount Holly Springs, PA 17065-1218	Cumberland County Mount Holly Springs	Mountain Creek 7-E	Y
PA0080616 (Sew)	Ride Road Associates Mountain View MHP 20 Erford Road Suite 215 Lemoyne, PA 17043	Adams County Reading Township	Conewago Creek/Plum Run 7-F	Y
PA0088277 (Sew)	Test Enterprises, Inc. 1235 Abbottstown Pike Hanover, PA 17331	Adams County Berwick Township	UNT to Beaver Creek 7-F	Y

<i>NPDES No. Type</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0070424 (Sew)	Caernarvon Township Municipal Authority P. O. Box 291 Morgantown, PA 19543	Berks County Caernarvon Township	Conestoga Creek 7-J	Y
PA0087882 (Sew)	Visaggio's Restaurant 6990 Wertzville Road Enola, PA 17025-1037	Cumberland County Silver Spring Township	Simmons Creek 7-B	Y
PA0033111 (Sew)	Oak Creek Campgrounds, Inc. P. O. Box 128 Bowmansville, PA 17507	Lancaster County Brecknock Township	Muddy Creek 7-J	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.

PA0053546, SEW, SIC 8812, **Frank Dzedzy**, 412 Lincoln Road, Phoenixville, PA 19460. This proposed facility is located in East Pikeland Township, **Chester County**.

Description of Proposed Activity: renewal of an NPDES Permit to discharge 400 gpd of treated sewage into UNT to Pickering Creek.

The receiving stream, UNT to Pickering Creek, is in the State Water Plan Watershed 3D Manatawny and is classified for HQ Stream. The nearest downstream public water supply intake for Suburban Water Company is located on Schuylkill River and is 4.7 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 400 gpd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10.0	20.0
(11-1 to 4-30)	20.0	40.0
Suspended Solids	10.0	20.0
Ammonia (as N)		
(5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
Total Residual Chlorine	Monitor and Report	Monitor and Report
Fecal Coliform	200 #/100 ml	1,000 #/100 ml
Dissolved Oxygen	minimum of 6.0 mg/l at all times	
pH	within limits of 6.0 to 9.0 Standard Units at all times	

The EPA waiver is in effect

PA0021857, Sewage, SIC 4952, **Souderton Borough**, 31 West Summit Street, Souderton, PA 18964. This Souderton facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Activity: Discharge of treated sewage from Souderton Borough Wastewater Treatment Plant. The receiving stream, UNT to Skippack Creek, is in the State Water Plan Watershed 3E Perkiomen Creek Basin, and is classified for TSF. The nearest downstream public water supply intake for Philadelphia Suburban Water Company is located on Perkiomen Creek and is 16.25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on an average annual flow of 2.0 mgd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	15	23		30
(11-1 to 4-30)	25	40		50
Total Suspended Solids	30	45		60
NH ₃ -N				
(5-1 to 10-31)	1.8			3.6
(11-1 to 4-30)	3.6			7.2
Phosphorous as P				
1st year through 2nd year				
(4-1 to 10-31)	1.0			2.0
(11-1 to 3-31)	2.0			4.0
3rd year through 5th year				
(4-1 to 10-31)	0.24			0.48
(11-1 to 3-31)	0.48			0.96

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen	6.0 minimum			
Fecal Coliform	200 # Col/100 ml			1,000 # Col/100 ml
pH (Std)	6.0 minimum			9.0
Total Dissolved Solids	1,000	1,500		2,000
Total Residual Chlorine	0.01			0.03
Copper, Total	0.067		0.134	0.167
Osmotic Pressure			100 moles/kg	

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

1. Remedial Measures.
2. Sewage Sludge Disposal.
3. Whole Effluent Toxicity Tests at Renewal.
4. TMDL/WLA Analysis.
5. Operations and Maintenance Plan.
6. Laboratory Certification.
7. Pretreatment Program.
8. Chlorine Minimization.
9. Stream Sampling.

PA0050504, Sewage, SIC 4952, **East Goshen Municipal Authority**, 1580 Paoli Pike, West Chester, PA 19380. This proposed facility is located in East Goshen Township, **Chester County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from Ridley Creek STP. This is an existing discharge to Ridley Creek with a plant expansion from 0.4 mgd to 0.75 mgd.

The receiving stream, Ridley Creek, is in the State Water Plan Watershed 3G and is classified for HQ-TSF aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA Main System is located on Ridley Creek and is 11 miles below the point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.4 mgd from permit issuance through completion of plant expansion are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	30	45	60
Ammonia as N			
(5-1 to 10-31)	4.0		8.0
(11-1 to 4-30)	12.0		24.0
Fecal Coliform	#200/100 ml as a geometric mean		#1,000/100ml
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 001, based on a design flow of 0.75 mgd from completion of plant expansion through permit expiration are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	21	32	42
Ammonia as N			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.0		14.0
Phosphorus as P	0.5		1.0
Fecal Coliform	#200/100 ml as a geometric mean		#1,000/100 ml
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 002, based on a design flow of 0.135 mgd from permit issuance through completion of plant expansion are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	10	15	20

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<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(11-1 to 4-30)	20	30	40
Total Suspended Solids	30	45	60
Ammonia as N			
(5-1 to 10-31)	4.0		8.0
(11-1 to 4-30)	12.0		24.0
Fecal Coliform	#200/100 ml as a geometric mean		#1,000/100 ml
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 002, based on a design flow of 0.135 mgd from completion of plant expansion through permit expiration are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	21	32	42
Ammonia as N			
(5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.0		14.0
Phosphorus as P	0.5		1.0
Fecal Coliform	200/100 ml as a geometric mean		#1,000/100 ml
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0 to 9.0 standard units at all times		

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

1. Operator Notification.
2. Average Weekly Definition.
3. Remedial Measures.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change in Ownership.
7. Proper Sludge Disposal.
8. TMDL/WLA Analysis.
9. I-max Limitations.
10. Notification of Completion of Plant Expansion.
11. Laboratory Certification.
12. Compliance with Phosphorus Limitation.
13. Operator Training.

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

PA0065072, Industrial, **Flying J., Inc.**, 333 W. Center Street, North Salt Lake, UT 85054. This proposed facility is located in New Milford Township, **Susquehanna County**.

Description of Proposed Activity: The receiving stream, UNT to Nine Partners Creek, is in the State Water Plan Watershed 04F and is classified for CWF, aquatic life and water supply recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.010.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Oil and Grease			15	30
pH			6.0 to 9.0 standard units at all times	
Total Recoverable Petroleum Hydrocarbons			Monitor and Report	
Total BTEX			Monitor and Report	

PA0052167, Sewage, **Wind Gap Municipal Authority**, 16 South Broadway, Wind Gap, PA 18091. This proposed facility is located in Plainfield Township, **Northampton County**.

Description of Proposed Activity: Renewal of an NPDES Permit.

The receiving stream, a UNT of Little Bushkill Creek is in the State Water Plan Watershed 1F and is classified for HQ-CWF. The nearest downstream public water supply intake for Keystone Water Company, Yardley District is located on the Delaware River is 62 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.0 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	2	3	4
(11-1 to 4-30)	6	9	12
Dissolved Oxygen	a minimum of 6.0 mg/l at all times		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	0.15		0.34
Whole Effluent Toxicity	Less than 1.20 TUc		

The following effluent limit for Stormwater Outfall is 002.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report
Total Phosphorus				Report
Iron (dissolved)				Report

Permittee has the option to perform an annual inspection of facilities in lieu of annual monitoring.

In addition to the effluent limits, the permit contains the following major special conditions: WETT test requirements, stormwater requirements.

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

Application No. PA 0248193, Sewage, **Albert Kuhn**, P. O. Box 121, Carlisle, PA 17013. This facility is located in North Middleton Township, **Cumberland County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Conodoguinet Creek, is in Watershed 7-B and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Carlisle Borough is located on the Conodoguinet Creek, approximately 2.8 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
Total Residual Chlorine	Monitor and Report	
pH	from 6.0 to 9.0 inclusive	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	100,000/100 ml as a geometric average	

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

NPDES Permit No. PA 0088943, Amendment No. 1, Concentrated Animal Feeding Operation (CAFO), **Cedar Hill Farm**, co-permittees: James Eisenhour, Jr., 721 Spring Valley Road, Wellsville, PA 17365 and Terry Sweitzer, 120 Harbold-Atland Road, Wellsville, PA 17365.

The Department of Environmental Protection (Department) proposes to reopen the NPDES permit for Cedar Hill Farm to remove one co-permittee, as requested, and to modify certain permit conditions. The farm includes one steer, one swine and one poultry operation in Warrington and Washington Townships, **York County**.

The CAFO is situated near Wolf Run, which is classified as a WWF. The CAFO is designed to maintain an animal population of approximately 1,177 animal equivalent units consisting of 750 sows, 2,100 nursery pigs, 600 grower pigs, 6 boars, 585 beef cows and calves and 48,000 laying hens. A release or discharge to waters of this Commonwealth under normal operating conditions is prohibited. Normal operating conditions are defined as conditions a 25-year, 24-hour storm event.

The draft permit amendment is on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit amendment are invited to submit written comments to the previous address within 30 days from the date of this public notice. Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

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. 4606406, Sewerage, **Berks—Montgomery Municipal Authority**, 136 Municipal Drive, P. O. Box 370, Gilbertsville, PA 19525-0370. This proposed facility is located in Douglas and Colebrookdale Townships, **Montgomery and Berks County**.

Description of Action/Activity: Construction and operation of sanitary sewer systems.

WQM Permit No. 1506406, Sewerage, **Downingtown Area Regional Authority**, 6 West Lancaster Avenue, Downingtown, PA 19335. This proposed facility is located in East Caln Township, **Chester County**.

Description of Action/Activity: Construction and operation of gravity thickener and sludge holding tanks.

WQM Permit No. 0906404, Sewerage, Buckingham Township, P. O. Box 413, Buckingham, PA 18912. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a wastewater treatment plant.

WQM Permit No. 4606405, Sewerage, **Upper Hanover Authority**, 1704 Pillsbury Road, P. O. Box 205, East Greenville, PA 18041. This proposed facility is located in East Brandywine Township, **Chester County**.

Description of Action/Activity: Construction and operation of a 10" sanitary sewer and sewer extension to serve 250 EDUs from residential and commercial subdivision.

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

WQM Permit No. 4906401, Sewerage 4952, **Milton Regional Sewerage Authority**, P. O. Box 433, 5585 South PA Route 405, Milton, PA 17847. This proposed facility is located in Milton Borough, **Northumberland County**.

Description of Proposed Action/Activity: The applicant is proposing improvements to their existing wastewater treatment plant. The proposed upgrades include the installation of a new centrifuge and polymer feed system and the addition of diffused aeration in the aeration tanks from new rotary positive displacement blowers and diffusers. The proposed improvements will increase the organic capacity at the facility to 23,870 lbs/day. The existing belt filter press will be demolished as part of this project.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506037	Malvern Preparatory School The Center For The Arts 418 South Warren Avenue Malvern, PA 19355	Chester	Malvern Borough	Crum Creek HQ-WWF
PAI011506038	Bala Investments, Inc. Ashford Subdivision 321 South Valley Forge Road Devon, PA 19333	Chester	Charlestown Township	Pickering Creek HQ-TSF

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506039	Wilkinson-Allegiance, LLC Havenstone II Subdivision 1020 Broad Run Road Landenberg, PA 19350	Chester	New London Township	Hodgson Run HQ-TSF-MF
PAI011506040	Bentley Communities, LP The Gray Property 1595 Paoli Pike, Suite 202 West Chester, PA 19380	Chester	West Bradford Township	Broad Run EV
PAI011506041	Gary Gorton 443 North Rose Lane Haverford, PA 19041-1923	Chester	Willistown Township	Crum Creek HQ-CWF
PAI010906020	Heritage Building Group, Inc. 2500 York Road Jamison, PA 19428	Bucks	Warrington Township	Neshaminy Creek WWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906011	Renee Miller John Folck 2968 Boger Stadt Road New Tripoli, PA 18066	Lehigh	Weisenberg Township	Lyon Creek HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033106002	Dominion Transmission Inc. 445 West Main Street Clarksburg, WV 26301	Juniata	Lack and Tuscarora Townships	Lick Run CWF Tuscarora Creek CWF Willow Run HQ-CWF Dougherty Creek HQ-CWF Blacklog Creek HQ-CWF East Licking Creek HQ-CWF Dougherty Run HQ/CWF Barn Run HQ-CWF Minehart Run HQ-CWF Carlisle Run WWF
		Mifflin	Bratton, Oliver, Granville and Union Townships	WWF Juniata River WWF Strode's Run HQ-CWF Little Kishacoquillas Creek HQ-CWF Frog Hollow CWF Wakefield Run HQ East Branch Standing Stone Creek HQ-CWF
		Huntingdon	Jackson Township	

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041406001	Grove Park Associates, Inc. Tomasz Kulakowski P. O. Box 726 Lemont, PA 16851	Centre County	Benner Township	Buffalo Run HQ-CWF

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041806003	R.C. Bowman, Inc. 1436 Nittany Valley Dr. Mill Hall, PA 17751	Clinton County	Lamar Township	Fishing Creek HQ

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

PAG124821, CAFO, SIC 0259, **Richard Daniels**, Justa Mere Farm, Box 35 Creek Road, Pillow, PA 17080. The existing facility, for which permit coverage is proposed, is located in Lower Mahanoy Township, **Northumberland County**.

Description of size and scope of existing Operation/Activity: Existing duck CAFO, including 30 beef cows with a combined total of 138 AEU's.

The receiving stream, Mahatango Creek is in watershed 6C and 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.

PAG124822, CAFO, **Kucharski Farms**, R. R. 1 Box 76K, Liberty, PA 16930. This proposed facility is located in Liberty Township, **Tioga County**.

Description of Size and Scope of Proposed Operation/Activity: Existing dairy and hog CAFO with a combined total of 652 AEU's.

The receiving stream, Blockhouse Creek, is in watershed 9A and classified for CWF.

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

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

Application No. 1306501, Public Water Supply

Applicant **Lehighon Water Authority**
Franklin Township
Carbon County

Responsible Official David Harleman, Chairperson
Lehighon Water Authority
Box 29 Municipal Building
Lehighon, PA 18235

Type of Facility PWS

Consulting Engineer James C. Elliot, P. E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Application Received Date May 31, 2006

Description of Action The applicant proposes to replace the existing backwash pumps with units of higher capacity at the Lehighon Water Treatment Plant.

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

Permit No. 2205504, Public Water Supply.

Applicant **United Water Pennsylvania**
Municipality Hummelstown Borough
County **Dauphin**

Responsible Official Nancy J. Trushell, Engineering Manager
4211 East Park Circle
Harrisburg, PA 17111

Type of Facility Public Water Supply

Consulting Engineer Gary W. Snyder, P. E.
Black & Veatch
Curtis Center
Philadelphia, PA 19106

Application Received: 3/24/2005

Description of Action Construction of a new microfiltration treatment plant.

Permit No. 0106509, Public Water Supply.

Applicant **Oxen Country Meadows Development, LLC**
Municipality Oxford Township
County Adams

Responsible Official Randy B. Test, President
1235 Abbottstown Pike
Hanover, PA 17331

Type of Facility Public Water Supply

Consulting Engineer Janet R. McNally, P. E.
William F. Hill & Assoc., Inc.
207 Baltimore St.
Gettysburg, PA 17325

Application Received: 5/24/2006

Description of Action Development of a new community water system.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application Minor Amendment.

Applicant **Lehigh County Authority**
Moore Township
Northampton County

Responsible Official Aurel M. Arndt, General Manager
Lehigh County Authority
1053 Spruce Street
P. O. Box 3348
Allentown, PA 18106-0348
(610) 398-2503

Type of Facility Community Water System

Consulting Engineer NA

Application Received Date June 2, 2006

Description of Action Application for transfer PWS operation permit Nos. 4872501 and 4876503, both issued March 26, 1986, from Clearview Farm Estates Water Co. to Lehigh County Authority.

Application No. 2646395, Minor Amendment.

Applicant **Fox Ledge Inc.**
Mount Pleasant Township
Wayne County

Responsible Official Alfred A. Alessi Jr., President

Type of Facility Bottled Water

Consulting Engineer Michael J. Propst P. E.
Keystone
Consulting & Associates, LLC
34 Brown Street
Honesdale, PA

Application Received Date 6/2/06

Description of Action The addition of a third 60,000-gallon water storage silo.

Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996311, Public Water Supply.

Applicant **A. T. Reynolds and Sons d/b/a Leisure Time Spring Water**
Township or Borough Kiamesha, NY

Responsible Official Harold B. Reynolds, Owner

Type of Facility	Out-of-State bottled water system
Application Received Date	May 22, 2006
Description of Action	Applicant requesting Department of Environmental Protection's approval to use new spring source water (Alpine Springs). Bottled water to be sold in this Commonwealth under the brand names: Leisure Time Spring Water and Leisure Time Distilled Water.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment

period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

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

Automotive Service, Inc., Union Township, **Berks County**. Marshall Geoscience, Inc., 170 E. First Avenue, Collegeville, PA 19426, on behalf of Sandy's Garage, 1682 E. Main Street, Douglassville, PA 19518, submitted a Notice of Intent to Remediate site soil, sediment and surface water contaminated by No. 2 fuel oil. The property is a commercial property and will be used as such in the future. The applicant is seeking to remediate to the Statewide Health Standard.

David Logue Property, Oneida Township, **Huntingdon County**. Groundwater and Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona PA, 16601, on behalf of David T. Logue, 8176 Gorsuch Road, Huntingdon, PA 16652, submitted a Notice of Intent to remediate site soils and groundwater contaminated by leaded gasoline. The property is residential and commercial and will continued to be used as both in the future. The applicant is seeking to remediate to both the Statewide Health and Site-Specific Standards.

Penn State Fruit Research and Extension Center, Butler Township, **Adams County**. EPSYS Corporation, 1414 North Cameron Street, Harrisburg, PA 17103, on behalf of Penn State University, 6 Eisenhower Parking Deck, University Park, PA 16802, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline released from an unregulated tank. The applicant is seeking to remediate the site to a Statewide Health Standard. The site is currently used by Penn State for fruit production and tree research and the future use will be the same.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

V & H Motor Company, Inc. East Buffalo Township, **Union County**. United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222 on behalf of Roger Holtzapple, V & H Motor Company, Inc., 2265 Old Turnpike Road, Lewisburg, PA 17837 has submitted a Notice of Intent to Remediate soil contaminated with leaded gasoline and used motor oil. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Standard Journal* on April 11, 2006.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application for Determination of Applicability received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

General Permit Application No. WMGR096, Program I.D. WMGR096NE001, Hazleton Creek Properties, LLC, 580 Third Avenue, P. O. Box 1389, Kingston, PA 18704. A General Permit Determination of Applicability for the beneficial use of regulated fill as defined in Guidance Document 258-2182-773 (Management of Fill) for use as construction material for the Hazleton Mine Reclamation Project located in Hazleton City, **Luzerne County**. The application for Determination of Applicability was received in the Regional Office on June 9, 2006, and was deemed administratively complete as of June 12, 2006.

Persons interested in obtaining more information about the Determination of Applicability application should contact Robert C. Wallace, Chief, Engineering and Facilities Section, Waste Management Program, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790, at (570) 826-2511. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

Public comments must be submitted within 30 days of the publication of this notice, and these comments 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, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

35-399-043: Sandvik Materials Technology (P. O. Box 1220, Scranton, PA 18501) for installation of air cleaning devices (replacement) to capture emissions from the primary and final tube saws at the facility in the Industrial Park, 982 Griffin Pond Road, Scott Township, **Lackawanna County**.

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

06-05078F: FR & S, Inc. (727 Red Lane Road, Birdsboro, PA 19508) for modification of the sulfur dioxide limit on the enclosed ground flares operated to control the landfill gas generated by the municipal solid waste landfill in Exeter Township, **Berks County**. The source is subject to 40 CFR Part 60, Subpart WW and Part 63, Subpart AAAA. This application will not involve either of these regulations.

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

33-145C: Huntington Foam Corp. (222 Industrial Park Drive, Brockway, PA 15824) for installation of three polystyrene molding presses at the Brockway Plant, in the Borough of Brockway, **Jefferson County**.

42-213A: M & M Royalty, Ltd. (Route 155, Port Allegheny, PA 16743) for construction/modification of a natural gas stripping operation in the Township of Liberty, **McKean County**.

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

AMS 06074: New Century Petroleum, LLC (6318 West Passyunk Avenue, Philadelphia, PA 19153) for installation of a used lubricating oil recycling facility in the City of Philadelphia, **Philadelphia County**. Emission sources include a 125 mmBtu/hr gas-fired boiler with ultra low NOx burners, a 200 gal/min wastewater treatment plant, 7 petroleum products storage tanks, each with a capacity of around 700,000 gal, fugitive piping components and loading/unloading operations. Potential emissions from the facility are 8.2 tons per year of NOx, 45.99 tons per year of CO, 16.35 tons per year of VOCs, 0.3 ton per year of SOx and 4.2 tons per year of PM. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

09-0134C: Reed Minerals (905 Steel Road South, Fairless Hills, PA 19030) for the modification of their coal slag roofing granules plant, to replace a dust collector. The coal slag roofing granules plant is located in Falls Township, **Bucks County**. This facility is a non-Title V facility. The proposed dust collector will control emissions from the rotary dryer and the dryer feed conveyor. The new dust collector will have the same capture efficiency of the old dust collector. Therefore, there will be no change in potential emissions at the facility. Emissions of PM will remain below 0.02 grain per dry standard cubic feet. The Plan Approval will contain monitoring, recordkeeping and

operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

45-302-076: Sanofi Pasteur, Inc. (Discovery Drive, Swiftwater, PA 18370) for installation and operation of two natural gas/No. 2 fuel oil fired Johnston boilers (Nos. 11 and 12) at the existing facility located in Pocono Township, **Monroe County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval Nos. 45-302-076, 45-399-016 and 45-329-001 to Sanofi Pasteur, Inc, Discovery Drive, Swiftwater, PA 18370 for their facility in Pocono Township, Monroe County. These plan approvals will be incorporated into the Title V operating permit No. 45-00005 through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan approval **No. 45-302-076** is for the installation and operation of two natural gas/No. 2 fuel oil fired Johnston boilers (Nos. 11 and 12) at the existing facility located in Pocono Township, Monroe County. The designed rated heat input to boiler Nos. 11 and 12 will be 30.98 mmBtu/hr for No. 2 oil and 32.3 mmBtu/hr for natural gas. Each boiler will fire No. 2 fuel oil as a primary fuel and natural gas as a backup and using a forced draft low NOX burner with internal flue gas recirculation. Also the company will convert three existing boilers, boilers 1—3 from No. 6 fuel oil to No. 2 fuel oil with low NOx burners and internal flue gas recirculation (IFGR). One additional fuel oil storage tank is also proposed.

The following emission limitations are set for each new boiler.

- NO_x emissions— From BAT, 30 PPM @ 3% O₂ when firing with natural gas.
90 PPM @ 3% O₂ when firing with No. 2 fuel oil.
- CO emission— From BAT, 100 PPM at 3% O₂.

Plan Approval **No. 45-399-016** is for the installation and operation of Influenza Vaccine Manufacturing Process equipment at the existing facility located in Pocono Township, Monroe County. The influenza vaccine manufacturing process uses eggs. The eggs are inoculated with influenza virus, incubated and refrigerated and processed through various steps to produce vaccine products. The eggs residue from the vaccine production area is processed through jacked ribbon blender and dryer. The dried egg waste is packed and sent off site for disposal. The egg waste processing area is expected to generate certain odorous, predominantly sulfur-bearing compounds

and minor amount of VOCs. Waste processing area hood, the ribbon blander and dryer will be exhausted through a thermal oxidizer to destroy malodors. The largest quantities of VOC emissions results from alcohol used to wipe surfaces for the disinfections and building wastewater. Only one area in the building handles buffering reagent, which is solids that may create dust. The area will be designed to perform all material handling activities under hoods that will be vented through a cartridge type Torit, or equivalent dust collector.

The following emissions will occur when operating the sources at a maximum rated capacity.

Process	VOC		PM10	
	Lb/hr	Tons/yr	Lb/hr	Tons/yr
Waste water	0.31	1.37		
IPA wipe solvent use	0.22	0.96		
Buffer preparation			0.6	2.63
Egg waste processing	0.0061	0.026	0.0044	0.02

Plan approval **No. 45-329-001** is for the installation and operation of three diesel or No. 2 fuel oil fired emergency generators with internal combustion engines at the existing facility located in Pocono Township, Monroe County. The generators will ensure that production in progress and stored product are not lost in the event of a power failure. Presently two of three generators are operating under a general permit and one emergency generator installed and operates under minor source exemption. This plan approval request that the existing three generators increase potential operation from 100 to 500 hours per year for operational flexibility.

The company has chosen a voluntary limitation for operation of each generator set to 500 hours per year based on 12-month rolling sum. The following emissions will occur from emergency generators based on 500 hour/yr operation limitations.

Pollutant	Engine								
	F-1			N-7			E-1		
	G/bhp-hr	Lb/hr	Tpy	G/bhp-hr	Lb/hr	Tpy	G/bhp-hr	Lb/hr	Tpy
PM	0.036	0.29	0.07	0.026	0.17	0.04	0.215	0.52	0.13
NOx	5.05	41.1	10.2	5.39	34.0	8.71	7.17	17.5	4.37
THC	0.10	0.81	0.2	0.11	0.71	0.18	0.25	0.61	0.15
CO	0.410	3.33	0.8	0.29	1.88	0.47	1.34	3.27	0.82
SOx	0.88	7.19	1.8	0.89	5.77	1.44	0.93	2.27	0.57

The facility is located in an area designated as a marginal nonattainment area for O₃. The project area is also included in the northeast Ozone Transport Region. The facility is currently a major source for NOx emissions only. The Federally enforceable limit chosen by the company for the NOx emission will keep the proposed emission increase from the facility below the NSR applicability triggering thresholds from the proposed new sources. Thus, the addition of sources will not subject the facility to the provisions of NA NSR for NOx. Emissions of SO₂, CO, NOx, TSP, PM10, lead, asbestos, beryllium, mercury, vinyl chloride, fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur and reduced sulfur compounds associated with the proposed projects will be below the PSD significant emission rates as the company will maintained the emissions from the entire facility below the PSD PALs level and thus are not subject to PSD review.

Copies of the applications, the Department's analysis and other documents used in the evaluation of the applications are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit should submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

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

Identification of the proposed permit Nos.: 45-302-076, 45-399-016 and 45-329-001.

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

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a newspaper or the *Pennsylvania Bulletin* or by telephone when the Department determines telephone notification is sufficient. Written comments or requests for a public hearing should be directed to Mark J. Wejkszner, P. E., Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2511 within 30 days after publication date.

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

38-03051A: Grace Alloys (200 East Richland Avenue, Myerstown, PA 17067) for installation of a secondary aluminum sweat furnace in Myerstown Borough, **Lebanon County**. Annual facility emissions are estimated as 1.08 tons for PM, 2.19 tons for NOx and 1.84 tons for CO. The furnace is subject to 40 CFR Part 63, Subpart RRR—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Plants. The plan approval and operating permit will include emission restrictions, testing requirements, work practice standards, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

67-03136A: Service Tire Truck Center, Inc. (3403 Concord Road, York, PA 17402) for installation of a truck retreading process in Springettsbury Township, **York County**. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

18-315-001B: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17815) for modification of gluing operations occurring in the converting area of a paper towel and tissue manufacturing facility as well as for the reassessment of best available technology and lowest achievable emission rate requirements previously established for an additive, fabric release, used in the paper towel and tissue manufacturing process in Castanea Township, **Clinton County**.

The proposed modification to the gluing operations is a significant increase in the amount of the various adhesives used. This increase will be accompanied by a 6.28 ton per year increase in the emission of VOCs from the gluing operations. This increase is necessitated by a gross underestimation by material suppliers of the permittee's true adhesive needs.

It should be noted that the increase in VOC emissions from the gluing operations will be less than it might otherwise have been due to the proposed use of a lower VOC content transfer glue.

The permittee has also proposed a significant increase in the amount of fabric release additive used in the paper towel and tissue manufacturing process, from 3.88 pounds per ton of product to 20 pounds per ton of product, but has offset the increase in usage by the proposed usage of a lower VOC content fabric release additive so that the net effect will be a decrease of 8.16 tons per year in the emission of VOCs resulting from the use of fabric release additive.

The respective facility is a major (Title V) facility for which a Title V operating permit has not yet been issued.

The Department of Environmental Protection's (Department) review of the information submitted by First Quality Tissue, LLC indicates that the proposed modification to the gluing operations and the increased usage of fabric release additive should comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12 and the New Source Review provisions of 25 Pa. Code §§ 127.201—127.217. Based on this finding, the Department proposes to issue plan approval.

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

1. Conditions contained in Plan Approval 18-315-001 remain in effect unless superseded or amended by a condition contained in this notice. If there is a conflict between a condition contained herein and a condition contained in Plan Approval 18-315-001, the permittee shall comply with the condition contained herein rather than the conflicting condition contained in Plan Approval 18-315-001.

2. The total combined emission of VOCs from Dryer No. 1 incorporated in Paper Machine No. 1 shall not exceed 9.89 pounds per hour while manufacturing paper towel or other heavy stock paper products and the total combined emission of VOCs from Dryer No. 2 and the glue containment area incorporated in Paper Machine No. 1 shall not exceed 1.09 pounds per hour.

The total combined emission of VOCs from Dryer No. 1 incorporated in Paper Machine No. 2 shall not exceed 9.89 pounds per hour while manufacturing paper towel or other heavy stock paper products and the total combined emission of VOCs from Dryer No. 2 and the glue containment area incorporated in paper machine No. 2 shall not exceed 1.09 pounds per hour.

3. The total combined emission of VOCs from Dryer No. 1 incorporated in paper machine No. 1 shall not exceed 3.60 pounds per hour while manufacturing tissue paper or other light stock paper products and the total combined emission of VOCs from Dryer No. 2 and the glue containment area incorporated in Paper Machine No. 1 shall not exceed .33 pound per hour.

The total combined emission of VOCs from Dryer No. 1 incorporated in Paper machine No. 2 shall not exceed 3.60 pounds per hour while manufacturing tissue paper or other light stock paper products and the total combined emission of VOCs from Dryer No. 2 and the glue containment area incorporated in Paper Machine No. 2 shall not exceed .33 pound per hour.

4. The total combined emission of VOCs from each of the sources listed shall not exceed the respective limitation:

Paper machine No. 1 (includes wet-end, Dryer Nos. 1 and 2, glue containment area and DAF clarifier)	56.48 tons in any 12-consecutive month period (except as noted)
Paper machine No. 2 (includes wet-end, Dryer Nos. 1 and 2, glue containment area and DAF clarifier)	56.48 tons in any 12-consecutive month period (except as noted)
Adhesives	7.05 tons in any 12-consecutive month period (total)

Although the VOC emissions from each of the two paper machines may be up to 56.48 tons in any 12-consecutive month period, the total emission of VOCs from both machines combined shall not exceed 89.16 tons in any 12-consecutive month period.

5. The VOC content and vapor pressure of the fabric release additive used in this facility shall not exceed .23 pound per gallon and 10 millimeters of mercury at 20°C, respectively. The Department may revise these limitations in response to a request by first quality which includes justification for a change in the fabric release additive used, more accurate quantification of the vapor pressure of the fabric release additive used and documentation of investigation of alternate fabric release additives potentially emitting less VOCs. Prior Department approval is required for the use of an alternate fabric release additive containing HAPs or having a higher VOC content or a higher vapor pressure than the limitations specified in this notice. Substitution of a non-HAP containing fabric release additive having a lower potential to emit VOCs (factoring in both VOC content and vapor pressure) may be made without Department approval. In these instances, notification and supporting documentation must be submitted to the Department within 7 days following the substitution.

6. The total combined amount of VOCs which may be added to the manufacturing process through the use of paper additives shall not exceed 3.13 pounds per ton of paper towel or other heavy stock paper products manufactured and .58 pound per ton of paper tissue or other light stock paper products manufactured. Compliance with these limitations shall be based on a calendar month average.

7. The maximum amount of fabric release additive which may added to the paper products being manufactured shall not exceed 20 pounds per ton of product for the manufacture of both paper towel or other heavy stock paper products and tissue paper or other light stock paper products. Compliance with this limitation shall be based on a calendar month average. The Department may revise this limitation in response to a request by First Quality which includes justification for a change in fabric release additive usage rate and documentation of investigation of alternate fabric release additives having a lower potential to emit VOCs. Prior Department approval is required for a higher fabric release additive usage rate than that specified herein.

8. The VOC content and usage rate of each of the adhesives listed shall not exceed the limitations specified. The Department may revise these limitations in response to a request by First Quality which includes justification for a change in adhesive or a change in usage rate and documentation of investigation of alternate adhesives potentially emitting less VOCs. Prior Department ap-

proval is required for use of alternate adhesives containing HAPs or having a higher VOC content or for a higher adhesive usage rate than those specified in this notice. Substitution of a non-HAPs containing adhesive with a lower volatile organic compound content than is specified herein may be made without Department approval. In these instances, notification and supporting documentation must be submitted to the Department within 7 days following the substitution.

Adhesive	<i>Volatile Organic Compound Content</i>	<i>Usage Rate</i>
	<i>(pounds/gallon)</i>	<i>(gallons/day)</i>
laminating glue	.005	800
tail glue	.008	775
transfer glue	.170	151
core glue	.008	344

Compliance with these limitations shall be based on a calendar month average.

Additionally, the case glue used in this facility shall contain no VOCs.

9. The adhesives used in this facility shall contain no HAPs.

10. The amount of VOC emission reduction credits needed for paper machine No. 1 is hereby revised from 102.28 tons to 103.18 tons. The amount of additional VOC emission reduction credits which must be in the permittee's possession prior to the startup of Paper Machine No. 2 is hereby revised from 43.16 tons to 40.1 tons.

49-302-062: Sun-Re Cheese Corp. (178 Lenker Avenue, Sunbury, PA 17801) for construction of an anaerobic digestion system, the modification of a 4.2 million Btu per hour natural gas-fired boiler and the construction/installation of a biogas flare in the City of Sunbury, **Northumberland County**.

The anaerobic digestion system will be used to process cheese manufacturing wastes to produce "biogas" which will be burned, in combination with natural gas, in an existing 4.2 million Btu per hour boiler. In the event that the boiler is out of operation, the biogas will be burned in a biogas flare. The air contaminant emissions from the boiler and flare are not expected to exceed a combined total of 1.84 tons of NO_x, 1.55 tons of CO, 1.32 tons of SO_x, .14 ton of PM and .10 ton of VOCs per year.

The respective facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's (Department) review of the information submitted by Sun-Re Cheese Corporation indicates that the proposed digestion system and flare and the modified boiler should comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the PM emission requirements of 25 Pa. Code §§ 123.11 and 123.13, the SO_x emission requirements of 25 Pa. Code §§ 123.21 and 123.22, the visible air contaminant emission requirements of 25 Pa. Code § 123.41 and the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department of Environmental Protection (Department) proposes to issue plan approval.

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

1. The gas generated in the anaerobic digestion system shall be collected and either burned in the boiler or in the flare. It shall not be vented directed to the atmosphere.

2. The PM emissions from the boiler shall comply with the applicable limitation specified in 25 Pa. Code § 123.11, the SO_x emissions shall comply with the applicable limitation specified in 25 Pa. Code § 123.22 and the visible air contaminant emissions shall comply with the limitations specified in 25 Pa. Code § 123.41.

3. The flare shall be equipped with an automatic ignitor, a flame arrester and a flame detection system which shall automatically shut off the biogas flow to the flare and signal an alarm if no flame is detected.

4. The PM emissions from the flare shall comply with the applicable limitation specified in 25 Pa. Code § 123.13 and the SO_x emissions shall comply with the applicable limitation specified in 25 Pa. Code § 123.21.

5. There shall be no visible air contaminant emissions from the flare other than steam or water vapor.

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

24-012F: C/G Electrodes LLC—St. Marys Plant (800 Theresia Street, St. Marys, PA 15857-1898) for construction of two car bottom baking kilns Nos. 493 and 494 exhausting to existing thermal incinerator and wet-limestone scrubber in St. Marys City, **Elk County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- SO_x emissions shall not exceed 18.7 #/hr or 71 ppmv from all 14 car bottom kilns (1 hour average).
- SO_x emissions shall not exceed 6.3 #/hr or 30 ppmv from all 14 car bottom kilns (full cycle average).
- SO_x emissions shall not exceed 28 tpy from all 14 car bottom kilns (12-month rolling total).
- CO emissions shall not exceed 0.4 #/hr from all 14 car bottom kilns.
- PM emissions shall not exceed 8.7 #/hr from all 14 car bottom kilns.
- VOC emissions shall not exceed 1.49 #/ton of carbon baked.
- Compliance with the SO_x emission limitations will be shown through a CEM.
- Continuously record thermal oxidizer inlet and outlet temperature.
- Maintain and operate transmissometers for opacity.
- The permittee shall maintain a record of all preventative maintenance inspections of the control device. These records shall, at a minimum, contain the dates of the inspections, any problems or defects, the actions taken to correct the problem or defects, and any routine maintenance performed.
- The permittee shall operate the control device at all times that the source is operation.

- The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

10-281I: II-VI, Inc. (375 Saxonburg Blvd., Saxonburg, PA 16056) for construction of a new hydrogen selenide/hydrogen sulfide emergency scrubber (potassium hydroxide scrubbing solution) in Saxonburg, **Butler County**. The scrubber will only be activated in the event of an accidental leak in either the delivery vault or the furnace flow panels. The purpose of the scrubber is to prevent the emission of any accidental leak of hydrogen selenide or hydrogen sulfide. This is a State-only V facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The source and control device shall comply with the following:
 - Subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive matter, odor and visible emissions.
 - Subject to 25 Pa. Code §§ 123.13 and 123.21 for PM and sulfur emissions.
 - The permittee shall maintain a record of all preventative maintenance inspections of the control device. These records shall, at a minimum, contain the dates of the inspections, any problems or defects, the actions taken to correct the problem or defects, and any routine maintenance performed.
 - The permittee shall maintain a record of the following from the operational inspections:
 - Scrubber gas flow rate
 - Liquid pressure or flow rate
 - Scrubbing liquid pH
 - Pressure drop
 - Outlet gas temperature
 - The permittee shall perform a daily operational inspection of the control device when in operation.
 - A magnehelic gauge or equivalent shall be permanently installed and maintained at a convenient location to indicate the pressure drop across the control device.
 - All gauges employed (scrubber gas flow rate, liquid pressure or flow rate, scrubbing liquid pH, pressure drop and outlet gas temperature) shall have a scale so that the expected normal reading shall be no less than 20% of full scale and be accurate within plus or $\pm 2\%$ of full scale reading.
 - The permittee shall operate the control device whenever there is a leak of hydrogen selenide or hydrogen sulfide from cylinders and/or manifolds within the delivery vault and whenever there is a leak within the furnace flow panels.
 - The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

62-032B: Ellwood National Steel (1 Front Street Irvine, PA 16329) for installation of a new ladle furnace and increase production at the facility from 46,200 tpy to 150,000 tpy in Brokenstraw Township, **Warren County**.

In accordance with 25 Pa. Code §§ 127.44, 127.83 and 40 CFR 52.21(l)(2) and (q), the Department of Environmental Protection (Department) intends to issue a plan approval to Ellwood National Steel in the Brokenstraw Township, Warren County. The facility currently has a Title V permit No. 62-00032.

Ellwood National Steel has filed an application with the Department of Environmental Protection (230 Chestnut Street, Meadville, PA 16335) to install a new ladle furnace and increase production at the facility from 46,200 tpy to 150,000 tpy. Applicable requirements for the proposed application include the Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21). This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

NOx and CO emissions will increase by 29.1 tpy and 317 tpy, respectively, from the 1996/1997 baseline emissions. VOC, PM10 and SO₂ emissions will increase by 16 tpy, 9.7 tpy and 25.2 tpy, respectively, from the 1996/1997 baseline emissions.

According to 40 CFR 52.21(l)(2), an alternative to the air quality models specified in 40 CFR Part 51, Appendix W (relating to Guideline on Air Quality Models) may be used to model air quality if the United States Environmental Protection Agency (EPA) approves the substitute model. Use of the substituted model must also be subject to notice and an opportunity for public comment.

As an alternative to EPA Guideline Models, ISC-Prime was used in the air quality analysis for the proposed project. Specific approval for the use of ISC-Prime in this analysis was granted by the EPA Region III Administrator on September 19, 2005, and was consistent with the recommendations under Section 3.2 of Appendix W to 40 CFR Part 51. The Department is expressly requesting written comments on the ISC-Prime, the EPA-approved substitute model used for the project. Under 25 Pa. Code §§ 127.44, 127.83 and 40 CFR 52.21(l)(2) and (q), notice is hereby given that the Department is soliciting written comments on the use of the nonguideline model, ISC-Prime, approved by the Environmental Protection Agency (EPA).

Sources subject to PSD regulations must meet certain conditions prior to the issuance of a preconstruction/modification approval. These conditions are briefly described herein. For exact text, please refer to the regulations.

1. The best available control technology must be utilized to limit the emissions of all pollutants regulated under the act, which are emitted in "significant" amounts. This determination is made on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs.

2. A source impact analysis must be performed to demonstrate that the proposed emissions would not cause or contribute to air pollution in violation of any National Ambient Air Quality Standard or any maximum allowable increase over baseline concentrations.

Information submitted by Ellwood National Steel indicates that the emissions from the source shall comply with all applicable requirements of PSD regulations and

any applicable requirements contained in the State Implementation Plan (SIP) as approved for this Commonwealth by the EPA.

The permit would be subject to the following conditions.

1. The production and operations of the sources shall be modified in accordance with the plan submitted with the application (as approved herein).

2. The ladle furnace shall be controlled by the fabric collector during all times that the sources are operated.

3. The permittee shall notify the Department of the ladle furnace fabric collector manufacturer and model number and provide the specific details of the control device (including drawings) that were not included in the plan approval application within 30 days of issuance of the plan approval.

4. The sources are subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions respectively.

5. The production of steel ingots from the facility shall not exceed 150,000 ton of steel ingots per year (based on a 12-month rolling total).

6. The total natural gas consumption from the Union Boiler shall not exceed 140,000 MCF of natural gas per year (based on a 12-month rolling total). The NOx emissions from Union Boiler shall not exceed 100 lb/MMCF and 7.0 tpy (based on a 12-month rolling total). The CO emissions from the Union Boiler shall not exceed 84 lb/MMCF and 5.9 tpy (based on a 12-month rolling total).

7. The total natural gas consumption from the package degasser Boiler shall not exceed 63,409 MCF of natural gas per year (based on a 12-month rolling total). The NOx emissions from the package degasser Boiler shall not exceed 50 lb/MMCF and 1.6 TPY (based on a 12-month rolling total). The CO emissions from the package degasser Boiler shall not exceed 84 lb/MMCF and 2.7 tpy (based on a 12-month rolling total).

8. The total natural gas consumption from the package heating boilers shall not exceed 52,500 MCF of natural gas per year (based on a 12-month rolling total). The NOx emissions from the package heating Boilers shall not

exceed 50 lb/MMCF and 1.3 tpy (based on a 12-month rolling total). The CO emissions from the package degasser Boiler shall not exceed 84 lb/MMCF and 2.2 tpy (based on a 12-month rolling total).

9. The total natural gas consumption from the miscellaneous space heaters shall not exceed 100,000 MCF of natural gas per year (based on a 12 month rolling total).

10. The natural gas consumption from the ENS annealing furnaces shall not exceed 238,125 MCF of natural gas per year (based on a 12 month rolling total). The NOx emissions from the annealing furnaces shall not exceed 140 lb/MMCF and 16.7 tpy (based on a 12-month rolling total). The CO emissions from the annealing furnaces shall not exceed 84 lb/MMCF and 10.0 TPY (based on a 12-month rolling total).

11. The natural gas consumption from the ENC heat treat furnaces shall not exceed 162,987 MCF of natural gas per year (based on a 12-month rolling total). The NOx emissions from the ENC heat treat furnaces shall not exceed 140 lb/MMCF and 11.4 tpy (based on a 12-month rolling total). The CO emissions from the ENC heat treat furnaces shall not exceed 84 lb/MMCF and 6.8 tpy (based on a 12-month rolling total).

12. The natural gas consumption from the ENF heat treat furnaces shall not exceed 72,500 MCF of natural gas per year (based on a 12-month rolling total). The No. 2 oil consumption from the ENF heat treat furnaces shall not exceed 10,000 gallons per year (based on a 12-month rolling total). The NOx emissions from the ENF heat treat furnaces shall not exceed 140 lb/MMCF and 5.1 tpy (based on a 12-month rolling total). The CO emissions from the ENF heat treat furnaces shall not exceed 84 lb/MMCF and 3.0 tpy (based on a 12-month rolling total).

13. The natural gas consumption from the vertical dryer shall not exceed 3,333 MCF of natural gas per year (based on a 12-month rolling total). The natural gas consumption from the EAF oxyfuel preheater shall not exceed 3,333 MCF of natural gas per year (based on a 12-month rolling total).

14. The emissions from the EAF shall not exceed the following (the tpy limit shall be based on a 12-month rolling total). The EAF shall not exceed the PM limit of 0.0052 gr/dscf

<i>Source</i>	<i>CO (TPY)</i>	<i>NOx (TPY)</i>	<i>Sox (TPY)</i>	<i>VOC (TPY)</i>	<i>PM-10 (TPY)</i>
EAF	450	28.5	41.3	20.6	8.3
<i>Source</i>	<i>CO (lb/ton)</i>	<i>NOx (lb/ton)</i>	<i>SOx (lb/ton)</i>	<i>VOC (lb/ton)</i>	<i>PM10 (lb/ton)</i>
EAF	6.0	0.38	0.55	0.28	0.11

15. The PM10 emissions from the baghouse that controls the ladle furnace shall not exceed 1.5 tpy (based on a 12-month rolling total), and shall not exceed 0.02 lb/ton of steel. The ladle furnace shall not exceed the particulate emission rate of 0.0035 gr/dscf.

16. Within 60 days of issuance of this plan approval, a test procedure and a sketch with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples shall be submitted to the Department.

17. Within 180 days of startup of the ladle furnace stack tests shall be performed in accordance with the provisions of 25 Pa. Code Chapter 139 to show compliance with the emission limits for the EAF and the ladle furnace. The stack tests shall be performed while the

forementioned sources are operating at the maximum rated capacity as stated on the application (based on 150,000 tpy). During the stack test for PM10, the sampling time and volume for each run shall be at least 4 hours and 160 dscf. The CO, testing for the EAF shall be conducted in the duct prior to the positive pressure baghouse. In addition to initial compliance testing, the facility will be required to test the ladle furnace and EAF every 5 years to demonstrate ongoing compliance with the emission limits.

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

19. Within 45 days after completion of the test, two copies of the complete test report, including all operating

conditions, shall be submitted to the Department for approval.

20. A magnehelic gauge shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across each of the baghouses.

21. Twenty percent of the total number of bags in each of the baghouses is required to be on hand.

22. The EAF and ladle furnace and the controls for these sources shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices. The owner and operator of the facility shall perform weekly preventative maintenance inspections of the fabric filters, and check the pressure drop across each of the fabric filters.

23. The owner and operator of the facility shall maintain a rolling total of the CO, NO_x, SO_x, VOC and PM₁₀ emissions from the EAF. The rolling total shall be determined by adding the amount of emissions from the most recent calendar month to the previous 11 calendar months.

24. The owner and operator of the facility shall maintain a rolling total of the natural gas consumption and facility production by adding the monthly totals to the 11 previous months.

25. The owner and operator of the facility shall install and maintain fuel meters to indicate the natural gas consumption of the individual boilers, the ENS annealing furnaces, ENC heat treat furnaces, ENF heat treat furnaces, EAF oxyfuel preheater, the EAF preheater and the miscellaneous space heaters.

26. The permittee shall prepare and operate at all times according to a written Scrap Management Plan that details the Melt Shop's purchase and use of only ferrous scrap materials that do not include lead components, mercury switches, combustibles (plastics, wood, paper, rubber and free organic liquids), nonferrous solid materials (concrete, stone, dirt, insulation), excessive rust, closed containers (such as, drums and oil filters), cable, tin/terne coatings, nonferrous metals (such as, copper, lead or tin), and nonradioactive materials. For the purpose of this paragraph, "free organic liquids" is defined as material that fails the paint filter test by EPA Method 9095A, "Paint Filter Liquids Test" (Revision 1, December 1996), as published in EPA Publication SW-846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (incorporated by reference—see § 63.14). Any postconsumer engine blocks, postconsumer oil filters, or oily turnings that are processed and/or cleaned to the extent practicable so that the materials do not include lead components, mercury switches, plastics or free organic liquids can be included in this Scrap Management Plan.

27. The permittee shall prepare and operate at all times according to a written plan for the selection and inspection of iron and steel scrap to minimize, to the extent practicable, the amount of organics and HAP metals in the charge materials used by the electric arc furnace Melt Shop. This scrap selection and inspection plan is subject to approval by the Department.

28. The permittee shall keep a copy of the scrap management plan onsite and readily available to all plant personnel with materials acquisition or inspection duties.

The permittee must provide a copy of the material specifications to each of their scrap vendors. The plan must include the information specified in paragraphs (1)–(3).

(1) A materials acquisition program to limit organic contaminants according to the following requirements:

(i) For scrap charged to the EAF, specifications for scrap materials to be depleted (to the extent practicable) of the presence of unprocessed used oil filters, plastic parts, organic liquids and a program to ensure the scrap materials are drained of free liquids.

(2) A materials acquisition program specifying that the scrap supplier remove accessible mercury switches from the trunks and hoods of any automotive bodies contained in the scrap and remove accessible lead components such as batteries and wheel weights. Persons must obtain and maintain onsite a copy of the procedures used by the scrap supplier for either removing accessible mercury switches to the extent practicable or for purchasing automobile bodies that have had mercury switches removed to the extent practicable, as applicable.

(3) Procedures for visual inspection of a representative portion of all incoming scrap shipments to ensure the materials meet the facility's nonferrous scrap specifications.

(i) The inspection procedures must identify the locations where inspections are to be performed for each type of shipment. Inspections may be performed at the scrap supplier's facility. The selected locations must provide a reasonable vantage point, considering worker safety, for visual inspection.

(ii) The inspection procedures must include recordkeeping requirements that document each visual inspection and the results.

(iii) The inspection procedures must include provisions for rejecting scrap shipments that do not meet specifications and limiting purchases from vendors whose shipments fail to meet specifications for more than three inspections in one calendar year.

(iv) If the inspections are performed at the scrap supplier's facility, the inspection procedures must include an explanation of how the periodic inspections ensure that a representative portion of scrap purchased from each supplier is subject to inspection.

29. The plan approval will include the CAM requirements for the EAF and the Ladle Furnace. The indicators for the EAF include monitoring the baghouse pressure drop, baghouse inlet temperature, fan amperage and visible emissions. The indicators for the Ladle Furnace include the baghouse pressure drop, fan amperage and visible emissions. The CAM plans include establishing the indicator ranges, the monitoring frequency, data collection procedures, data representativeness and quality assurance of the monitoring data.

30. The ladle furnace and the controls for the source shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

31. The owner and operator of the facility shall perform weekly preventative maintenance inspections of the fabric filters, and check the pressure drop across each of the fabric filters.

32. The permittee shall conduct a weekly inspection of the dust removal system to ensure proper function of the removal mechanisms.

33. The permittee shall perform a monthly visual inspection of the bag cleaning mechanisms for proper function.

34. The permittee shall perform a monthly visual inspection of the bag tensioning mechanism.

35. The permittee shall perform a quarterly inspection of the physical integrity of the baghouse including inspecting the interior for air leaks.

36. The permittee shall inspect the fan for signs of wear, material buildup and corrosion on a quarterly basis.

37. The PM10 emissions from the vacuum degasser shall not exceed 0.02 lb/ton and 1.5 tpy (based on a 12-month rolling total). The throughput for the degasser shall not exceed 150,000 ton of steel based on a 12-month rolling total.

38. The PM10 emissions from teeming shall not exceed 0.021 lb/ton and 1.6 tpy (based on a 12-month rolling total). The throughput for teeming shall not exceed 150,000 ton of steel based on a 12-month rolling total.

39. The PM10 emissions from scrap handling shall not exceed 0.025 lb/ton of scrap loaded to the EAF and 2.06 tpy (based on a 12-month rolling total). The scrap throughput shall not exceed 165,000 tpy (based on a 12-month rolling total).

40. The VOC emissions from the crankshaft degreasing solution shall not exceed 7.6 lb/gallon. The VOC emissions from the source shall not exceed 9.5 tpy from the source based on a 12-month rolling total). The permittee shall not use more than 2,500 gallons of degreasing solution for this source based on a 12-month rolling total.

41. The EAF is subject to Subpart AAa of the Standards of Performance for New Stationary Sources and shall comply with all applicable requirements of this Subpart. 40 CFR 60.4 requires submission of copies of all requests, reports, applications, submittals and other communications to both the EPA and the Department. The EPA copies shall be forwarded to: Director; Air, Toxics and Radiation Division; US EPA, Region III; 1650 Arch St. Philadelphia, PA 19103-2029.

42. The plan approval will include additional monitoring, recordkeeping and work practice requirements to ensure compliance with the restrictions applied in the plan approval.

The Department has determined that the application reflects the use of Best Available Control Technology, as required by the PSD regulations.

Emission sources that will be modified as a result of the proposed modifications were characterized in the model as twelve point sources. Building and stack downwash parameters for on-site ENS sources were entered into the model. These parameters were calculated by the PRIME version of the Building Profile Input Program (BPIPPRM version 04274).

Inventories entered into the model for the NAAQS analysis included 99 additional point and volume sources,

which represent the permitted major CO emitting facilities within 50 km of the significant impact area (SIA) surrounding the facility. These sources are listed in Appendix F of the plan approval application.

Impacts from sources not directly modeled (e.g. natural sources, minor sources and distant major sources) were represented in the NAAQS analysis by conservatively monitored CO values from the Department's Erie CBD air quality monitor, which is located approximately 75 kilometers northwest of the facility. The Department suggested the use of the Erie CBD monitor as opposed to the Buffalo, NY monitor that was proposed in the application due to the closer proximity of the Erie CBD station to the modeled area. The Erie CBD monitor was relocated in October 2004. Due to this move, the most recent available three years of complete data are from 2001 to 2003. The highest, second-high 8-hour CO concentration from the Erie CBD was applied to the 8-hour analysis, as the highest reported CO value appears to have occurred during an isolated event in which meteorological conditions support that a major source local to the Erie CBD monitor significantly inflated the readings. There is no such CO source in the proximity of ENS, which is in a more rural setting than the Erie CBD monitor, hence the Department feels comfortable deeming the highest, second-high value as a conservative value for this set of circumstances.

Four receptor networks were utilized in this analysis. The entire modeling domain, extending approximately 8 kilometers from the center of the facility, was covered by a coarse 500-meter grid; a 100-meter grid extends out approximately 2 km from the center of the facility. Within 500 m of the center of the facility, receptors were placed on a 30 m grid to accompany the 25 m spacing that was applied along the fence line of the facility. Receptor elevations were derived from 7.5-minute United States Geological Survey (USGS) digital elevation model (DEM) data. The extent and density of the receptors were appropriate to determine the maximum impacts for both the preliminary and NAAQS analyses.

ISC-PRIME utilized screen meteorological data. The meteorology data for this analysis was calculated using the METISC program as designed by Pat Hanrahan of the Oregon Department of Environmental Quality (DEQ). All of the stability classes and wind speed were calculated at 1-degree intervals using the METISC program.

The estimated maximum 8-hour CO impacts exceed the Class II significant impact levels (SILs), published in Chapter C, Section IV.B of EPA's New Source Review (NSR) Workshop Manual (Draft, October 1990). A 'multisource' CO analysis was therefore required to demonstrate that the proposed facility modifications would not cause or significantly contribute to air pollution in violation of the NAAQS standard. Increasing the 1-hour to 8-hour screening factor applied when utilizing screening meteorological data to 0.75 from the 0.7 that was submitted in the application increased the SIA to approximately 2 km. The model also estimates that the 8-hour CO impact is above the monitoring de minimis levels. The preconstruction ambient monitoring data requirement was fulfilled by conservatively applying existing data from the Department's monitoring station located in Erie.

The results of the preliminary analysis are summarized in the following table:

Table 1—Results of Preliminary Analysis

Pollutant	Averaging Period	Maximum Impact	Class II SIL	Impact Area Radius	de minimis level
CO	1-hour	$\mu\text{g}/\text{m}^3$ 1,434	$\mu\text{g}/\text{m}^3$ 2,000	km N/A	$\mu\text{g}/\text{m}^3$ N/A
	8-hour	2,664	500	2.0	575

In the 'multisource' analysis, the estimated model concentrations convey that the proposed facility modifications will not cause or significantly contribute to air pollution in violation of the CO NAAQS. The slight increase in the SIA required no further action, as all major CO sources located within 50 km of the altered SIA were contained within 50 km of the initial SIA.

Results of the NAAQS analysis are summarized in the following table:

Table 2—Results of NAAQS Analysis

Pollutant	Averaging Period	Model Design Value	Monitored Background Value	Total Value	NAAQS
CO	1-hour	$\mu\text{g}/\text{m}^3$ 12,261	$\mu\text{g}/\text{m}^3$ 8,592	$\mu\text{g}/\text{m}^3$ 20,853	$\mu\text{g}/\text{m}^3$ 40,000
	8-hour	3,851	5,155	9,006	10,000

Under 40 CFR 52.21(o), additional analyses were performed. It appears the air quality impact due to commercial, residential and industrial growth with the proposed modifications will be minimal as few additional employees will be necessary and an adequate local labor pool already exists in the area. No adverse impact to soils and vegetation is expected. CO emissions do not play a significant role in visibility degradation, thus the proposed modification is not expected to have an adverse effect on visibility.

The straight-line distance to the nearest mandatory Class I Area (Dolly Sods National Wilderness Area in West Virginia) is greater than 317 kilometers.

The Department has made a preliminary determination to approve the plans submitted by Ellwood National Steel subject to the conditions listed above. A final determination will be made based on any additional inputs received.

The Department will consider any written comments received within 30 days of the publication of this notice. Persons may oppose this preliminary determination by filing a written notice with the Department of Environmental Protection, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, Attn.: New Source Review Chief George Monasky P. E.

Each protest shall include the following:

1. Name, address and telephone number of the person filing each protest.
2. Identification of the proposed plan approval issuance being opposed.
3. Concise statement of the reasons for objection to the issuance of the plan approval and the relevant facts upon which the objections are based.

Copies of the application and the modeling analysis used in the evaluation are available for public inspection between the hours of 8 a.m. and 4 p.m. At the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA. Appointments for scheduling a review may be made by calling Linda Conway at (814) 332-6340.

If sufficient public interest is generated, the Department, prior to the issuance of the plan approvals, may in its discretion, hold a public meeting or fact-finding conference, at which time any person may appear and give testimony. If it is decided to hold a public hearing, then a

notice to this effect shall be published in the local newspaper giving the place and time of a hearing.

For any additional information, contact George Monasky P. E. or Matthew Williams at (814) 332-6940 or by writing the Department at the Meadville address given previously.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting the Department, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

42-111D: Ethan Allen Mfg. Corp.—Eldred Division (3289 Route 446, Eldred, PA 16731) for converting the current surface coating system (Booths 5—7 and Ovens E and F) from a two-pass system to a new one-pass system which will include new Booths 1—4 and Ovens A—C in Eldred Township, **McKean County**. This is a State-only facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The Natural gas-fired ovens (Source 105A) shall comply with the following:
 - Subject to 25 Pa Code §§ 123.13 and 123.21 for PM and Sulfur Emissions.
 - The permittee shall only use natural gas as a fuel for this source.
 - The permittee shall maintain and operate the source in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.
- The Spray Booths (7) (Source 110) shall comply with the following:
 - Subject to 25 Pa Code §§ 123.13 for PM Emissions.
 - Subject to 25 Pa Code § 129.52 for Surface Coating processes.

- Subject to 25 Pa. Code §§ 129.101—129.107 for Wood Furniture Manufacturing Operations.
- The permittee shall maintain a record of all preventative maintenance inspections of the control device. These records shall, at a minimum, contain the dates of the inspections, any problems or defects, the actions taken to correct the problem or defects and any routine maintenance performed.
- The permittee shall maintain a record of the following from the operational inspections:
 - Pressure drop across the control device
- The permittee shall perform a weekly operational inspection of the control device.
- The permittee shall maintain a manometer or similar device to measure the pressure drop across the control device. Gauges employed shall have a scale such that the expected normal reading shall be no less than 20% of full scale and be accurate within plus or $\pm 2\%$ of full scale reading.
- The permittee shall operate the control device at all times that the source is in operation.
- The source and control device shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.
- The facility shall comply with 25 Pa. Code § 127.25 as follows:
 - A person may not cause or permit the operation of a source subject to 25 Pa. Code § 127.11 (relating to plan approval requirements), unless the source and air cleaning devices identified in the application for the plan approval and the plan approval issued to the source, are operated and maintained in accordance with specifications in the application and conditions in the plan approval issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.
- The facility shall incorporate the use of a finishing system of sealers and topcoats that complies with VOC content levels defined in the most current version of the US EPA's Guideline Series (CTG), "Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations," or 25 Pa. Code § 129.52 Table 1(11), whichever is more restrictive. The April 1996 version of the CTG defines the use of a finishing system of sealers with a VOC content of no greater than 1.9 lb VOC/lb solids, as applied, and topcoats with a VOC content of no greater than 1.8 lb VOC/lb solids, as applied.
- Work practice standards, compliance procedures and monitoring requirements, performance test methods and reporting requirements defined in the most current version of the "Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations" CTG shall be incorporated by reference.

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

AMS 06026: Perfecseal, Inc. (9800 Bustleton Avenue, Philadelphia, PA 19115) for operation of a coater using water-based paints that contain VOCs and to remove a

requirement to submit semiannual reports of material usage records for four presses in the City of Philadelphia, **Philadelphia County**. The potential emissions from the facility will remain limited at 25 tons per rolling 12-month period of VOCs, 10 tons per rolling 12-month period of individual HAPs and 25 tons per rolling 12-month period of combined HAPs. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

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

30-00099: Allegheny Energy Supply Co. (800 Cabin Hill Drive, Greensburg, PA 15601) for operation of Hatfields Ferry Power Station in Monongahela Township, **Greene County**. This is a Title V Operating Permit Renewal.

30-00072: Consol Pennsylvania Coal Co. (1800 Washington Road, Pittsburgh, PA 15241) for operation at Bailey Prep Plant in Richhill Township, **Greene County**. This is a Title V Operating Permit Renewal.

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

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

36-03165: Nexans, Inc. (132 White Oak Road, New Holland, PA 17522) for operation of a nonferrous wire drawing and insulation manufacturing facility in Earl Township, **Lancaster County**.

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

47-00012: HRI, Inc. (1750 West College Avenue, State College, PA 16801) for their Milton facility in Limestone Township, **Montour County**. The facility is a manufacturer of hot mix asphalt concrete for road and paving construction. It's main sources include a hot mix asphalt plant and five storage tanks. The facility has the potential to emit major quantities of SO_x, CO and VOCs and has taken an elective throughput restriction not to exceed the major thresholds for these contaminants. The potential to emit PM/PM₁₀, NO_x and HAPs is below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

25-01000: Advanced Mold Tech, Inc.—Erie City (2011 East 30th Street, Erie, PA 16510) for operation of their Plating and Polishing Plant in Erie City, **Erie County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

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

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

Coal Applications Received

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

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

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

30831303 and NPDES Permit No. PA0013511. Cumberland Coal Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County** to add surface acres to install the No. 5 Bleeder Shaft for ventilation. Surface Acres Proposed 8.05. No additional discharges. Application received May 5, 2006.

3284134 and NPDES Permit No. PA0037109, Helvetia Coal Company (P. O. Box 219, 400 Overview

Drive, Shelocta, PA 15774), to renew the permit and related NPDES permit for reclamation only and to revise the permit for the Lucerne No. 9 Mine in Young and Conemaugh Townships, **Indiana County** to combine Lucerne No. 8 permit (CMAP No. 32841320) with this permit. No additional discharges. Application received March 21, 2006.

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

32050104 and NPDES No. PA0249742. Mears Energy, LLC, 225 Rich Hill Road, Penn Run, PA 15765, transfer of an existing bituminous surface and auger mine from Short Brothers, Inc., 15 Rayne Run Road, Marion Center, PA 15759, located in West Mahoning Township, **Indiana County**, affecting 126.0 acres. Receiving stream: Carr Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 6, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33910106 and NPDES Permit No. PA0208451. Renewal of an existing bituminous surface strip and auger operation in Perry Township, **Jefferson County** affecting 195.0 acres. Receiving streams: Foundry Run and two UNTs to Foundry Run, classified for the following use: CWF. There are no potable surface water supply intakes

within 10 miles downstream. Application for reclamation only. Application received: June 2, 2006.

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 ¹ pH ¹		greater than 6.0; less than 9.0	

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

4275SM14(T) and NPDES No. PA0124532. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, revision of an existing noncoal (industrial minerals) operation to deepen the quarry, add additional mining and support area, add an additional sediment pond, add a NPDES discharge point and change the postmining land use on New Enterprise Stone & Lime Company's property from forest and cropland to unmanaged natural habitat (251.4 acres) and permanent water impoundment (137.4 acres) in Warriors Mark and Snyder Townships, **Huntingdon and Blair Counties**, affecting 415.3 acres. Receiving streams: Logan Spring Run; UNT to Little Juniata River; and to Little Juniata River. Logan Spring Run and the UNT to Logan Spring Run are classified for the use of WWF; the Little Juniata River is classified for the use of CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 3, 2006. Note: Notice of this application appeared in the 36 Pa.B. 1426 (March 25, 2006). This notice corrects/clarifies the receiving stream classification information for the application.

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

58992805. Douglas G. Kilmer (R. R. 1, Box 85K, Union Dale, PA 18470), Stages I and II bond release for a quarry operation in New Milford Township, **Susquehanna County** affecting 2.0 acres on property owned by Bluebeck, Ltd. Application received June 2, 2006.

40890803. Dallas Nurseries & Landscape, Inc. (R. R. 5 Box 120, Dallas, PA 18612), Stages I and II bond release for a quarry operation in Nanticoke City, **Luzerne County** affecting 5.0 acres on property owned by Dallas Nursery. Application received June 5, 2006.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water

Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E45-489. Crisse A. Witte, P. O. Box 623, Saylorburg, PA 18353, Polk Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in approximately 0.11 acre of PFO/PEM wetlands for the purpose of constructing a gravel driveway to serve as an access to a proposed single family dwelling in uplands. The project is located on the east side of Pheasant Lane at Lot No. 2 of Tall Pine Acres residential subdivision (Brodheads ville, PA Quadrangle N: 6.5 inches; W: 13.25 inches).

E64-260. Frank and Michael Muggeo, 73 Buckingham Drive, Beacon Falls, CT 06403, in Lake Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 150-foot long driveway crossing through a de minimis area of wetlands equal to 0.05 acre for the purpose of providing access to a single family residence. The project is located on the northeast side of SR 0296 approximately 0.9 mile southeast of its intersection with SR 0196. (Lake Ariel, PA Quadrangle N: 18.1 inches; W: 1.0 inch).

E39-463. Airport Associates, LP, 1288 Valley Forge Road, Suite 987, Valley Forge, PA 19482, in Hanover Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 1,750-foot long, 12-foot by 8-foot single cell concrete box stream enclosure with a 200-foot long cable-concrete apron in a tributary to the Lehigh River (CWF); to construct and maintain numerous utility line crossings above the stream enclosure; to construct numerous stormwater outfall connections to the stream enclosure; to construct and maintain a cable-concrete outfall channel in the floodway of the tributary; and to construct and maintain a 1,000-foot long stream restoration project downstream of the stream enclosure for the purpose of providing mitigation for stream impacts. The water obstructions and encroachments are part of the airport center retail development. The project is located immediately north of the intersection of Airport Road (SR 1003) and Downs Drive (Catasauqua, PA Quadrangle N: 2.6 inches; W: 9.0 inches).

E39-464. Saucon Valley Country Club, 2050 Saucon Valley Road, Bethlehem, PA 18015, in Upper Saucon Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 1,750-foot long, 12-foot by 8-foot single cell concrete box stream enclosure with a 200-foot long cable-concrete apron in a tributary to the Lehigh River (CWF); to construct and maintain numerous utility line crossings above the stream enclosure; to construct numerous stormwater outfall connections to the stream enclosure; to construct and maintain a cable-concrete outfall channel in the floodway of the tributary; and to construct and maintain a 1,000-foot long stream restoration project downstream of the stream enclosure for the purpose of providing mitigation for stream impacts. The water obstructions and encroachments are part of the airport center retail development. The project is located immediately north of the intersection of Airport Road (SR 1003) and Downs Drive (Catasauqua, PA Quadrangle N: 2.6 inches; W: 9.0 inches).

E45-490. Best Way of Pennsylvania, Inc., 3870 SR 191/390, Cresco, PA 18326, in Bear Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a road crossing consisting of an open-bottom aluminum box culvert having a span of

14 feet 1 inch and an underclearance of 6 feet 2 inches in Cranberry Creek (HQ-CWF) and adjacent PEM/SS Wetlands for the purpose of providing access to a lumber stockpile area. The project is located on the east side of SR 0191, approximately 0.2 mile south of SR 1008. (Saylorburg, PA Quadrangle N: 4.6 inches; W: 4.5 inches).

E39-462. Lower Macungie Township, 3400 Brookside Road, Macungie, PA 18062, in Lower Macungie Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a wooden pedestrian bridge across the Little Lehigh Creek (HQ-CWF). The project is located approximately 0.25 mile west of the intersection of Mill Creek Road and Spring Creek Road. (Allentown West, PA Quadrangle N: 7.9 inches; W: 10.8 inches).

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

E38-150. Triple Crown Corporation, 5351 Jaycee Avenue, Harrisburg, PA 17112 in South Londonderry Township, **Lebanon County**, ACOE Baltimore District

To: 1) fill and maintain 6,445 square feet of PEM wetland for a road crossing at (Palmyra, PA Quadrangle N: 3.93 inches; W: 12.47 inches; Latitude: 40° 16' 17.88"; Longitude: 76° 35' 21.81"); 2) fill and maintain 1,634 square feet of PEM wetland for a road crossing at (Palmyra, PA Quadrangle N: 4.12 inches; W: 12.24 inches; Latitude: 40° 16' 21.71"; Longitude: 76° 35' 15.84"); 3) fill and maintain 83-feet of stream channel at (Palmyra, PA Quadrangle N: 4.12 inches; W: 12.24 inches; Latitude: 40° 16' 21.71"; Longitude: 76° 35' 15.84"); 4) construct and maintain 60 linear feet of twin 2-foot by 6-foot box culverts for a road crossing at (Palmyra, PA Quadrangle N: 4.71 inches; W: 12.01 inches; Latitude: 40° 16' 33.40"; Longitude: 76° 35' 10.11"); 5) construct and maintain 86 linear feet of 24-inch SBCPP for a road crossing at (Palmyra, PA Quadrangle N: 4.26 inches; W: 11.47 inches; Latitude: 40° 16' 24.37"; Longitude: 76° 34' 55.95"); 6) construct and maintain 121 linear feet of 18-inch SBCPP for a road crossing at (Palmyra, PA Quadrangle N: 3.65 inches; W: 11.25 inches; Latitude: 40° 16' 12.43"; Longitude: 76° 34' 50.29"); 7) construct and maintain 100 linear feet of 24-inch SBCPP for a road crossing at (Palmyra, PA Quadrangle N: 3.72 inches; W: 11.30 inches; Latitude: 40° 16' 13.71"; Longitude: 76° 34' 51.74"); 8) fill and maintain 3,446 square feet of PEM wetland for a road crossing at (Palmyra, PA Quadrangle N: 3.99 inches; W: 9.97 inches; Latitude: 40° 16' 19.12"; Longitude: 76° 34' 17.35"); 9) construct and maintain 101 linear feet of 15-inch SBCPP for a road crossing at (Palmyra, PA Quadrangle N: 3.99 inches; W: 9.97 inches; Latitude: 40° 16' 19.12"; Longitude: 76° 34' 17.35"); and 10) fill and maintain 37 square feet of PEM wetland for a road crossing at (Palmyra, PA Quadrangle N: 4.11 inches; W: 11.41 inches; Latitude: 40° 16' 21.43"; Longitude: 76° 34' 54.38") to facilitate the development of Carriage Park Subdivision. All activities are associated with UNTs to Spring Creek (WWF) and associated wetlands with UNTs to Spring Creek. The project is located off of Route 322 East, onto Schoolhouse Road approximately 0.4 mile on left side (Palmyra, PA Quadrangle N: 4.2 inches; W: 11.9 inches; Latitude: 40° 16' 23"; Longitude: 76° 35' 10") in South Londonderry Township, Lebanon County.

The permittee is required to replace 0.27 acre of replacement wetland, the replacement area is located at the north eastern corner of the subdivision.

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

E08-440: Water Obstruction and Encroachment. Troy Area School District, 310 Elmira Street, Sayre, PA 16947. Troy Borough, **Bradford County**. United States Army Corps of Engineers, Baltimore District. Troy, PA. (7.5' Quadrangle N: 7.4" W: 4.9")

To place and maintain fill in 0.54 acre of a palustrine emergent wetland system and to place and maintain fill in 0.54 acre of an open water system for the purpose of constructing a new track on the Middle School property. 0.64 acre of replacement wetlands are proposed. The site is located in the Sugar Creek watershed, approximately a few hundred yards north of the Middle School property, near the intersection of King and High Streets in Troy, PA.

E08-433. Schrader Creek Watershed Association, c/o Hugh McMahon, R. D. 2, Box 292, Towanda, PA 18848. Three passive treatment systems, in Canton Township, **Bradford County**, ACOE Baltimore District (Grover, PA Quadrangle N: 17.49 inches; W: 6.25 inches).

In Leroy Township, Bradford County, ACOE Baltimore District, (Leroy, PA Quadrangle N: 0.64 inch; W: 12.86 inches).

In Leroy Township, Bradford County, ACOE Baltimore District, (Canton, PA Quadrangle N: 0.50 inch; W: 0.53 inch).

To construct and maintain: 1) three separate aerobic limestone basins, an aerobic vertical flow wetland combination passive treatment system for the abatement of suppressed water chemistry in the Schrader Creek Upper Watershed; and 2) three culvert access road crossing pipes, two at 48 inch diameter and one at 36 inch diameter smooth bore pipe. Each treatment impoundment will disturb between 6,000 square feet to 10,000 square feet for a total project earth disturbance of about 1.0 acre.

Each treatment system will be fed from a low head pump bypass on stream dam system. The project will also include the following access road stream crossings:

1. Lye Run—Lye Pond Site—48" pipe
2. Little Schrader Creek Site—36" diameter and 48" diameter pipes

The project will have a de minimis impact on less than 0.05 acre of wetlands while impacting about 200 feet of waterway and creating about 1.0 acre of earth disturbance. All impacted streams are EV fisheries.

E17-418. Harold Leach, R. R. 1, DuBois, PA 15801. Fontana & Fontana, Inc., Townhouse Development, in Sandy Township, **Clearfield County**, ACOE Pittsburgh District (Luthersburg, PA Quadrangle N: 20.1 inches; W: 14.9 inches).

To place and maintain fill in 0.10 acre of wetland associated with a UNT to Reisinger Run (CWF) for the development residential townhouses. The 0.10 acre of permanent wetland impacts result from construction of roadways, stormwater collection and conveyances, and other utilities. In addition to the 0.10 acre of permanent wetland impacts, development construction will also result in the construction, operation and maintenance of two stream enclosures in the UNT to Reisinger Run (CWF). The first stream enclosure will be constructed south of Chestnut Avenue with a corrugated plastic pipe having a diameter of 21 inches and a length of 475 feet. The second enclosure will be constructed to carry Wood

Street over the UNT with a corrugated plastic pipe having a diameter of 24 inches and a length of 120 feet. Both stream enclosures shall be constructed, operated and maintained to pass the 100-year frequency flood. As proposed, the project will permanently impact 0.10 acre of wetland and 595-foot waterway that is located along southern right-of-way of SR 4014 approximately 350 feet southwest of SR 4017 and SR 4014 intersection. The permittee shall mitigate the 0.10 acre of permanently impacted wetland onsite with a minimum of 0.10 acre of replacement wetland.

E55-208. Jackson Township Supervisor, R. R. 1, Box 324A, Winfield, PA 17889. Tuscarora Creek Bridge Replacement, in Jackson Township, **Snyder County**, ACOE Baltimore District (Middleburg, PA Quadrangle N: 21.4 inches; W: 0.9 inch).

The permit application proposes to remove the existing bridge structure and install a precast concrete box culvert. The culvert is intended to measure 63-feet long and be set on a 45° skew from the roadway. The new culvert is intended to have a 20-foot clear span and a 6-foot underclearance with a 1-foot depression. Additionally, the project proposes to relocate the stream channel to improve the existing alignment. Currently the stream bends at a 90° angle directly upstream of the existing structure. The new alignment will reduce that bend to a 45° angle and allow for better hydraulic capacity through the structure and lower the 25 year waters surface elevation. An overall loss of 15 linear feet of Tuscarora Creek, CWF, is proposed. There are no wetland impacts associated with this project and the total stream disturbance is intended to be 130 linear feet.

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

E02-1532. No. 1 Cochran Automotive, 4520 William Penn Highway, Monroeville, PA 15143. To construct a stream enclosure in Robinson Township, **Allegheny County**, Pittsburgh ACOE District. (Oakdale, PA Quadrangle N: 12 inches; W: 4 inches and Latitude: 40° 26' 31"—Longitude: 80° 09' 24"). The applicant proposes to place and maintain fill on 0.047 acre of wetlands, and to construct and maintain a 287.5 ft. 42" diameter RCP stream enclosure, in the watershed of a UNT to Campbells Run (CWF) for the purpose of constructing a vehicle storage and display area. The project is located at the intersection of Campbell's Run Road and Devassie Road. The project impacts are 0.047 acre of wetlands and 287.5 ft. of stream channel.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D46-114EA. David Froehlich, Executive Director, Wissahickon Valley Watershed Association, 12 Morris Road, Ambler, PA 19002, Upper Dublin Township, **Montgomery County**, ACOE Philadelphia District.

Project proposes to breach and remove K & M Dam across Wissahickon Creek (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 200 feet of stream channel. The dam is located approximately 1,200 feet Northeast of the intersection of West Butler Pike and Morris Road (SR 2001) (Ambler PA Quadrangle N: 5.1 inches; W: 14.55 inches).

EA14-005. Mr. and Mrs. Paul Weener, 1023 Torrey Lane, Boalsburg, PA 16827, Harris Township, **Centre County**, ACOE Baltimore District.

Project proposes to construct, operate and maintain a nonjurisdictional dam across a tributary to Spring Creek (CWF) for recreational and aesthetic purposes. The project will impact approximately 80 feet of stream channel. The dam is located approximately 2,900 feet southeast of the intersection of Torrey Lane (T362) and Loop Road (T357) (State College, PA Quadrangle, N: 3.75", W: 3.8").

**STORAGE TANKS
SITE-SPECIFIC INSTALLATION
PERMITS**

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is cur-

rently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504 and 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

SSIP

<i>Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
06009	Chemstream Corporation North Star Industrial Park Commerce Drive Stoystown, PA 15563	Somerset	Jenner Township	three ASTs storing Caustic Soda	45,000 gallons total

ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS**

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

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of

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

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

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

I. NPDES Renewal Permit Actions

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0088251 (Sew)	Upper Bern Township (Upper Bern Township Treatment Plant) P. O. Box 185 Shartlesville, PA 19554	Berks County Upper Bern Township	Wolf Creek 3-C	Y
PA0070050 (IW)	Reading Alloys, Inc. P. O. Box 53 Robesonia, PA 19551-0053	Berks County Heidelberg Township	UNT Spring Creek 3-C	Y
PA0010294 (IW)	Tyco Electronics Corporation M.S. 140-42 P. O. Box 3608 Harrisburg, PA 17105-3608	Dauphin County Williamstown Borough	Wiconisco Creek 6-C	Y
PA0070149 (Sew)	Leesport Borough Authority Ten East Wall Street P. O. Box 201 Leesport, PA 19533	Berks County Leesport Borough	Schuylkill River 3-B	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0060305 IW	Department of Conservation and Natural Resources Bureau of State Parks Mt. Pisgah State Park R. R. 3, Box 362 Troy, PA 16947-9948	Bradford County West Burlington Township	UNT to Mill Creek 4C	Y
PA0114898 SP	Madison Township Municipal Authority P. O. Box 620 Millville, PA 17846-0620	Columbia County Madison Township	Mud Creek 10D	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. PA0053635, Industrial Waste, **Buckeye Terminals, LLC**, 5002 Buckeye Road, P. O. Box 368 Emmaus, PA 18049. This proposed facility is located in East Whiteland Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal and authorization to discharge stormwater runoff from a facility known as Malvern Terminal into Little Valley Creek in Watershed 3F.

NPDES Permit No. PA0029980, Sewage, **Sleighton School**, 485 Valley Road, Glen Mills, PA 19342. This proposed facility is located in Middletown Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal and authorization to discharge treated sewage into Rocky Run in Watershed 3G.

NPDES Permit No. PA0029912, Sewage, **Department of Public Welfare**, 1822 West Strasburg Road, Coatesville, PA 19320. This proposed facility is located in Newlin Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal and authorization to discharge from a facility known as Embreeville Complex STP into the West Branch Brandywine Creek in Watershed 3H.

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

NPDES Permit No. PA0045004, Sewerage, **Bennett Leas, Manager, Lake Meade Municipal Authority**, 59 Curtis Drive, East Berlin, PA 17316. This proposed facility is located in Reading Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to Mud Run in Watershed 7-F.

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

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

WQM Permit No. WQG02460616, Sewerage, **Lower Salford Authority**, 57 Main Street, P. O. Box 243, Mainland, PA 19451-0243. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station.

WQM Permit No. 2305407, Sewerage, **Chadds Ford Township**, 10 Station Way Road, P. O. Box 181, Chadds Ford, PA 19317. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Action/Activity: Construction and operation of a pump station.

WQM Permit No. WQG02150618, Sewerage, **Valley Township**, 890 West Lincoln Highway, P. O. Box 467, Coatesville, PA 19320. This proposed facility is located in Valley Township, **Chester County**.

Description of Action/Activity: Construction and operation of a pump station and sewer extension.

WQM Permit No. WQG02460614, Sewerage, **Lower Salford Township Authority**, P. O. Box 243, 57 Main Street, Mainland, PA 19451. This proposed facility is located Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station.

WQM Permit No. 0906401, Sewerage, **Bedminster Municipal Authority**, P. O. Box 92, Bedminster, PA 18910. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a sewage treatment plant to serve 30 single family homes.

WQM Permit No. WQG02090617, Sewerage, **Warwick Township Water and Sewer Authority**, 1733 Township Greene, Jamison, PA 18929. This proposed facility is located in Warwick Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a sewage pump station.

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

WQM Permit No. 0105402, Sewerage, **Lake Meade Municipal Authority**, 59 Curtis Drive, East Berlin, PA 17316. This proposed facility is located in Reading Township, **Adams County**.

Description of Proposed Action/Activity: Approval for construction/operation of sewerage facilities consisting of mechanical screening; duplex SBR system (ABJ ICEAS); UV disinfection system; SBR blower/control building; and existing Schreiber unit converted to aerobic digester at the Lake Meade STP.

WQM Permit No. 2206401, Sewerage, **Derry Township Municipal Authority**, 670 Clearwater Road, Hershey, PA 17033-2453. This proposed facility is located in Derry Township, **Dauphin County**.

Description of Proposed Action/Activity: This approves the construction and modification of sewerage facilities at the Park Avenue Pump Station consisting of a duplex submersible wet well pump station with a capacity of 400 gpm, which will replace two dry pit flooded suction pumps with a design capacity of 250 gpm.

WQM Permit No. 0606401, Sewerage, **Washington Township Municipal Authority**, P. O. Box 156, Barto, PA 19504. This proposed facility is located in Washington Township, **Berks County**.

Description of Proposed Action/Activity: This permit approves the construction of sewerage facilities at Washington Mews Pump Station consisting of a wet well grinder and building that houses an emergency generator and appurtenances alms with associated 4-inch diameter force main. This permit authorizes the connection of 96 EDUs to the pump station. Additional EDUs will require prior planning approval by the Department before connection.

WQM Permit No. 6705412, Sewerage, **Northeastern York County Sewer Authority**, 175 Chestnut Street, P. O. Box 519, Mount Wolf, PA 17347. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: This permit approves the construction/operation of sewerage facilities at Long Road Pump Station and Riverview Drive Pump Station consisting of two pump stations both discharging to the Saginaw STP.

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

WQM Permit No. 4106402, Sewerage 4952, **Beaver Lake Sewer Company**, P. O. Box 1, Cambra, PA 18611-0001. This proposed facility is located in Penn Township, **Lycoming County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management General permit for the installation of a replacement wastewater treatment plant.

WQM Permit No. 1406404, Sewerage, **Spring-Benner-Walker Joint Authority**, 170 Irish Hollow Road, Bellefonte, PA 16823-6200. This proposed facility is located in Spring Township, **Centre County**.

Description of Proposed Action/Activity: Permit issued for new collection service consisting of 3,000 lf of gravity sewer, 2,000 lf of forcemain and one 0.0058 mgd pump station.

WQM Permit No. WQG01080602, Sewerage, **Steven Green**, R. D. 1, Box 1175, Gillett, PA 16925. This proposed facility is located in South Creek Township, **Bradford County**.

Description of Proposed Action/Activity: The applicant is approved to construct and operate a 1900 gallons per day treatment plant to treat sewage from Green Restaurant. The treatment plant will consist of a 5,000-gallon septic tank, effluent filter, a 1,305 square foot subsurface sand filter and chlorine disinfection.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504092	James DiGiuseppe 7743 Woody Avenue Van Nuys, CA 91406	Chester	East Coventry Township	UNT Pigeon Creek (HQ-TSF)
PAS10G370R	East Vincent Development Co., LP 654 Enterprise Drive Limerick, PA 19468	Chester	East Vincent Township	Stony Run (HQ-TSF) UNT Schuylkill River (WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026405009	Wayne County Commissioners 925 Court St. Honesdale, PA 18431-1996	Wayne	Texas Township	Indian Orchard Brook HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030506002	Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Bedford	Bedford Township	Shobers Run HQ-CWF and UNT to Shobers Run HQ-CWF
PAI033105003	Mr. and Mrs. Silas Dubbel 63764 A Cold Springs Road Huntingdon, PA 16652	Huntingdon	Oneida Township	UNT Standing Stone Creek HQ-CWF

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

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

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
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	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
New Britain Township Bucks County	PAG2000906028	Nicholas Braccia Contractor, Inc. 536 Easton Road Horsham, PA 19044	Pine Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAG2001506009	P & B Builders, Inc. 1575 Poorhouse Road Downingtown, PA 19335	East Branch Brandywine Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Fallowfield Township Chester County	PAG2001506012	Edward Fitts 355 Fairview Road Coatesville, PA 19320	Buck Run (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Thornbury Township Chester County	PAG2001505068	OHB Homes One Greenwood Square 3333 Street Road Bensalem, PA 19020	East Branch Chester Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
London Grove Township Chester County	PAG2001505086	Spe-Lisacul Company, LP 2109 Bellemead Avenue Havertown, PA 19083	UNT East Branch White Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
London Grove Township Chester County	PAG2001504109	London Grove North, LLC 600 Evergreen Drive Suite 640 Glen Mills, PA 19342	East Branch White Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Honey Brook Township Chester County	PAG2001506027	RPC Bramlage Wilko USA, Inc. 1075 Hemlock Road Morgantown, PA 19543	Conestoga River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAG2001506014	HSC Builders 304 New Mill Lane Exton, PA 19341	West Valley Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Chichester Township Delaware County	PAG2002306006	Town & Country Development Assoc. 321 South Valley Forge Road Devon, PA 19333	East Branch Naamans/Marcus Hook Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Ridley Township Delaware County	PAG2002306002	Chester Pike, LLC 204 Wundom Lane Radnor, PA 19087	Crum Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Chichester Township Delaware County	PAG2002306027	Williams Gas Pipeline Transco 2800 Post Oak Boulevard Houston, TX 77056	Spring Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Aston Township Delaware County	PAG2002306004	Colebrock, Inc. 104 Spring Valley Road Aston, PA 19014	Baldwin Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG2002305061	Brandolini Companies 1301 Lancaster Avenue Berwyn, PA 19312	Webb Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Dublin Township Montgomery County	PAG2004605135	Bethel Associates, Inc. 1120 North Bethlehem Pike Spring House, PA 19477	UNT Park Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Red Hill Borough Montgomery County	PAG2004605168	Nick Paone, Inc. 3220 Bergey Road Hatfield, PA 19440	Macoby Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Montgomery Township Montgomery County	PAG2004605230	Montgomeryville Real Estate Assoc. 47 Old Covered Bridge Road Newtown Square, PA 19454	UNT Trewellyn Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG2004605085	Swedeland Development Corporation 404 Sumneytown Pike, Suite 100 North Wales, PA 19454	Matsunk Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004606003	Peter Corbo 539 West Germantown Pike Norristown, PA 19403	UNT Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Cheltenham Township Montgomery County	PAG2004605225	Matrix/Ashbourne Associates Forgate Drive CN 4000 Cranbury, NJ 08512	Tacony Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marlborough Township Montgomery County	PAG2004605207	John Yanan P. O. Box 720 6320 Fourth Street Green Lane, PA 18054	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Moreland Township Montgomery County	PAG2004606035	Sheldon and Janette Margolis 3579 Oriole Drive Huntingdon Valley, PA 19006	Huntingdon Valley Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004605216	Limerick Shopping Center, LP 1301 Lancaster Avenue Berwyn, PA 19312	UNT Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Norriton Township Montgomery County	PAG200460610	The Church of Jesus Christ of Latter Day Saints P. O. Box 318 Ramsey, NJ 07446	Schuylkill River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004606002	B & D Land Development, LLC 265 Carmen Drive Collegeville, PA 19426	UNT Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Frederick Township Montgomery County	PAG2004606044	BC Fisher Contracting 257 High Street Sellersville, PA 18960	Perkiomen Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106003	MDC Philadelphia 11401 Strang Line Road Lenexa, KS 66215	Mingo Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2016106022	Campanelli Associates Construction Co. One Campanelli Drive Braintree, MA 02184	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Pen Argyl Boro. Northampton County	PAG2004806022	Green & White Youth Association, Inc. Attn: Myles Garrison P. O. Box 132 Pen Argyl, PA 18072	Waltz Creek (Source to Greenwalk Creek) CWF, MF	Northampton County Conservation District (610) 746-1971
Hunlock Township Luzerne County	PAG2004006010	Hunlock Township P. O. Box 164 Hunlock Creek, PA 18621	Susquehanna River WWF	Luzerne County Conservation District (570) 674-7991
Upper Mahantongo Township Schuylkill County	PAG2005406008	Joshua Blyler 17 Municipal Rd. Klingerstown, PA 17941	Mahantongo Creek CWF	Schuylkill County Conservation District (570) 622-3742
West Penn Township Schuylkill County	PAG2005405026	West Penn Township 27 Municipal Rd. New Ringgold, PA 17960	Mahaning Creek	Schuylkill County Conservation District (570) 622-3742
Belfast Township Fulton County	PAG2002906002	Richard Harr Belfast Township Supervisors 121 Homestead Lane Needmore, PA 17238	Tonoloway Creek WWF Barnetts Run TSF Palmer Run WWF	Steven J Thomas 216 North 2nd Street McConnellsburg, PA 17233 (717) 485-3547, Ext. 109
Derry Township Dauphin County	PAG2002206025	Lee J. Moyer 851 Bullfrog Valley Rd. Hummelstown, PA 17036-9742	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Penn Township Berks County	PAG2000606049	Dale Gassert 144 Heppner Road Hamburg, PA 19526	UNT to Plum Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Exeter Township Berks County	PAG2000606043	James Clouser 301 Wegman Road Reading, PA 19606	UNT to Owatin Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
College, Ferguson and Patton Township s Centre County	PAG2001406002	Penn State University—North Campus Ian Salada 101P Physical Plant Bldg. University Park, PA 16802	Big Hollow CWF	Centre County Conservation District 414 Holmes Ave, Suite 4 Bellefonte, PA 16823 (814) 355-6817
Madison Township Columbia County	PAG2001906004	PPL Generation, LLC Dennis J. Murphy 2 North Ninth Street Allentown, PA 18101	Chillisquaque Creek WWF	Columbia County Conservation Dist 702 Sawmill Rd. Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Wolf Township Lycoming County	PAG2004106006	Sterlyn May 5850 Main Rd. Hunlock Creek, PA 18121	Wolf Run WWF	Lycoming County Conservation District 542 County Farm Road, Suite 202 Montoursville, PA 17754 (570) 433-3003

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Anthony, Derry and Limestone Townships Montour County	PAG2004906008	PPL Montour SES Industrial Waste Pipeline Washingtonville, PA 17884	Warrior Run Beaver Run Middle and West Branch of Chillisquaque Creek West Branch Susquehanna River WWF	Montour County Conservation District 112 Woodbine Lane, Suite 2 Danville, PA 17821 (570) 271-1140
Delaware and Lewis Townships Turbotville Borough Northumberland County				Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Washington Township & Freeburg Borough Snyder County	PAG2005506007	John Kerschner Eastern Communities, LTD 7300 Derby St. Harrisburg, PA 17111	Susquehecka Creek CWF	Snyder County Conservation District 403 W Market Street Middleburg, PA 17842 (570) 837-0007, Ext. 112
Monroe Township Snyder County	PAG2005506008	Doug Grayson PREIT Services, LLC 200 S. Broad Street Philadelphia, PA 19102	UNT to Susquehanna River WWF	Snyder County Conservation District 403 W Market Street Middleburg, PA 17842 (570) 837-0007, Ext. 112
Wellsboro Borough Tioga County	PAG2005906005	Foster C. West 90 Bodine Street Wellsboro, PA 16901	Sanders Creek CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Richmond Township Tioga County	PAG2005906007	Ron D. Mosti 4459 Saurbrier Road Cameron, NY 14819-4459	Tioga River WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Charleston Township Tioga County	PAG2005906008	Lewis Homes, Inc. 13117 Route 6 Wellsboro, PA 16901	Charleston Creek WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Osceola Township Tioga County	PAG2005906010	Osceola Township Municipal Authority P. O. Box 249 Osceola, PA 16942	Holden Creek WWF Cowanesque River WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Beaver County Beaver Borough	PAG2000406007	Ronald J. Tarquinio JJJ Properties, Inc. 2403 Sydney Street Suite 200 Pittsburgh, PA 15203	Ohio River WWF	Beaver County Conservation District (724) 378-1701
Cambria County Richland Township	PAG2001106007	Johnstown Industrial Development Corporation 111 Market Street Johnstown, PA 15901	UNT Sandy Run CWF	Cambria County Conservation District (814) 472-2120
Washington County Peters Township	PAG2006306001	Ted Taylor Builders 608 East McMurray Road Suite 101 McMurray, PA 15317	Tributary to Peters Creek TSF	Washington County Conservation District (724) 228-6774
Washington County North Franklin Township	PAG2006306012	Albert Malie 170 West Chestnut Street Washington, PA 15301	Catfish Creek WWF	Washington County Conservation District (724) 228-6774

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
York County Fairview Township	PAR803648	Defense Distribution Depot Susquehanna Pennsylvania 2001 Mission Drive Bldg 1-1 Second Floor New Cumberland, PA 17070	Marsh Run WF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bradford County North Towand Township	PAR114811	E. I. DuPont De Nemours Co., Inc. R. R. 1, Box 15 Patterson Boulevard Towanda, PA 18848	Sugar Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Columbia Township Bradford County	PAR214814 (Stormwater)	Judson's Inc. P. O. Box 67 Austinville Road Columbia Cross Roads, PA 16914	N Branch Sugar Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664

General Permit Type—PAG-4

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Buckingham Township Bucks County	PAG040049	Lucy L. Green Mark S. Sfirri 1669 Pineville Road New Hope, PA 18938-5401	UNT to Pidcock Creek Watershed 2E.	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Plumstead Township Bucks County	PAG040050	Hugh Sharp 5326 Valley Park Road Doylestown, PA 18901	UNT to North Branch Neshaminy Creek Watershed 2F	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Wrightstown Township Bucks County	PAG040051	James & Maureen Skelly 234 Ridge Avenue Newtown, PA 18940	UNT to Jericho Creek Watershed 2E.	Southeast Regional Office 2 East Main Street Norristown, PA 19401
South Creek Township Bradford County	PAG045216	Steven Green Green Restaurant R. D. 1, Box 1175 Gillett, PA 16925	South Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666

General Permit Type—PAG-5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Hazleton City Luzerne County	PAG052211	Sunoco Inc. (R & M) (Sunoco Service Station West Hazleton 0364-1891) 1109 Milton Avenue Syracuse, NY 13204	Black Creek CWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

General Permit Type—PAG-8 (SSN)

Facility Location:

Municipality & County	Permit No.	Applicant Name & Address	Site Name & Location	Contact Office & Phone No.
Fulton County Todd Township	PAG083541	McConnellsburg Sewerage Authority P. O. Box 681 McConnellsburg, PA 17233	Reed Englert Farm	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Cumberland County South Middleton Township	PAG083577	Mount Holly Springs Borough Authority 11-13 Mill Street Mount Holly Springs, PA 17065-1208	Patrick Belt Farm	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Bellefonte Borough Boggs Township Centre County	PAG084814	Borough of Bellefonte 236 West Lamb Street Bellefonte, PA 16823	Frank and Bessie Fisher Boggs Township Centre County	NCRO 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3636

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 3905503 , Public Water Supply.	
Applicant	South Whitehall Township Authority South Whitehall Township Lehigh County
Responsible Official	Gerald J. Gasda, Manager South Whitehall Township Authority 4444 Walbert Avenue Allentown, PA 18104-1699
Type of Facility	Community Water System
Permit Issuance Date	June 2, 2006
Description of Action	PWS Construction permit issued to South Whitehall Township Authority for modification of the community water system serving Cedarbrook Nursing Home.

Permit No. 3390044 , Public Water Supply.	
Applicant	Borough of Catasauqua Borough of Catasauqua Lehigh County
Responsible Official	Eugene L. Goldfeder Borough Manager Borough of Catasauqua 118 Bridge Street Catasauqua, PA 18032
Type of Facility	Community Water System
Permit Issuance Date	June 2, 2006
Description of Action	PWS operation permit issued following completion of work approved under a minor permit amendment issued on May 3, 2005.

Permit No. 3905503 , Public Water Supply.	
Applicant	South Whitehall Township Authority South Whitehall Township Lehigh County

Responsible Official Gerald J. Gasda, Manager
South Whitehall Township
Authority
4444 Walbert Avenue
Allentown, PA 18104-1699

Type of Facility Community Water System

Permit Issuance Date June 2, 2006

Description of Action PWS Construction permit issued to South Whitehall Township Authority for modification of the community water system serving Cedarbrook Nursing Home.

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

Permit No. 3606507 MA, Minor Amendment, Public Water Supply.

Applicant **Columbia Water Company**

Municipality West Hempfield Township

County **Lancaster**

Type of Facility This project is for painting the interiors of the 500,000-gallon and 50,000-gallon Ironville storage tanks. All internal painting material is NSF approved.

Consulting Engineer David T. Lewis, P. E.
Columbia Water Company
220 Locust Street
Columbia, PA 17512

Permit to Construct Issued: 5/26/2006

Operations Permit issued to **Pennsylvania-American Water Company**, 3060088, Amity Township, **Berks County** on 5/31/2006 for the operation of facilities approved under Construction Permit No. 0605514.

Operations Permit issued to **Pennsylvania-American Water Company**, 3060088, Amity Township, **Berks County** on 5/31/2006 for the operation of facilities approved under Construction Permit No. 0605515 MA.

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

Permit No. Minor Amendment—Operation Public Water Supply.

Applicant **Pennsylvania-American Water Company—Milton District**

Township or Borough Milton Borough

County **Northumberland**

Responsible Official Michael Salvo
Pennsylvania-American Water Company
852 Wesley Drive
Mechanicsburg, PA 17055

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date 6/12/06

Description of Action Operation of two new Grundfos, model CR32-2, 7.5 HP, vertical, nonselfpriming, multistage, inline, centrifugal booster pumps at the Turbot Avenue Pump Station.

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth

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

WA 28-631D, Water Allocations. Bear Valley Franklin County Pennsylvania Joint Authority, Franklin County. Water allocation for the right to purchase up to 1 million gpd from the Borough of Chambersburg, based on a 30-day average. Consulting Engineer: David R. Knapton, P. E., Gannett Fleming, Inc.. Permit Issued: 5/17/2006.

WA 67-62C d, Water Allocations. York Water Company, Adams County. Water Allocation Permit to expand the service area to include portions of Jackson Township and Paradise Township in York County, and Abbottstown Borough and portions of Hamilton Township, Berwick Township and Oxford Township in Adams County. Consulting Engineer: Ryan M. Ural, P. E., The York Water Company.

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

WA 17-51C, Water Allocations. Clearfield Municipal Authority, 107 East Market Street, Clearfield, PA 16830-2496, Clearfield Borough, Clearfield County. Grants the right to withdraw a maximum of 2,500,000 gpd from all surface sources. The Authority may withdraw up to 2,500,000 gpd from Montgomery Run and up to 500,000 gpd from Moose Creek. Both facilities are located in Clearfield County.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Dublin Borough	P. O. Box 52 Dublin, PA 18917	Bucks

Plan Description: Dublin Borough I/I Projects. The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for the projects. Dublin Borough proposes the following projects:

*Project 1—High Street Sewage Collection System Replacement—*Replace approximately 1,550 linear feet of vitrified clay sanitary sewer main, manholes and the service laterals extending between manholes Nos. 37 and 41, inclusive.

Project 2—Elephant Road Trunkline Rehabilitation— Root treatment, joint testing/grouting, defective service lateral replacement, manhole pipe entry repairs and pipeline relining: MH 14 - MH 13.

Project 3—Middle Road Sewer Line Rehabilitation— Root treatment, joint testing/grouting, defective service lateral replacement, manhole pipe entry repairs.

The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Wales Borough	300 School Street North Wales, PA 19454	Montgomery

Plan Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for the projects. North Wales Borough proposes the following projects:

Phase 1—Wastewater Collection System:

Sewer Project 1: Rehabilitation of approximately 6,400 feet of sanitary sewer piping and appurtenances in Beaver, Walnut and Tenth Streets, budgeted at \$.905 million to be completed in 2006.

Sewer Project 2: Rehabilitation of approximately 7,900 feet of sanitary sewer piping and appurtenances in Second, Third, Fourth, School, Walnut and Ninth Streets, budgeted at \$1.195 million to be completed in 2007.

Phase 2—Wastewater Treatment Plant:

WWTP Project: Facility planning and alternative treatment evaluation for permit compliance to proceed in 2006, and design and construction projected to 2008, budgeted at \$1.500 million.

The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Middleton Township	2051 Spring Rd. Carlisle, PA 17013	Cumberland

Plan Description: The approved plan provides for a Small Flow Treatment Facility (SFTF) of 500 gpd to serve the proposed new residence on the 48-acre Fred Gettys Subdivision located at the southwest corner of Route 944

and Hoy Road. The proposed SFTF will discharge to a UNT of Wertz Run. The The Department of Environmental Protection's (Department) review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lower Windsor Township	2425 Craley Road Wrightsville, PA 17368	York
East Prospect Borough	28 W. Maple Street P. O. Box 134 East Prospect, PA 17317	York

Plan Description: A3-67937-276-3 and A3-67918-017-3, The Fields at East Prospect: The approved plan provides for a 214 lot single-family residential subdivision on 57 acres with total estimated sewage flows 53,500 gpd tributary to the East Prospect Borough Wastewater Treatment Plant. The plan also proposes expansion to the East Prospect Borough Wastewater Treatment Plant by an additional 87,500 gpd, which will be completed at developer cost. The subdivision is located on the south side of Nursery Road and on the north side of East Prospect Road (SR 124) across from Corinne Drive in East Prospect Borough and Lower Windsor Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Disapprovals Granted Under the Pennsylvania Sewage Facilities Act

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Newberry Township	1915 Old Trail Road Etters, PA 17319	York

Plan Description: A3-67945-332-2, Rick Drawbaugh: The plan consists of a two lot single-family residential subdivision on 6.33 acres with total proposed sewage flows of 400 gpd to be treated by an individual onlot disposal system. The proposed development is located on the south side of Steinhour Road, approximately 400 feet east of Kise Mill Road in Newberry Township, York County. The plan was disapproved because the hydrogeologic study included with the planning information received by the Department and required by 25 Pa. Code § 71.62(c) (relating to individual and community onlot sewage systems) indicates that the groundwater will be polluted on a portion of the property and the onsite sewage systems proposed for this subdivision will pollute the waters of this Commonwealth in violation of The Clean Streams Law. The condition is considered a nuisance and is prohibited. Specifically, the proposed groundwater easements are not located down gradient from the lots and/or septic systems they are intended to mitigate, and Lot 2 is not sized large to attenuate the nitrate-nitrogen on that lot.

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:

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

V & H Motor Company, Inc. East Buffalo Township, **Union County**. United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222 on behalf of Roger Holtzapfel, V & H Motor Company, Inc., 2265 Old Turnpike Road, Lewisburg, PA 17837 has submitted a Final Report concerning remediation of site soil contaminated with leaded gasoline and used motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

2006 Messiah College Hoffman UST Release, Upper Allen Township, **Cumberland County**. HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA on

behalf of Messiah College, One College Avenue, Grantham, PA 17027, submitted a Final Report concerning remediation of site soils contaminated with No. 2 heating oil. The site was determined to qualify for the Department's low-risk sites program, and the findings of the Final Report were based upon the judgment of James LaRegina, P. G., who is the Pennsylvania licensed professional under whose seal the Report was submitted. A technical review was not performed by Department staff on this report. The site was afforded liability protection as outlined in Chapter 5 of Act 2 in a letter dated June 5, 2006.

Adhesives Research, Springfield Township, **York County**. URS Corporation, 5010 Ritter Road, Suite 101, Mechanicsburg, PA 17055, on behalf of Adhesives Research, Inc., 400 Seaks Run Road, P. O. Box 100, Glen Rock, PA 17327, submitted a Final Report within 90 days of release concerning remediation of site soils contaminated with VOCs. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on June 7, 2006.

Newark Paperboard Products, Mercer Division, Manchester Township, **York County**. EPSYS Corporation, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103, on behalf of Robert H. Mullen, The Newark Group, Inc., 20 Jackson Drive, Cranford, NJ 07016 and Rick Theriault, The Newark Group, Inc., 100 South Kimball Street, Bradford, MA 01835, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with No. 2 fuel oil. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on June 8, 2006.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Penns Creek Elementary School, Centre Township, **Snyder County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Dr., Bellefonte, PA 16823 on behalf of Mid-West School District, 568 East Main St., Middleburg, PA 17842 has submitted a Remedial Investigation Report/Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Remedial Investigation/Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on June 8, 2006.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 300720. Cheswick Ash Disposal Site, P. O. Box 65, Old Freeport Road, Cheswick, PA 15024. Operation of a captive residual waste landfill in Indiana Township, **Allegheny County**. Permit renewal issued in the Regional Office on June 13, 2006.

AIR QUALITY

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; Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0117B: Heucotech, Ltd. (99 Newbold Road, Fairless Hills, PA 19030) On June 8, 2006, to operate a pigment mixing operations in Falls Township, **Bucks County**.

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

06-05106A: SFS Intec, Inc. (P. O. Box 6326, Spring Street and Van Reed Road, Wyomissing, PA 19610) on June 7, 2006, to construct two paint spray booths controlled by dry filters and a drying oven in Exeter Township, **Berks County**.

36-03052A: Boose Aluminum Foundry (P. O. Box 261, Reamstown, PA 17567-0261) on June 7, 2006, to install a replacement thermal sand reclamation system at the foundry in East Cocalico Township, **Lancaster County**.

36-05067J: C & D Technologies, Inc. (82 East Main Street, Leola, PA 17540-1963) on June 9, 2006, to modify the existing lead-acid battery manufacturing plant in Upper Leacock Township, **Lancaster County**.

36-05086C: Donsco, Inc. (P. O. Box 2001, Wrightsville, PA 17368-0040) on June 6, 2006, to install of two 3-ton electric furnaces to replace an existing electric furnace at the ferrous foundry in Mount Joy Borough, **Lancaster County**.

50-03004A: Tuscarora Hardwoods, Inc. (2240 Shermans Valley Road, Elliptsburg, PA 17024-9182) on June 6, 2006, to install a 27.4 mmBtu/hr wood fired boiler in Spring Township, **Perry County**.

67-05005E: PPL Brunner Island, LLC (2 North 9th Street, Allentown, PA 18101-1139) on June 7, 2006, to construct a limestone and gypsum handling operation at the Brunner Island Steam Electric Station in East Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

26-00560A: Ferguson Funeral Home & Cremation Services (700 Broad Avenue, Belle Vernon, PA 15012-1513) on June 9, 2006, to install and operate a human crematory with an afterburner in Belle Vernon Borough, **Fayette County**.

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

33-175A: Matson Lumber Co.—Corsica Plant (Route 949, Corsica, PA 15825) on June 9, 2006, to construct a wood-fired boiler rated at 18.9 mmBtu/hr in Union Township, **Jefferson County**. This is a State-only facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0037E: CMS Gilbreth Packaging Systems, Inc. (3001 State Road, Croydon, PA 19021) on June 8, 2006, to operate a manual dip tank in Bristol Township, **Bucks County**.

23-0001Z: Sunoco, Inc. (R&M) (P. O. Box 426, Marcus Hook, PA 19061-0426) on June 8, 2006, to operate four auxiliary boilers in Marcus Hook Borough, **Delaware County**.

09-0024C: Waste Management Disposal Services of PA Inc. (1121 Bordentown Road, Morrisville, PA 19067) on June 12, 2006, to operate a landfill in Tullytown Borough, **Bucks County**.

46-0167: Parkhouse (1600 Black Rock Road, Upper Providence, PA 19468) On June 12, 2006, to operate two boilers/No.2 fuel oil in Upper Providence Township, **Montgomery County**.

15-0078D: Centocor, Inc. (200 Great Valley Parkway, Malvern, PA 19355) On June 12, 2006 an electric generator in East Whiteland Township, **Chester County**.

09-0087B: Air Products & Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) On June 12, 2006, to operate a SiF4 process scrubber in Falls Township, **Bucks County**.

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

07-03049A: A. P. Green Refractories, Inc. (400 Fairway Drive, Moon Township, PA 15108) on May 29, 2006, to modify the rotary dryer and No. 2 castable processes and the replacement of a ball mill and various fabric collectors in Greenfield Township, **Blair County**. This plan approval was extended.

21-05049A: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17104-3331) on May 14, 2006, to install an oil-fired hot mix asphalt plant controlled by a fabric filter in Penn Township, **Cumberland County**. This plan approval was extended.

67-05092E: Starbucks Coffee Co. (3000 Espresso Way, York, PA 17402) on June 10, 2006, to construct two batch coffee roasters and two cooling trays at their York Roasting Plant in East Manchester Township, **York County**. This plan approval was extended.

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

41-399-027: Smurfit-Stone Container Enterprises, Inc. (P. O. Box 3097, Williamsport, PA 17701) on June 6, 2006, to operate a paperboard/plastic film gluing operation on a temporary basis until October 4, 2006, at 64 River Road in Porter Township, **Lycoming County**. The plan approval has been extended.

17-305-051: Parkwood Resources, Inc. (511 Railroad Avenue, Homer City, PA 15748) on June 8, 2006, to operate a coal stockpiling and truck loading operation on a temporary basis until October 6, 2006, at the Cherry

Tree Mine in Burnside Township, **Clearfield County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

04-00033A: Nova Chemicals, Inc. (400 Frankford Road, Monaca, PA 15061) on June 12, 2006, to allow completion of the shakedown of the air pollution control equipment at the Beaver Valley Site located in Potter Township, **Beaver County**. This plan approval was extended.

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

24-083D: Carbone of America—Graphite Materials Division (1032 Trout Run Road, St. Marys, PA 15857) on June 28, 2006, to construct a CBH Kiln in Benzinger Township, **Elk 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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Michael Safko, Facilities Permitting Chief, (570) 826-2531.

54-00021: Pine Grove Landfill, Inc. (193 Shultz Road, Pine Grove, PA 17963-8634) on May 18, 2006, for a landfill facility in Pine Grove Township, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05047: Dura Bond Pipe, LLC (2716 South Front Street, Steelton, PA 17113-3099) on June 9, 2006, for their pipe and structural shapes manufacturing facility in Steelton Borough, **Dauphin County**.

38-05011: Plain N Fancy Kitchens, Inc. (P. O. Box 519, Oak Street and Route 501, Schaefferstown, PA 17088) on June 5, 2006, to manufacture wood products for kitchens in Heidelberg Township, **Lebanon 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; Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.

15-302-098GP: Cephalon, Inc. (145 Brandywine Parkway, West Chester, PA 19380) On June 8, 2006, to operate two natural gas boilers in West Goshen Township, **Chester County**.

46-310-062GP: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) On June 6, 2006, to operate a portable non-metallic mineral in Lower Pottsgrove Township, **Montgomery County**.

46-310-063GP: Ratoskey & Trainor, Inc. (115 Fayette Street, Conshohocken, PA 19428) On June 8, 2006, to operate a nonmetallic mineral processor in Upper Merion Township, **Montgomery County**.

15-302-099GP: Sanofi-Aventis U. S., Inc. (9 Great Valley Parkway, Malvern, PA 19355) On June 12, 2006, to

operate two 14.65 mmBtu/hr combustion units in East Whiteland Township, **Chester County**.

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

40-00083: Alcoa KAMA, Inc. (600 Dietrich Avenue, Hazelton, PA 18201-7754) on June 8, 2006, to issue a state only operating permit for a plastic film/sheet manufacturing facility located in Hazelton City, **Luzerne County**.

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

22-03014: Stewart Amos Steel, Inc. (4400 Paxton Street, P. O. Box 4259, Harrisburg, PA 17111) on June 6, 2006, to operate the surface coating operation at their Harrisburg plant in Swatara Township, **Dauphin County**. This is a renewal of the State-only operating permit.

34-03005: Energex American, Inc. (R. R. 5, Box 343, Mifflintown, PA 17059-9576) on June 7, 2006, to operate a wood pellet manufacturing plant in Walker Township, **Juniata County**.

36-05008: Tyson Foods, Inc. (P. O. Box 1156, 403 South Custer Avenue, New Holland, PA 17557-0901) on June 5, 2006, to operate a chicken processing facility in Earl Township, **Lancaster County**. This is a renewal of the State-only operating permit.

67-03134: Key Plastics, LLC (3350-3390 Farmtrail Road, York, PA 17402-9614) on June 7, 2006, to operate three automated paint lines controlled by dry filters and a regenerative thermal oxidizer in Manchester Township, **York County**.

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

03-00209: Buffalo Limestone, Inc. (R. R. No.1, Box 198A-1, Ford City, PA 16226) on May 31, 2006 to operate a limestone crushing/screening plant and two diesel generator engines at their Stitt Mine facility located in Kittanning Township, **Armstrong County**.

30-00106: Equitable Production Co. (1710 Pennsylvania Avenue, Charleston, WV 25302) on June 7, 2006, for a state only operating permit for two internal combustion engines at the Waynesburg Compressor Station in Franklin Township, **Greene County**.

04-00006: Brighton Electric Steel Casting (510 45th Street, Beaver Falls, PA 15010) on June 5, 2006, for their steel foundry operation in Beaver Falls, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

20-00135: Clear Lake Lumber Inc.—Spartansburg Plant (409 Main Street, Spartansburg, PA 16434-0129) on June 6, 2006, to operate a wood fired boiler with a multiclone in Spartansburg Borough, **Crawford County**.

37-00121: Markovitz Enterprises Inc.—Flowline Division (1400 New Butler Road, New Castle, PA 16107) on June 12, 2006, to operate a valves and fittings production facility in New Castle City, **Lawrence County**. The facility's major emissions include a degreaser boiler, plasma torch cutting, hand grinding stations (4), a batch vapor degreaser, acid cleaning, press operations and miscellaneous natural gas fired furnaces.

The facility has changed the degreasing solvent from Trichloroethylene (HAP) to n-Propyle Bromide (VOC) and is now natural minor.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

04-00502- Shasta Inc. (300 Steel Street, Aliquippa, PA 15001) on June 5, 2006, for their fabricated structural metal grinding operation in Aliquippa, **Beaver County**. The Department has changed the mailing address of the permit.

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.

23991301 and NPDES Permit No. PA0235466. Rosebud Mining Company (301 Market Street, Kittanning, PA 16201), to revise the permit for the Little Toby Mine in Horton Township, **Elk County** to add underground permit and subsidence control area acres. Underground Acres Proposed 269.0, SCP Acres Proposed 269.0. No additional discharges. Application received November 18, 2005. Permit issued June 5, 2006.

30031301 and NPDES Permit No. PA0235610. Dana Mining Company of PA, Inc. (P. O. Box 1170, Morgantown, WV 26507), to revise the permit for the 4 West Mine in Dunkard Township, **Greene County** and related NPDES permit to install the 4 West Brewer Shaft site. Surface Acres Proposed 5.5. Receiving stream: UNT to Meadow Run classified for the following use: WWF. Application received October 7, 2005. Permit issued June 5, 2006.

56961303 and NPDES Permit No. PA0214957. Svonavec, Inc. (150 W. Union Street, Suite 201, Somerset, PA 15501), to renew the permit for the Milford No. 3 Mine in Milford Township, **Somerset County** and related NPDES permit. No additional discharges. Application received November 16, 2004. Permit issued June 5, 2006.

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

32890109 and NPDES Permit No. PA0598640. Keystone Coal Mining Corporation, P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774, permit renewal for reclamation only of a bituminous surface mine in Blacklick Township, **Indiana County**, affecting 18.4 acres. Receiving stream: Aultmans Run classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. Application received March 24, 2005. Permit issued June 2, 2006.

32850114 and NPDES No. PA0597457. Beilchick Brothers, P. O. Box 7, Heilwood, PA 15745-0007, permit renewal for the continued operation and restoration of a bituminous surface mine in Pine Township, **Indiana County**, affecting 147.5 acres. Receiving streams: UNTs of Little Yellow Creek classified for the following use: HQ. There are no potable water supply intakes within 10 miles downstream. Application received March 27, 2006. Permit issued June 5, 2006.

3279103. Keystone Coal Mining Corporation, P. O. Box 219, Shelocta, PA 15774, renewal of NPDES Permit No. PA0079791, Young Township, **Indiana County**. Receiving stream UNT to Big Run, NPDES Renewal application received June 16, 2005. Permit issued June 2, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

10030101 and NPDES Permit No. PA0242331. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225-0347.) Revision to an existing bituminous strip, auger and coal ash placement operation to add 13.0 acres to the surface mining permit in Venango Township, **Butler County**. Receiving streams: UNT No. 2 to Seaton Creek. Application received: January 27, 2006. Permit Issued: June 7, 2006.

37050101 and NPDES Permit No. PA0242616. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001.) Commencement, operation and restoration of a bituminous strip operation in Wayne & Shenango Townships, **Lawrence County** affecting 147.0 acres. Receiving streams: UNTs to Duck Run. Application received: January 26, 2005. Permit Issued: June 6, 2006.

1475-37050101-E-1. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001.) Application for a stream encroachment to conduct mining activities within 100 feet of unnamed tributary No. 1 to Duck Run in Wayne and Shenango Townships, **Lawrence County**. Receiving streams: UNTs to Duck Run. Application received: January 26, 2005. Permit Issued: June 6, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17050103 and NPDES No. PA0256196. RAMM Coal, Inc. (1092 Spruce Hill Road, Rockton, PA 15856), commencement, operation and restoration of a bituminous surface mine permit in Brady Township, **Clearfield County**, affecting 49.1 acres. Receiving streams: UNT to Little Anderson Creek. There are no potable water supply intakes within 10 miles downstream. Application received: May 18, 2005. Permit issued: May 30, 2006.

17030106 and NPDES No. PA0243477. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830), commencement, operation, and restoration of a bituminous surface mine permit in Beccaria Township, **Clearfield County**, affecting 244 acres. Receiving streams: Dotts Hollow and Clearfield Creek. There are no

potable water supply intakes within 10 miles downstream. Application received: April 14, 2003. Permit issued: May 30, 2006.

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

37020307 and NPDES Permit No. PA0242276. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Commencement, operation and restoration of a bituminous strip operation in Wayne Township, **Lawrence County** affecting 231.9 acres. Receiving streams: UNT to the Beaver River and UNT to Snake Run. Application Received: December 24, 2002. Permit Issued: May 25, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08970814. Carl E. and Timothy Nagle (4257 Highland Parkway, Blasdel, NY 14219), transfer of an existing small noncoal (bluestone) surface mine application from Herbert E. Nagle. The site is located in Sheshequin Township, **Bradford County**, affecting 3.0 acres. Receiving stream: Hornbrook, tributary to Susquehanna, classified for the following use: WWF. Application received: May 17, 2006.

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

58060818. Mark T. Dunnnett (R. R. 2, Box 36, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Forest Lake Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received March 21, 2006. Permit issued June 6, 2006.

58060822. Douglas P. Pascoe (R. R. 1, Box 1400, Hop Bottom, PA 18834), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received March 27, 2006. Permit issued June 6, 2006.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. 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.

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

02064006. Kesco, Inc. (P. O. Box 95, Adrian, PA 16210). Permit issued for construction blasting, located at Leetsdale, **Allegheny County**, with an expected duration of 180 days. Permit issued: May 30, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

42064004. U. S. Energy Development Corporation (2350 North Forest Road, Getzville, NY 14068). Blasting activity permit to conduct blasting for the construction of roads for gas and oil exploration in Corydon Township, **McKean County**. This blasting activity permit will expire on June 5, 2007. Application received: June 2, 2006. Application Issued: June 5, 2006.

20064005. Great Lakes Geophysical, Inc. (P. O. Box 127, Williamsburg, MI 49690). Blasting activity permit to conduct blasting for gas and oil exploration in Beaver and Conneaut Townships, **Crawford and Erie Counties**. This blasting activity permit will expire on July 15, 2006. Application received: June 2, 2006. Application Issued: June 5, 2006.

10064003. Milestone Crushed, Inc. (521 South Street, Clarion, PA 16214). Blasting activity permit to conduct blasting in conjunction with excavation for fill material related to railroad bridge construction in Donegal Township, **Butler County**. This blasting activity permit will expire on August 5, 2006. Application received: June 5, 2006. Application Issued: June 5, 2006.

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

36064157. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for DS Burkholder Electric Company in Adamstown Borough, **Lancaster County** with an expiration date of September 30, 2006. Permit issued June 6, 2006.

36064158. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Manheim Township High School in Manheim Township, **Lancaster County** with an expiration date of December 31, 2007. Permit issued June 6, 2006.

15064116. Allan A. Myers, Inc. d/b/a Independence Construction Materials (P. O. Box 98, Worcester, PA 19490), construction blasting for Sheeder Tract in Pocopson Township, **Chester County** with an expiration date December 31, 2007. Permit issued June 8, 2006.

23064105. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Concordville Town Centre with an expiration date of December 30, 2007. Permit issued June 8, 2006.

36064159. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Conestoga Wood Products with an expiration date of December 30, 2006. Permit issued June 8, 2006.

36064160. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a pool on Creighton Drive Rapho Township, **Lancaster County** with an expiration date of July 30, 2006. Permit issued June 8, 2006.

39064108. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Graymoor Development in Lower Macungie Township, **Lehigh County** with an expiration date of June 6, 2007. Permit issued June 8, 2006.

48064115. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Valley View Development in Hanover Township, **Northampton County** with an expiration date of June 7, 2007. Permit issued June 8, 2006.

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 con-

struction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E05-338: Department of Transportation, Engineering District 9-0, 2140 Herr Street, Harrisburg, PA 17103 in Bedford Township, **Bedford County**, ACOE Baltimore District.

To relocate 0.7 mile of SR 4009 (Business Route 220) located adjacent to the historic Bedford Springs Hotel for the purpose of improving roadway safety. The project will include the construction and maintenance of approximately 1,025 feet of retaining wall along the left bank of Shobers Run (HQ-CWF) and a 140.0-foot long 36-inch RCP stream enclosure in a UNT to Shobers Run (HQ-CWF) (Rainsburg, PA Quadrangle, Latitude: 39° 59' 51"; Longitude: 78° 30' 16"; N: 22.3 inches; W: 0.6 inches). The project will impact 0.05 acre of PEM wetlands, and 0.01 acre of PSS wetlands. Compensation for the 0.06 acre of wetland impact will be charged to the Huntingdon County Advance Wetland Compensation Site.

E36-807: Chester Water Authority, P. O. Box 467, Chester, PA 19106-0467 in Fulton Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a new building at the Chester Water Authority's Susquehanna River Pump Station site to house existing and new equipment needed for improvements to the pump station (Conowingo Dam, PA-MD Quadrangle N: 21.8 inches, W: 14.2 inches; Latitude: 39° 44' 42", Longitude: 76° 13' 32") located in Fulton Township, Lancaster County.

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

E41-559. Robert Glunk, Jersey Shore State Bank, 115 South Main Street, Jersey Shore, PA 17740-1139. Small Projects Water Obstruction and Encroachment Joint Permit, in the Borough of Jersey Shore, **Lycoming County**, ACOE Susquehanna River Basin District (Jersey Shore, PA Quadrangle N: 13.94 inches; W: 0.53 inches).

To construct and maintain a 25 foot by 28 foot drive-through canopy and adjacent at-grade parking area in the

floodway of the West Branch of the Susquehanna River, all of which is located at 115 South Main Street in the Borough of Jersey Shore, Lycoming County. This project does not propose to impact any wetlands. This permit was issued under Section 105.13(e) "Small Projects."

E41-561. Transcontinental Gas Pipe Line Corporation, 2800 Post Oak Boulevard, Houston, TX 77056. Water Obstruction and Encroachment Joint Permit Issuance, Leidy to Long Island Expansion Loop—Hughesville Loop, in Wolf and Muncy Townships, **Lycoming County**, ACOE Baltimore District (Huntersville, PA Quadrangle N: 4 inches; W: 14.5 inches).

To construct, operate and maintain approximately 3.41 miles of 42-inch steel gas pipeline within the Susquehanna River watershed (WWF) for the expansion of and existing line. Construction of the gas line will require the eleven stream and nine wetland crossings that are as follows:

<i>Stream Name</i>	<i>Crossing Length (ft.)</i>	<i>Latitude</i>	<i>Longitude</i>
<i>Wetlands</i>			
UNT Carpenters Run	97	41° 16' 41"	76° 47' 37"
UNT Carpenters Run	38	41° 16' 41"	76° 47' 35"
UNT Oak Run	2	41° 16' 41"	76° 46' 41"
UNT Oak Run	7	41° 16' 36"	76° 46' 11"
Wolf Run	46	41° 16' 33"	76° 45' 36"
Wolf Run	51	41° 16' 33"	76° 45' 37"
UNT Wolf Run	46	41° 16' 31"	76° 45' 19"
UNT Wolf Run	5	41° 16' 30"	76° 45' 02"
UNT Wolf Run	73	41° 16' 26"	76° 44' 34"
<i>Streams</i>			
UNT Carpenters Run	19	41° 16' 41"	76° 47' 37"
UNT Carpenters Run	12	41° 16' 41"	76° 47' 34"
UNT Carpenters Run	8	41° 16' 42"	76° 47' 48"
UNT Oak Run	14	41° 16' 38"	76° 46' 41"
UNT Oak Run	11	41° 16' 36"	76° 46' 11"
Wolf Run	18	41° 16' 33"	76° 45' 35"
UNT Wolf Run	10	41° 16' 19"	76° 45' 03"
UNT Wolf Run	12	41° 16' 28"	76° 44' 51"
UNT Wolf Run	20	41° 16' 26"	76° 44' 38"
UNT Wolf Run	21	41° 16' 26"	76° 44' 33"
UNT Wolf Run	12	41° 16' 26"	76° 44' 34"

All gas line crossings shall be constructed with a minimum of 3 feet of cover. Trench plugs or clay dikes shall be used at every gas line crossing a waterway or wetland to ensure the hydrology of the streams or wetland is not altered. The project will impact 365 linear feet of jurisdictional wetlands and 157 linear feet of waterway. The project is located between the western right-of-way of SR 0220 and right-of-way of SR 2051 eastern approximately 3 miles north of Pennsdale in Wolf and Muncy Townships, Lycoming County. This permit also includes 401 Water Quality Certification.

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

E02-1521. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. To construct an extension on a box culvert in Pine and Marshall Townships, **Allegheny County**, Pittsburgh ACOE District. (Mars, PA Quadrangle N: 5.6 inches; W: 10.0 inches and Latitude: 40° 39' 19"—Longitude: 80° 04' 27"). To construct and maintain a 24 LF inlet extension and a 12 LF cap on the open section to an existing 233 LG long, 10-foot wide by 6-foot rise concrete box culvert with a drainage area of 253 acres; relocate 30 feet of an adjacent UNT with a drainage area of 7 acres through the construction and maintenance of a 35-foot channel; and fill in adjacent de minimis areas of PEM wetlands equal to 0.02 acre. The applicant also proposes to construct and maintain a 13

LF extension to an existing 115LF long, 54-inch diameter concrete culvert in an adjacent drainage area of 54 acres. This project is associated with the widening and improvements to the Turnpike (I-76) in the Warrendale Toll Plaza area. Total project impacts are 37 LF of additional culvert, 30 feet of stream relocation and 0.02 acre of deminimis wetland in and along UNTs to Brush Creek (WWF).

E63-582. Claysville Borough, 154 Main Street, P. O. Box 423, Claysville, PA 15323. To construct a pedestrian walking bridge in Claysville Borough, **Washington County**, Pittsburgh ACOE District. (Claysville, PA Quad-angle N: 20.0 inches; W: 6.5 inches and Latitude: 40° 06' 36"—Longitude: 80° 25' 17"). To construct and maintain the Brownlee pedestrian walking bridge having a span of 32.0 feet with an underclearance of 6.25 feet across the channel of Dutch Fork (HQ-WWF) for the purpose of providing pedestrian access to Claysville Borough Park. The project is located on the west side of LR 62118 approximately 2,300.0 feet southwest from the intersection of LR 62118 and SR 231, and will impact 10.0 feet of stream channel.

ENVIRONMENTAL ASSESSMENTS

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

EA22-002: Dauphin County Conservation District, 1451 Peters Mountain Road, Dauphin, PA 17018 in Wiconisco Township, **Dauphin County**, ACOE Baltimore District.

Dauphin County Conservation District proposes treatment of an abandoned mine discharge, the Lykens Tunnel and two minor seeps. The passive treatment system will involve the construction of 3 sedimentation basins. These will encroach on 695 linear feet (5,250 square feet) of 4 UNTs to Bear Creek (CWF—Lykens Quad; Latitude: 40° 34' 56", Longitude: 76° 41' 59"). This a joint project between 5 agencies that will improve the water quality and fishery of Bear Creek, Wiconisco Township, Dauphin County.

SPECIAL NOTICES

Drinking Water State Revolving Fund

Special Notice Under the Federal Safe Drinking Water Act

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

Project Location:

Applicant	Applicant Address	County
Aqua PA, Inc.	Palmyra Professional Center HCR 6, Box 6040 Hawley, PA 18428	Lackawaxen Township Pike County

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Aqua PA, Inc. proposed the construction of approximately 15,000 lineal feet of 12 ductile iron watermain with related appurtenances to interconnect three existing water systems (Fawn Lake Forest, Woodloch Pines and Woodloch Springs) and the construction of a new 0.5 mg finished water storage tank. This project was proposed under PWS Minor Permit Amendment issued June 21, 2002 and PENNVEST Project ME 88015. The Department of Environmental

Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Abandoned Strip Mine Project; Pine, Liberty and Mercer, Mercer and Butler Counties

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

Under Act 181 of 1984, the Department of Environmental Protection solicits letters of interest from the landowners and licensed mine operators for the reclamation of the following abandoned strip mine project:

Project No.	Municipality	County	Acres
43820102.1	Pine, Liberty and Mercer	Mercer and Butler	14.0

C & K Coal Company, SMP No. 43820102 on the J. Leslie Pizor et ux property, requires backfilling, selective grading, seeding and mulching.

Letters of interest must be received by Javed I. Mirza, District Mining Manager, Department of Environmental Protection, P. O. Box 669, Knox, PA 16232 no later than 4:30 p.m. June 30, 2006, to be considered.

Telephone inquiries should be directed to Javed I. Mirza at (814) 797-1191.

[Pa.B. Doc. No. 06-1164. Filed for public inspection June 23, 2006, 9:00 a.m.]

Availability of Final General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5)

The Department of Environmental Protection (Department) has revised and finalized the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5). The primary purpose of the revision was to add coal bed methane recovery facilities in this general permit along with natural gas production facilities. This general permit is issued in accordance with section 6.1(f) of the Air Pollution Control Act (35 P.S. § 4006.1(f)) and 25 Pa. Code §§ 127.514 and 127.611 (relating to general operating permits at Title V facilities; and general plan approvals and general operating permits) and authorizes the construction and/or operation of a natural gas, coal bed methane or gob gas production or recovery facility.

This general permit is limited to a facility engaged in the production of natural gas, coal bed methane or gob gas only. It does not include facilities operated as a part of a transmission pipeline (which shall not be construed to mean any gathering system or associated equipment) or gas storage field, nor does it cover the compression of other types of gases from landfills, refineries, coke ovens, and the like. A natural gas, coal bed methane or gob gas production or recovery facility may include internal combustion (compressor) engines, gas dehydration units, crude oil and brine storage tanks, vents and other equipment associated with this activity.

After publishing the notice of availability of the draft general permit at 35 Pa.B. 6462 (November 26, 2005), a

45-day comment period was provided and written comments were received from one commentator, CNX Gas Corporation (CNX). In the comment, CNX proposed to expand the use of the general permit for coal mine methane and gob gas production or recovery facilities also. The Department determined that coal mine methane is the subset of coal bed methane that is released from the coal seams during the process of coal mining and need not be included separately. The Department accepted the proposed inclusion of gob gas along with natural gas and coal bed methane production or recovery facilities in the revised general permit. Apart from enlarging the scope of applicability of the general permit, the changes did not affect any of the general permit conditions. The general permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) is now approved by the Department and available for use by qualifying applicants.

Copies of the general permit documents package and comment and response document can be obtained by contacting Jeanette Van Skike, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. Persons with a disability may obtain these documents by contacting the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These documents are also available on the Department's website at www.depweb.state.pa.us (DEP Keywords: Air Permits).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1165. Filed for public inspection June 23, 2006, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keyword: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2006.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance—Substantive Revision

DEP ID: 383-2126-303. Title: Public Water Supply Manual—Part III; Bottled Water, Bulk Water Hauling, Water Vending Machines and Retail Water Facilities. Description: This guidance was developed for bottled water and vended water systems, retail water facilities and bulk water hauling systems. It provides design standards, operation and maintenance standards and permitting procedures for bulk water hauling systems selling water in this Commonwealth. Revisions were made to the guidance to incorporate recent changes on source water development made to Part II of the Public Water Supply Manual for community water systems (DEP ID 383-2125-108). Those revisions include substantive changes to Sections I.C and I.E of the manual. The guidance is issued under the authority of the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) and 25 Pa. Code Chapter 109 (relating to safe drinking water). Written Comments: The Department is seeking public comments on the substantive revisions to technical guidance 383-2126-303. Interested persons may submit written comments by July 24, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Godfrey Maduka, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, P. O. Box 8774, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8774, gomaduka@state.pa.us. Contact: Questions regarding the technical guidance document should be directed to Godfrey Maduka, (717) 783-7088, gomaduka@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

DEP ID: 563-2504-001 Title: Conventional Bonding for Land Reclamation—Coal. Description: This guidance describes the regulatory and statutory requirements for determining bond amounts. It also establishes bond rates and the process for determining the bond for land reclamation. Substantive revisions were made to the guidance, including revisions relating to the Annual Review requirement. Previously, the bond rates applied each year for land reclamation were not always the most current rates. To minimize any discrepancy, the Department is proposing that annual review calculations be based upon the current bond rate guidelines when the Annual Review is filed. This proposed change is a result of a program evaluation conducted by the Department and is recommended by the Mining and Reclamation Advisory Board. This guidance is issued under the authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a) and the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66). Written Comments: The Department is seeking public comments on the substantive revisions to technical guidance 563-2504-001. Interested persons may submit written comments by July 24, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to William S. Allen, Jr., Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, 5th Floor, Harrisburg, PA 17105-8461, wallen@state.pa.us. Contact: Questions regarding the technical guidance document should be directed to William S. Allen, Jr., (717) 787-5103, wallen@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

Draft Technical Guidance

DEP ID: 562-4000-102. Title: Increased Operation and Maintenance Costs of Replacement Water Supplies. Description: This guidance document describes the process the Department will use to determine the bond amount needed to assure permanent payment of increased operation and maintenance costs for replacement water supplies. The guidance also describes alternative settlement/release provisions that may be followed by mine operators who opt to permanently pay the increased operation and maintenance costs for replacement water supplies through settlements with the affected water supply owners. The guidance is issued under the authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21) and the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326). Written Comments: The Department is seeking public comments on technical guidance 562-4000-102. Interested persons may submit written comments by July 24, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to William S. Allen, Jr., Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, 5th Floor, Harrisburg, PA 17105-8461, or by e-mail to wallen@state.pa.us. Contact: Questions regarding the technical guidance document should be directed to William S. Allen, Jr., (717) 787-5103, wallen@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

DEP ID: 383-2100-109. Title: Treatment of Groundwater Under the Direct Influence of Surface Water (GUDI) Sources at Noncommunity Water Systems and Small Community Water Systems. Description: This guidance establishes alternate disinfection treatment design standards that may be used by noncommunity water systems and small community water systems that provide treatment of groundwater under the direct influence of surface water (GUDI) sources. The guidance is consistent with the Federal Surface Water Treatment Rule (40 CFR 141.70) and, once finalized, will allow the use of certain innovative, low cost filtration technologies to treat GUDI sources. On May 18, 2006, the Small Water Systems Technical Assistance Center Advisory Board reviewed the draft technical guidance and provided unanimous support for the guidance document. The document is issued under the authority of the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) and 25 Pa. Code Chapter 109. Written Comments: The Department is seeking public comments on technical guidance 383-2100-109. Interested persons may submit written comments by July 24, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Tom Franklin, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, P. O. Box 8774, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8774, thfranklin@state.pa.us. Contact: Questions regarding the technical guidance document should be directed to

Tom Franklin, (717) 787-8184, thfranklin@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1166. Filed for public inspection June 23, 2006, 9:00 a.m.]

Stream Redesignation Evaluation; Water Quality Standards Review

Under 25 Pa. Code § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) hereby gives notice that an evaluation of all or a portion of the stream listed will be conducted. Persons who have technical data concerning the water quality, instream habitat or biological condition of this stream are encouraged to make it available to the Department for consideration in the assessment. This assessment may lead to a recommendation to the Environmental Quality Board for redesignation.

Data should be submitted to Tony E. Shaw, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467, tshaw@state.pa.us. Data should be submitted no later than July 21, 2006. Questions concerning the evaluation should be directed to Tony E. Shaw at (717) 787-9637.

<i>Stream Name</i>	<i>County</i>	<i>Tributary To</i>
Antes Creek	Lycoming	West Branch Susquehanna River

Gallows Run	Bucks	Delaware River
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Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Tony E. Shaw directly at (717) 787-9637 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1167. Filed for public inspection June 23, 2006, 9:00 a.m.]

DEPARTMENT OF REVENUE

Adjustment of Program Service Revenue Amounts

In accordance with section 6(a)(5) of the Institutions of Purely Public Charity Act (act) (10 P. S. § 376(a)(5)), the Department of Revenue is required to adjust the annual program service revenue amount used as a benchmark in section 6(a)(1) and (2) of the act (10 P. S. § 376(a)(1) and (2)) for the purpose of asserting a rebuttable presumption.

The annual program service revenue amounts referred to in section 6(a)(1) and (2) of the act shall be increased by 1% as follows:

- (1) Effective July 1, 1999—Program Service Revenues—\$10,100,000.
- (2) Effective July 1, 2000—Program Service Revenues—\$10,201,000.
- (3) Effective July 1, 2001—Program Service Revenues—\$10,303,010.
- (4) Effective July 1, 2002—Program Service Revenues—\$10,406,040.
- (5) Effective July 1, 2003—Program Service Revenues—\$10,510,100.
- (6) Effective July 1, 2004—Program Service Revenues—\$10,615,201.
- (7) Effective July 1, 2005—Program Service Revenues—\$10,721,353.
- (8) Effective July 1, 2006—Program Service Revenues—\$10,828,567.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1168. Filed for public inspection June 23, 2006, 9:00 a.m.]

Pennsylvania Lightning Bucks Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

- 1. *Name:* The name of the game is Pennsylvania Lightning Bucks.
- 2. *Price:* The price of a Pennsylvania Lightning Bucks instant lottery game ticket is \$1.
- 3. *Play Symbols:* Each Pennsylvania Lightning Bucks instant lottery game ticket will contain one play area containing nine prize play symbols and a separate “QUICK \$10” bonus play area containing one play symbol. The prize play symbols and their captions located in the play area are: FREE (TICKET), \$1^{.00} (ONE DOL), \$2^{.00} (TWO DOL), \$5^{.00} (FIV DOL), \$10^{.00} (TEN DOL), \$20\$ (TWENTY), \$30\$ (THIRTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$2,000 (TWO THO). The Play symbols located in the “QUICK \$10” bonus play area are: Firefly symbol (FIREFLY) and NO BONUS (TRY AGAIN). The “QUICK \$10” bonus is played separately from the rest of the game.
- 4. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$2, \$5, \$10, \$20, \$30, \$50, \$100, \$500 and \$2,000. The prize that can be won in the “QUICK \$10” bonus play area is \$10.

5. *Approximate Number of Tickets Printed for the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania Lightning Bucks instant lottery game.

6. *Determination of Prize Winners:*

- (a) Holders of tickets with three matching prize play symbols of \$2,000 (TWO THO) in the play area on a single ticket, shall be entitled to a prize of \$2,000.
- (b) Holders of tickets with three matching prize play symbols of \$500 (FIV HUN) in the play area on a single ticket, shall be entitled to a prize of \$500.
- (c) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area on a single ticket, shall be entitled to a prize of \$100.
- (d) Holders of tickets with three matching prize play symbols of \$50\$ (FIFTY) in the play area on a single ticket, shall be entitled to a prize of \$50.

(e) Holders of tickets with three matching prize play symbols of \$30\$ (THIRTY) in the play area on a single ticket, shall be entitled to a prize of \$30.

(f) Holders of tickets with three matching prize play symbols of \$20\$ (TWENTY) in the play area on a single ticket, shall be entitled to a prize of \$20.

(g) Holders of tickets with a Firefly symbol (FIREFLY) in the “QUICK \$10” bonus play area, on a single ticket, shall be entitled to a prize of \$10.

(h) Holders of tickets with three matching prize play symbols of \$10^{.00} (TEN DOL) in the play area on a single ticket, shall be entitled to a prize of \$10.

(i) Holders of tickets with three matching prize play symbols of \$5^{.00} (FIV DOL) in the play area on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets with three matching prize play symbols of \$2^{.00} (TWO DOL) in the play area on a single ticket, shall be entitled to a prize of \$2.

(k) Holders of tickets with three matching prize play symbols of \$1^{.00} (ONE DOL) in the play area on a single ticket, shall be entitled to a prize of \$1.

(l) Holders of tickets with three matching prize play symbols of FREE (TICKET) in the play area on a single ticket, shall be entitled to a prize of one Pennsylvania Lightning Bucks instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

Get 3 Like Amounts,
Win That Prize.
Win With Prize(s)
of:

3-FREE's
3-\$1's
3-\$2's
3-\$5's
3-\$10's
QUICK \$10 (FIREFLY)

TICKET
\$1
\$2
\$5
\$10
\$10

Approximate
Odds of 1 In:

15
15
18.75
37.50
300
100

Approximate No.
of Winners Per
12,000,000
Tickets:

800,000
800,000
640,000
320,000
40,000
120,000

Get 3 Like Amounts,
Win That Prize.
Win With Prize(s)

		Approximate	Approximate No. of Winners Per 12,000,000
3-\$20's	\$20	600	20,000
3-\$10's + QUICK \$10 (FIREFLY)	\$20	600	20,000
3-\$30's	\$30	3,000	4,000
3-\$20's + QUICK \$10 (FIREFLY)	\$30	3,000	4,000
3-\$50's	\$50	6,000	2,000
3-\$100's	\$100	48,000	250
3-\$500's	\$500	240,000	50
3-\$2,000's	\$2,000	1,200,000	10

QUICK \$10 (FIREFLY) = Win \$10 automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lightning Bucks instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lightning Bucks, prize money from winning Pennsylvania Lightning Bucks instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Lightning Bucks instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lightning Bucks or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1169. Filed for public inspection June 23, 2006, 9:00 a.m.]

Pennsylvania Lucky Genie Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Lucky Genie.
2. *Price:* The price of a Pennsylvania Lucky Genie instant lottery game ticket is \$2.
3. *Play Symbols:* Each Pennsylvania Lucky Genie instant lottery game ticket will contain a "LUCKY NUM-

BERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "LUCKY NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT) and a Lamp symbol (LAMP).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$50, \$100, \$500 and \$25,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Lucky Genie instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(c) Holders of tickets upon which any of the "YOUR NUMBERS" is a Lamp symbol (LAMP), and a prize symbol of \$50\$ (FIFTY) appears under the Lamp symbol (LAMP), on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any of the "YOUR NUMBERS" is a Lamp symbol (LAMP), and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the Lamp symbol (LAMP), on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets upon which any of the "YOUR NUMBERS" is a Lamp symbol (LAMP), and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the Lamp symbol (LAMP), on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets upon which any of the "YOUR NUMBERS" is a Lamp symbol (LAMP), and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the Lamp symbol (LAMP), on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets upon which any of the "YOUR NUMBERS" is a Lamp symbol (LAMP), and a prize symbol of \$1.⁰⁰ (ONE DOL) appears under the Lamp symbol (LAMP), on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(m) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$4.⁰⁰ (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(n) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(o) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match either of the "LUCKY NUMBERS" play symbols and a prize symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any of Your Numbers Match Either of the Lucky Numbers Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
\$1 × 2	\$2	18.75	384,000
\$2	\$2	18.75	384,000
\$2 × 2	\$4	30	240,000
\$4	\$4	30	240,000
\$1 × 5	\$5	50	144,000
\$5	\$5	50	144,000
\$1 × 10	\$10	300	24,000
\$2 × 5	\$10	300	24,000
\$1 w/LAMP	\$10	150	48,000
\$10	\$10	150	48,000
\$2 × 10	\$20	750	9,600
\$4 × 5	\$20	1,500	4,800
\$5 × 4	\$20	1,500	4,800
\$10 × 2	\$20	750	9,600
\$2 w/LAMP	\$20	750	9,600
\$20	\$20	750	9,600
\$5 × 10	\$50	1,846	3,900
\$10 × 5	\$50	1,846	3,900
\$5 w/LAMP	\$50	1,846	3,900
\$50	\$50	1,690	4,260
\$10 × 10	\$100	4,800	1,500
\$20 × 5	\$100	4,800	1,500
\$10 w/LAMP	\$100	4,800	1,500
\$100	\$100	4,800	1,500
\$50 × 10	\$500	40,000	180

When Any of Your Numbers Match Either of the Lucky

			<i>Approximate No. of Winners</i>
\$50 w/LAMP	\$500	40,000	180
\$500	\$500	40,000	180
\$25,000	\$25,000	720,000	10

LAMP (LAMP) = Win 10 times the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lucky Genie instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lucky Genie, prize money from winning Pennsylvania Lucky Genie instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Lucky Genie instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lucky Genie or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 06-1170. Filed for public inspection June 23, 2006, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

The Department of Transportation (Department), under 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by Erie-Western Pennsylvania Port Authority, 208 East Bayfront Parkway, Suite 201, Erie, PA 16507-2405, seeking to lease highway right-of-way located along the southerly side of SR 0079-A00/4034-A00 at Bayfront Parkway and also on the easterly side of Lincoln Avenue, bisected by West 11th Street in the City of Erie, Erie County containing 1.526 acres/66,460 sq. ft. ± for the purpose of a park and ride facility. Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this applica-

tion to William G. Petit, P. E., District Executive, Engineering District 1-0, P. O. Box 398, Oil City, PA 16301-0398.

Questions regarding this application or the proposed use should be directed to Jeffrey E. Hahne, Right-of-Way Administrator, P. O. Box 398, Oil City, PA, (814) 678-7069.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 06-1171. Filed for public inspection June 23, 2006, 9:00 a.m.]

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcel No. 06-009-0200, Brookville Borough, Jefferson County. This parcel contains approximately 3.94 acres of land situated at the corner of East Main Street and Water Plant Road. The property will be sold in "as is condition." The estimated fair market value of the parcel is \$170,000. It has been determined that the land is no longer needed for present or future transportation purposes.

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to William J. Young, District Right-of-Way Administrator, Department of Transportation, Engineering District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 06-1172. Filed for public inspection June 23, 2006, 9:00 a.m.]

Finding Fayette and Greene Counties

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation (Department) are planning to replace the Point Marion Bridge, which carries SR 0088 over the Monongahela River between Fayette and Greene Counties.

The subject project is considered a Level 2 Categorical Exclusion in accordance with 23 CFR Part 771.117(d), Items 1 and 3 as published in the August 28, 1987 *Federal Register*.

The bridge is listed in the National Register of Historic Places and is, therefore, a Section 2002/Section 4(f) resource. Removal of the existing bridge will constitute a use of the Section 2002/Section 4(f) resource.

Based upon studies, there is no prudent and feasible alternative to the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation/Programmatic Section 4(f) Evaluation and the Memorandum of Agreement between FHWA and the State Historic Preservation Officer.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize the effects.

RICHARD H. HOGG, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 06-1173. Filed for public inspection June 23, 2006, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Ewing Oil Co., Inc. v. DEP; EHB Doc. No. 2006-103-K

The Department of Environmental Protection (Department) and Ewing Oil Co., Inc. have agreed to a settlement of the previously captioned matter. The Commonwealth had ordered under date of February 27, 2006, Ewing Oil Co., Inc. that the submitted Site Characterization Report for the Lawrence Service Center/Longwood Citgo located in East Marlborough Township, Chester County was disapproved.

The parties have agreed to a Settlement, the major provisions of which include:

1. Ewing agrees to perform additional site characterization at Lawrence's Service Center, 804 E. Baltimore Pike, Kennett Square, Chester County.
2. Ewing will withdraw its appeal.

Copies of the full agreement are in the hands of Steven G. Hull, General Counsel, Ewing Oil Co., Inc., 11949 Robinwood Drive, Hagerstown, MD 21742-4483; Wm. Stanley Sneath, Assistant Counsel, Department of Environmental Protection, Office of Chief Counsel, Southeast Region, 2 East Main Street, Norristown, PA 19401, (484) 250-5859; and at the office of the Environmental Hearing Board (Board) and may be reviewed by any interested party on request during normal business hours.

Persons wishing to comment on the settlement may do so in writing to the Board within 30 days of the date of this publication at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 783-4739.

The Board is empowered to approve this settlement if no objection is timely made and is not precluded from approving this settlement by the filing of objections.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 06-1174. Filed for public inspection June 23, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

Notice of Agent Education and Training Requirement Changes; Notice 2006-06

The Insurance Department (Department) wants to remind insurance companies and agents of a law which impacts the training and education requirements of insurance agents who sell flood insurance policies. Section 207 of the Flood Insurance Reform Act of 2004 (Pub. L. No. 264, 264, 118 Stat. 712) requires the Director of the Federal Emergency Management Agency (FEMA) to cooperate with the insurance industry, state insurance departments and other interested parties to establish minimum training and education requirements for all insurance agents who sell flood insurance policies.

Although FEMA has not yet published these requirements, the Department wants to inform insurance companies and agents of the new law and encourage all agents to pursue continuing education credits through the National Flood Insurance Program's flood insurance program workshops. As an incentive, the Department processes the continuing education credits for those insurance producers who successfully complete the insurance workshops.

Questions regarding this notice should be directed to Jack Yanosky at (717) 787-3840 or ra-in-producer@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 06-1175. Filed for public inspection June 23, 2006, 9:00 a.m.]

Per Diem Charges for Financial Examinations; Notice 2006-04

Under the authority contained in section 907 of the Insurance Department Act of 1921 (40 P. S. § 323.7) and under 31 Pa. Code § 12.4 (relating to per diem charges), an updated schedule of per diem charges for financial examinations conducted by the Insurance Department (Department) is hereby adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$267 per day
Actuarial Associate 1	\$265 per day
Actuary 1	\$525 per day
Examiner 1	\$315 per day
Examiner 2	\$438 per day
Examiner 3	\$493 per day
Examination Manager	\$607 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for financial examination costs in 1/2 hour units.

This schedule is effective July 1, 2006.

This document supersedes the notice published at 35 Pa.B. 3116 (May 21, 2005) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN
Insurance Commissioner

[Pa.B. Doc. No. 06-1176. Filed for public inspection June 23, 2006, 9:00 a.m.]

Per Diem Charges for Market Conduct Examinations; Notice 2006-05

Under the authority in section 907 of The Insurance Department Act of 1921 (40 P.S. § 323.7) and 31 Pa. Code § 12.4 (relating to per diem charges), an updated schedule of per diem charges for market conduct examinations conducted by the Insurance Department (Department) is adopted.

The new schedule of charges is as follows:

Examiner Trainee	\$237 per day
Examiner 1	\$318 per day
Examiner 2	\$404 per day
Examiner 3	\$411 per day
Examiner Manager	\$524 per day

As prescribed in 31 Pa. Code § 12.4(c), the Department will calculate and bill per diem charges for examination costs in 1/2 hour units.

This schedule is effective July 1, 2006.

This document supersedes the notice published at 35 Pa.B. 3116 (May 21, 2005) and shall remain in effect until a subsequent notice is published in the *Pennsylvania Bulletin*.

M. DIANE KOKEN
Insurance Commissioner

[Pa.B. Doc. No. 06-1177. Filed for public inspection June 23, 2006, 9:00 a.m.]

Professional Corporations, Professional Associations and Partnerships; Notice 2006-07

This notice clarifies what entities may participate in the Medical Care Availability and Reduction of Error Fund (MCARE Fund). On September 1, 1994, the Director of the Medical Professional Liability Catastrophe Loss Fund (CAT Fund) took the opportunity to remind primary insurers writing medical malpractice insurance in this Commonwealth for professional corporations, professional associations and partnerships of the importance of ensuring that entities reported to the CAT Fund were eligible for CAT Fund participation.

Professional corporations, professional associations and partnerships are not health care providers as defined by the act of March 20, 2002 (P. L. 154, No. 13). However, MCARE Fund participation is mandatory for a professional corporation, professional association or partnership that is completely owned by health care providers as defined by the Act and elects to obtain basic coverage insurance. The professional corporations, professional associations and partnerships are required to pay the applicable assessment.

MCARE Fund participation is limited to those types of professional corporations, professional associations or partnerships that were in existence on November 26, 1978. Nothing in this notice should be construed as a change in the Fund's position.

Issuance of this notice is consistent with the authority granted to the MCARE Fund under 31 Pa. Code § 242.14 (relating to bulletins and notices).

PETER J. ADAMS
Deputy Insurance Commissioner

[Pa.B. Doc. No. 06-1178. Filed for public inspection June 23, 2006, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new sites:

Bucks County, Wine & Spirits Shoppe #0912, Levittown.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within 1/2 mile of the intersection of New Falls and Oxford Valley Roads, Bristol.

Proposals due: July 14, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Chester County, Wine & Spirits Shoppe #1529, Chester Springs.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within 1 mile of the intersection of Little Conestoga Road and Route 100, Chester Springs, Upper Uwchlan.

Proposals due: July 14, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4624, Wyncote.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within 1 mile of the intersection of Cheltenham and Ogontz Avenues, Wyncote.

Proposals due: July 14, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5125, Mt. Airy.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within 1/4 mile of the intersection of Mt. Airy and Germantown Avenue, Philadelphia.

Proposals due: July 14, 2006, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, Jr., (215) 482-9671
 JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 06-1179. Filed for public inspection June 23, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by July 17, 2006. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of persons as described under each application.

A-00122865. Capitol Limousine Service, Inc. (110 Third Street, Suite 200, New Cumberland, Cumberland County, PA 17070), a corporation of the Commonwealth—persons, in limousine service, from points in the Counties of Cumberland, Dauphin, Franklin, Perry and York, to points in Pennsylvania, and return. *Attorney:* Clifton Guise, 1013 Mumma Road, Suite 100, Lemoyne, PA 17043.

A-00122837 (Corrected). Hugh A. McKnight (265 McKnight Road, McClure, Snyder County, PA 17841)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Mifflin and Snyder to points in Pennsylvania, and return.

Application of the following for approval of the *beginning* of the exercise of the right and privilege of operating motor vehicles as *common carriers* for the transportation of *household goods* as described under the application.

A-00122870. Rudy Gobin t/a A-1 Moving (168 Congress Street, Bradford, McKean County, PA 16701—household goods in use, from points in the County of McKean, to points in Pennsylvania, and vice versa. *Attorney:* Daniel J. Hartle, 78 Main Street, Bradford, PA 16701.

Application of the following for the approval of the *transfer of stock* as described under the application.

A-00117258, F.5. Reach for the Stars Limousine Service, Inc. (551 Burlington Avenue, Delanco, NJ 08075) a corporation of the Commonwealth—for the approval of the transfer of 100% of shares of issued and outstanding stock from Arthur Skill, Jr. to Integrity Transportation Services, LLC.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1180. Filed for public inspection June 23, 2006, 9:00 a.m.]

Wastewater Service

A-230240F0026. Little Washington Wastewater Company. Application of Little Washington Wastewater Company for approval to begin to offer, render, furnish and provide wastewater service to the public in portions of Cumberland Township, Adams County, PA known as the Preserve at Plum Run.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Little Washington Wastewater Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1181. Filed for public inspection June 23, 2006, 9:00 a.m.]

Wastewater Service

A-230240F0027. Little Washington Wastewater Company. Application of Little Washington Wastewater Company for approval to begin to offer, render, furnish and provide wastewater service to the public in portions of Kidder Township, Carbon County, PA, known as Meadows Subdivision.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Little Washington Wastewater Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1182. Filed for public inspection June 23, 2006, 9:00 a.m.]

Wastewater Service

A-230240F0028. Little Washington Wastewater Company. Application of Little Washington Wastewater Company for approval to begin to offer, render, furnish and provide wastewater service to the public in portions of Worcester Township, Montgomery County, PA, known as Stony Creek Farms.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Little Washington Wastewater Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1183. Filed for public inspection June 23, 2006, 9:00 a.m.]

Wastewater Service

A-230240F0029. Little Washington Wastewater Company. Application of Little Washington Wastewater Company for approval to begin to offer, render, furnish and provide wastewater service to the public in portions of Cumberland Township, Adams County, PA known as the Links at Gettysburg.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Little Washington Wastewater Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1184. Filed for public inspection June 23, 2006, 9:00 a.m.]

Water Service

A-210104F0070. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and provide water service to the public in portions of Cumberland Township, Adams County, PA known as the Preserve at Plum Run.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1185. Filed for public inspection June 23, 2006, 9:00 a.m.]

Water Service

A-210104F0071. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and provide water service to the public in portions of Kidder Township, Carbon County, PA, known as the Meadows Subdivision.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and

copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1186. Filed for public inspection June 23, 2006, 9:00 a.m.]

Water Service

A-210104F0072. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and provide water service to the public in portions of Cumberland Township, Adams County, PA known as The Links at Gettysburg.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1187. Filed for public inspection June 23, 2006, 9:00 a.m.]

Water Service

A-210104F0073. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval of: 1) the acquisition by Aqua Pennsylvania, Inc. of the water system assets of Floral Estates Associates, LP; and 2) the right of Aqua Pennsylvania, Inc. to begin to offer, render, furnish or supply water service to the public in a portion of Jefferson Township, Lackawanna County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1188. Filed for public inspection June 23, 2006, 9:00 a.m.]

Water Service

A-210104F0074. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and provide water service to the public in portions of Dallas Township, Luzerne County, PA, known as Saddle Ridge.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before July 10, 2006. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1189. Filed for public inspection June 23, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Projects #06-050.1, General Construction and #06-049.4, Electrical Construction, New Terminal Gate Facilities and Security Improvements at Tioga Marine Terminal (TMT) until 2 p.m. on Thursday, July 20, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available June 27, 2006. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, ATTN: Procurement Department.

A mandatory prebid job site meeting will be held on July 6, 2006, at 10 a.m. at Delaware Avenue and Tioga Street (inside gate entrance), Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 06-1190. Filed for public inspection June 23, 2006, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

September 27, 2006

Patricia A. Sweigart
(Change of Option)

1 p.m.

Persons with a disability who wish to attend the listed hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing 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 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 06-1191. Filed for public inspection June 23, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.


Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

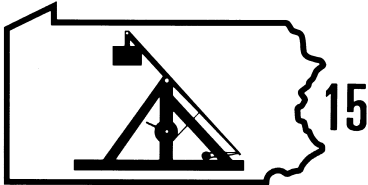
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreaury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

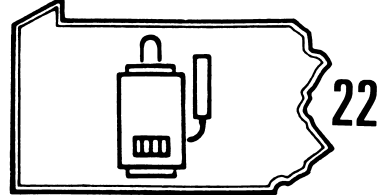
SERVICES



Environmental Maintenance Service

OSM 11(4789)101.1 Abandoned Mine Reclamation Project, Weyerough Run North. The principal items of work and approximate quantities include 49,325 cubic yards of Grading Site 1, 241,000 cubic yards of Grading Site 2, 31.8 acres of Seeding and planting 19,450 Trees. This project issues on June 9, 2006 and bids will be opened on July 11, 2006 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

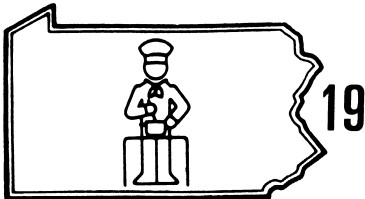
Department: Environmental Protection
Location: Chest Township, Cambria County
Duration: 365 calendar days after official starting date.
Contact: Construction Contracts Section, (717) 787-7820



HVAC Services

C-42E50-06-003 Provide all labor, material, devices, tools and equipment required for the installation of boilers and all necessary appurtenances. For a copy of the bid package, please fax your request to (717) 861-2932 or e-mail to the address below. Bid opening will be Tuesday, June 20, 2006 at 2:00 PM.

Department: Military Affairs
Location: PA National Guard Readiness Center, 900 Adams Ave., Scranton, PA 18510
Duration: Date of Award - 30 September 2006
Contact: Brenda Lower, (717) 861-2118



Food

CN00021165 The State Correctional Institution at Waymart is soliciting for bids to purchase fresh dairy milk in 2% and SKIM. If interested in a bid packet, please notify the purchasing agent either by phone or email and referencing the collective number CN00021165.

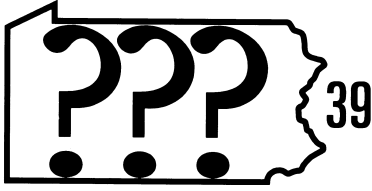
Department: Corrections
Location: SCI-Waymart, Route 6 East, P.O. Box 256, Waymart, PA 18472-0256
Duration: Opening date of bids is 06/07/2006.
Contact: Suzanne Merring, (570) 488-2516



Security Services

CN00021193 Furnish, install and maintain a leased 24-hour monitored Central Station Security Alarm System and Alarm Radio System or equivalent cellular communications system (including opening and closing reports).

Department: Liquor Control Board
Location: Designated Wine & Spirits stores and/or other PLCB facilities in various counties throughout Central Pennsylvania.
Duration: Five (5) years
Contact: Tammy McQuaid, (717) 787-6360

**Miscellaneous**

FRS-0018 The State Correctional Institution at Forest will be soliciting bids for training equipment to be used in the vocational/automotive program. Equipment will be an automotive electro trainer, front suspension program, sheering program, brake program, tire program, GM125c transaxle cutaway and an engine repair program without tools. Vendor must be registered with the State of Pennsylvania and have a SAP vendor number to receive bid solicitations.

Department: Corrections

Location: State Correctional Institution - Forest, 1 Woodland Drive, P.O. Box 307, Mrienville, PA 16239

Duration: 6/1/06 to 6/30/06

Contact: Arleen Mycka, (814) 621-2110 x1110

[Pa.B. Doc. No. 06-1192. Filed for public inspection June 23, 2006, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 123]

Standards for Contaminants; Mercury

The Environmental Quality Board (Board) proposes to amend Chapter 123 (relating to standards for contaminants) to read as set forth in Annex A.

This notice is given under Board order at its meeting of May 17, 2006.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact John Slade, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476; or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us.

C. *Statutory Authority*

This rulemaking is proposed under the authority of section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction, and abatement of air pollution.

D. *Background and Summary*

1. *Introduction*

Mercury is a highly toxic pollutant—one specifically targeted by Congress when, in 1990, it amended section 112 of the Clean Air Act (CAA) (42 U.S.C.A. § 7412). The environmental impacts of mercury are significant, widespread and adverse.

Mercury is a dangerous reproductive and neurological toxicant. It can affect the brain, spinal cord, kidneys and liver. High exposure levels to mercury can affect the ability to feel, see and taste and has the potential to limit mobility. A study by the National Academy of Sciences (NAS) concluded that human exposure to methylmercury from eating contaminated fish and seafood is associated with adverse neurological and developmental health effects. Women of childbearing age and pregnant women are of special concern in terms of methylmercury exposure. Methylmercury exposure prior to pregnancy can actually place the developing fetus at risk because methylmercury persists in body tissue and is only slowly excreted from the body. Furthermore, according to the NAS, chronic low-dose prenatal methylmercury exposure has been associated with poor performance on neurobehavioral tests in children, including those tests

that measure attention, visual spatial ability, verbal memory, language ability, fine motor skills and intelligence. Adults can be affected by high mercury exposures as well, with effects on the nervous system and impaired vision and hearing.

A recent study released by the Centers for Disease Control and Prevention (CDC) found that approximately 8% of women of childbearing age in the United States had mercury levels exceeding the level considered safe by the United States Environmental Protection Agency (EPA) for protecting the fetus. In the United States, this translates into approximately 600,000 babies born each year at risk of developmental harm due to mercury exposure in the womb.

Accumulation of mercury in aquatic ecosystems has resulted in 45 states, including this Commonwealth, issuing fish consumption advisories. The Commonwealth has fish consumption advisories for mercury in 80 waterways across this Commonwealth, which includes the Delaware, Ohio, Potomac and Susquehanna River Basins and the Lake Erie Basin.

Mercury cycles throughout the environment as a consequence of both natural and human activities. The annual global cycling of mercury in the earth's atmosphere amounts to about 5,000 tons. It is estimated that 4,000 tons are the consequence of anthropogenic activities. The United States is responsible for 3% of the global anthropogenic emissions. Coal-fired power generation in the United States contributes approximately 40% of this amount.

Pennsylvania has 36 coal-fired power plants with 78 electric generating units (EGUs) that represent 20,000 megawatts of capacity. These units accounted for approximately 77% of the more than 5 tons of mercury emitted into the air from all contamination sources in this Commonwealth, ranking this Commonwealth second only to Texas in terms of total mercury emissions and third behind Texas and Ohio, respectively, for EGU-specific mercury emissions in 2003.

The mercury in the flue gas of EGUs can be characterized as being in two forms: oxidized or elemental. The ability of an air pollution control system to capture the mercury is dependent, in part, on the species of the mercury in the flue gas. When the coal is burned in an electric utility boiler, the resulting high combustion temperatures vaporize the mercury (Hg) in the coal to form gaseous elemental mercury (Hg⁰). Subsequent cooling of the combustion gases and interaction of the gaseous Hg⁰ with other combustion products results in a portion of the Hg being converted to gaseous oxidized forms of mercury (Hg⁺²) and particle bound mercury (Hg_p). The lifetime of elemental mercury (Hg⁰) in the atmosphere is estimated to be up to 1 year, while oxidized forms have a lifetime of only a few days because of particulate settling and solubility. Hg⁰ can be transported over transcontinental distances, whereas oxidized gaseous and particulate forms are deposited near their source. Methylmercury is formed by biological processes after Hg precipitates from air to water.

Coal-fired power plants that burn subbituminous coal emit Hg⁰, which is very difficult to capture with conventional air pollution control devices like wet flue gas desulfurization (WFGD) for sulfur dioxide (SO₂) control and selective catalytic reduction (SCR) for nitrogen oxides (NO_x) control. Moreover, coal-fired power plants that burn

sub-bituminous coal emit Hg⁰, which can be transported over transcontinental distances. Coal-fired power plants that burn bituminous coal emit oxidized forms of mercury, which are easier to capture using WFGD and SCR. Coal-fired power plants that burn bituminous coal emit oxidized forms of mercury, which are deposited near their source. For example, EGUs that burn 100% sub-bituminous coal and control emissions with a WFGD and SCR can expect to capture approximately 16% of mercury emissions. In contrast, EGUs that burn 100% bituminous coal and control emissions with a WFGD and SCR can expect to capture approximately 90% of mercury emissions. In this Commonwealth, 85% of coal burned by coal-fired power plants is bituminous, with the remainder waste coal. This proposed rulemaking, in part, is designed to take advantage of the co-benefit reductions that will occur under the Clean Air Interstate Rule (CAIR), published at 70 FR 72268 (December 2, 2005), designed to reduce SO₂ and NO_x emissions from EGUs.

2. *Legal Requirements Regarding the Control of Hazardous Air Pollutants under the CAA and the APCA*

Under the 1990 amendments to the CAA, Congress altered the principle focus of the hazardous air pollutants (HAP) program under section 112 of the CAA from a health-based to a technology-based regulatory program. As part of this new regulatory focus under section 112(b) of the CAA, Congress listed 189 HAPs. Under section 112(c) of the CAA, the EPA was required to establish a list of all categories and subcategories of major and area sources of air pollution for those pollutants listed in section 112(b) of the CAA. For each listed category of sources, the EPA is required, under section 112(d) of the CAA, to promulgate standards requiring the installation of maximum achievable control technology (MACT), in light of economic, energy, and environmental considerations.

The EPA is required to base the standard on the best technology currently available for the source category in question. These standards must be at least as stringent as the level achieved in practice by the best controlled source in the source category for new sources, or for the best performing group of sources for existing source MACT standards. For existing source MACT standards, the EPA defines the "MACT floor" (the minimum stringency level for existing source MACT) in terms of the central tendency (arithmetic mean or median) of the best 12% of sources in the source category (when there are 30 or more sources in the category) or the best performing five sources (when there are fewer than 30 sources in the category).

As part of this MACT process, the EPA has already finalized mercury emission limits for municipal waste combustors and medical waste incinerators, which resulted in a 90% reduction in mercury emissions within 5 years. However, Congress set forth additional regulatory steps before mercury emissions from EGUs could be controlled.

Under section 112(n)(1)(A) of the CAA, Congress directed the EPA to perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions of HAPs by EGUs. Under this same section, the EPA is further directed to regulate these units if the EPA finds regulation is appropriate and necessary after considering the results of the study.

In addition to this section of the CAA, section 112(n)(1)(B) of the CAA further directs the EPA to conduct a study of mercury emissions from EGUs, municipal

waste combustion units and other sources to consider the rate and mass of these emissions, the health and environmental effects of these emissions, control technologies and the costs of these technologies.

In December 1997, the EPA fulfilled the statutory directive of section 112(n)(1)(B) of the CAA when it issued its *Mercury Study Report to Congress*, EPA-452/R-97-003. This 1,800-page, 8-volume report discusses the National inventory of anthropogenic mercury emissions in the United States, the fate and transport of mercury in the environment, an assessment of exposure to mercury in the United States, health effects of mercury and mercury compounds, an ecological assessment for anthropogenic mercury emissions in the United States, characterization of human health and wildlife risks from mercury in the United States and an evaluation of mercury control technologies and costs.

On February 28, 1998, the EPA fulfilled its statutory obligation under section 112(n)(1)(A) of the CAA when it released its *Study of Hazardous Air Pollutant Emissions from Electric Steam Generating Units—Final Report to Congress*. Most, if not all, of the conclusions regarding mercury are consistent with those found in the 1997 study. While this report identifies EGUs as the largest remaining unregulated source of mercury air emissions, it did not contain a determination as to whether or not regulatory controls were appropriate and necessary, and deferred any regulatory determination until a later date. Because of this regulatory delay, the Natural Resources Defense Fund sued the EPA and the parties entered into a settlement agreement to require the EPA to take final agency action to regulate mercury emissions by March 15, 2005.

At 65 FR 79825 (December 20, 2000), the EPA concluded, based upon the findings of its 1998 report and on information subsequently obtained, that in accordance with section 112(n)(1)(A) of the CAA, the regulation of mercury emissions from electric utilities was "appropriate and necessary." This conclusion was based on the following: EGUs are the largest anthropogenic source of mercury in the United States; mercury is highly toxic, persistent and bioaccumulates in the food chain; mercury emissions are transported through the atmosphere and eventually deposit onto land or water bodies; the deposition can occur locally near the source or at long distances; fish consumption dominates the pathway for human and wildlife exposure to mercury; neurotoxicity is the health effect of greatest concern with methylmercury exposure; the developing fetus is considered most sensitive to the effects from methylmercury; extrapolating from high-dose exposure incidents, the EPA derived a Reference Dose (RfD) for methylmercury of 0.1 ug/kg/day based on developmental neurological effects observed in children born to mothers exposed to methylmercury during their pregnancy; the EPA estimates that about 7% of women of childbearing age are exposed to methylmercury at levels exceeding the RfD and about 1% of women have methylmercury exposures three to four times that level; exposure to methylmercury can have serious toxicological effects on wildlife as well as on humans; there are a number of alternative control strategies that are effective in controlling some of the HAPs emitted from electric utility steam generating units; and recent data indicate that mercury can be effectively removed by using oxidizing agents or sorbents injected into the gas stream, and data also indicate the possibility for multipollutant control with other pollutants, like NO_x, SO₂ and particulate matter, greatly reducing mercury control costs.

As a result of these findings, the EPA added these units to the list of source categories to be regulated under section 112(c) of the CAA. The EPA was then required to establish emission standards for this source category under section 112(d) of the CAA.

At 70 FR 15994 (March 29, 2005), the EPA published a final rule entitled *Revision of December 2000 Regulatory Finding on the Emissions of Hazardous Air Pollutants From Electric Utility Steam Generating Units and the Removal of Coal- and Oil-Fired Electric Utility Steam Generating Units From the Section 112(c) List*. The EPA now believes that it is neither appropriate nor necessary to regulate mercury from these units for the following reasons: the December 2000 finding was overbroad to the extent it hinged on environmental effects; the December 2000 finding lacked foundation because the EPA did not fully consider the mercury reductions that would result from the installation of SCR to comply with new source performance standards (NSPS) for NO_x and the “NO_x SIP Call”; and new information reveals that the level of mercury emissions remaining after the imposition of the requirements of CAIR to further control SO₂ and NO_x through flue gas desulfurization and SCR technology does not cause hazards to public health.

As a result of this conclusion, the EPA removed coal- and oil-fired utility units from the list in section 112(c) of the CAA. This final action means that the EPA does not have to promulgate MACT standards for the control of mercury emissions from utility units. This action also cleared the way for the EPA to regulate these emissions under a Section 111 cap-and-trade approach.

On March 15, 2005, the EPA finalized its Clean Air Mercury Rule (CAMR). The final rulemaking published at 70 FR 28606 (May 18, 2005), established standards of performance for mercury for new and existing coal-fired EGUs, as defined in section 111 of the CAA (42 U.S.C.A. § 7411). New EGUs are subject to different standards of performance based on five subcategories: subbituminous, bituminous, lignite, waste coal, or integrated gasification combined cycle. This rule established a “cap-and-trade” program by which mercury emissions from new and existing coal-fired EGUs are capped at specified, Nationwide levels. The Phase 1 cap of 38 tons per year (tpy) becomes effective in 2010 and the Phase 2 cap of 15 tpy becomes effective in 2018. Facility owners and operators must demonstrate compliance with the standard by holding one “allowance” for each ounce of mercury emitted in any given year. Allowances will be readily transferable among all regulated facilities under the Section 111 trading scheme.

The EPA believes that an added benefit of the cap-and-trade approach is that it dovetails well with the SO₂ and NO_x emission caps under CAIR. Significant mercury emission reductions can be obtained as a co-benefit of controlling SO₂ and NO_x emissions. Thus, the coordinated regulation of Hg, SO₂ and NO_x emissions allows mercury reductions to be achieved in a cost-effective manner.

Section 111(c) and (d) of the CAA requires each state to develop and submit to the EPA Administrator a procedure for implementing and enforcing the NSPS for new sources and emission guidelines (EG) for existing sources. Specifically, the EPA authorizes states, under the CAMR, to adopt the mercury cap-and-trade program whether by incorporating by reference the CAMR cap-and-trade rule that will be codified in 40 CFR Part 60, Subpart HHHH (relating to emission guidelines and compliance) times for coal-fired electric steam generating units) or by codifying the provisions of the CAMR cap-and-trade rule to partici-

pate in the EPA-administered mercury cap-and-trade program. The final CAMR establishes the Commonwealth’s 2010-2017 mercury emissions budget as 1.78 tons and the 2018 budget as 0.702 ton.

Each state participating in the EPA-administered cap-and-trade programs must develop a method for allocating an amount of allowances authorizing the emissions tonnage of the state’s CAMR budget. Each state has the flexibility to allocate its allowances however they choose, so long as certain timing requirements are met. States may elect to participate in the EPA-managed cap-and-trade program for coal-fired utility units. However, state participation in this program is voluntary. For states that elect not to participate in the EPA-administered mercury cap-and-trade program, a methodology must be established by the states to meet the CAMR mercury emission budgets by reducing mercury emissions.

By November 17, 2006, states must submit a plan to the EPA that meets the requirements of the CAMR. If a state fails to submit a state plan, as required in the final rule, the EPA will prescribe a Federal plan for that state under section 111(d)(2)(A) of the CAA. The EPA would propose the model rule under the CAMR as that Federal plan. However, the EPA has indicated in the preamble to the final rule that states are free to develop a more stringent mercury control program than the one in the final rule. This proposed rulemaking, if adopted, will be submitted to the EPA as the State Plan to fulfill the Commonwealth’s requirements under the CAMR.

The APCA also contains specific provisions applicable to the regulation of HAPs regulated under section 112 of the CAA. Section 6.6 (a) of the APCA (35. PS § 4006.6) provides that “the regulations establishing performance or emission standards promulgated under section 112 of the [CAA] are incorporated by reference into the Department’s permitting program.” Section 6.6(a) of the APCA further provides that the “Environmental Quality Board may not establish a more stringent performance or emission standard for hazardous air pollutant emissions from existing sources, except as provided in subsection (d) [regarding health risk-based emission standards].” This “no more stringent than” provision applies to performance standards (MACT) or requirements adopted under section 112 of the CAA.

As previously noted, on March 29, 2005, the EPA revised its December 2000 “appropriate and necessary” regulatory finding for the regulation of mercury emissions from coal- and oil-fired EGUs as HAPs and delisted EGUs, which were included on a list of source categories under section 112(c) of the CAA. Section 6.6(a) of the APCA provides that the Board may establish emission standards for source categories which are not included on the list of source categories established under section 112(c) of the CAA. Because of the EPA’s March 29, 2005, delisting action, the limitations in section 6.6(a) of the APCA are not applicable to performance standards and other measures that would be adopted to implement the standards in section 111 of the CAA for new and existing sources.

The CAMR established standards of performance for new sources and EGs for existing sources under section 111(b) and (d) of the CAA, respectively. Because these standards were established under section 111 of the CAA, rather than section 112 of the CAA, the “no more stringent than” provision under section 6.6(a) of the APCA is inapplicable. In addition, the Department must develop a State Plan in accordance with section 111(d) of the CAA to implement and enforce the EG requirements.

Although the provisions under the CAMR are incorporated by reference in Chapter 122 (relating to National standards of performance for new stationary sources), the Department may adopt more stringent requirements for inclusion in the State Plan that must be adopted for existing sources and submitted to the EPA for review and approval. In addition, the EPA specifically states in the preamble of the CAMR that states are allowed to adopt more stringent requirements regarding mercury emissions in their state plans.

In response to the EPA's March 29, 2005, revision and the CAMR, petitions for review challenging these final EPA actions were filed with the United States Court of Appeals for the D.C. Circuit. In addition to the Commonwealth, state challengers include California, Connecticut, Delaware, Illinois, Maine, Massachusetts, New Hampshire, New Mexico, New Jersey, New York, Rhode Island, Vermont and Wisconsin.

On May 31, 2005, the Commonwealth, together with California, Connecticut, Delaware, Illinois, Maine, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, Minnesota, Rhode Island, Vermont and Wisconsin, filed a petition for reconsideration under section 307(d)(7)(B) of the CAA (42 U.S.C.A. § 7607(d)(7)(B)) regarding the EPA's March 29, 2005, final action revising its December 2000 regulatory finding. Issues regarding this petition included whether the EPA's action is contrary to the CAA and supported by the record, and whether the procedural requirements under the Administrative Procedures Act and CAA were followed.

On July 18, 2005, the Commonwealth, together with these same states, filed a petition for reconsideration under section 307(d)(7)(B) of the CAA regarding the CAMR. Issues pertaining to this petition included the setting of NSPS based on subcategories of coal, the cost-benefit analysis, air quality modeling and provisions concerning the 2010 cap on mercury emissions.

At 70 FR 62200 and 62213 (October 28, 2005), the EPA granted reconsideration on both petitions and reopened the public comment period regarding certain issues under both final actions.

On December 19, 2005, the Commonwealth and the other states filed comments on these reconsideration actions. Issues regarding these reconsideration notices included the EPA's legal interpretations, the EPA's methodology and conclusions concerning reasonably anticipated hazards to public health resulting from EGU mercury emissions, modeling of mercury deposition, costs, NSPS standards and statistical analysis used for the NSPS standards.

In addition to these state concerns, Federal reports also noted deficiencies in the EPA's CAMR. On February 3, 2005, the EPA Office of Inspector General (OIG) published an evaluation report entitled *Additional Analyses of Mercury Emissions Needed before EPA Finalizes Rules for Coal-Fired Electric Utilities*. The OIG found that the EPA's cap-and-trade proposal failed to adequately address the potential for hot-spots of mercury pollution. The OIG also found evidence that, instead of basing its proposed MACT standard on an unbiased determination under section 112(d) of the CAA of what mercury emission rates the top performing units were achieving, the EPA staff followed orders from the EPA senior management and simply set the MACT standard at a rate that would result in National emissions of 34 tons annually. Finally, the OIG found that the EPA's rule development process did not comply with certain Agency and Executive Order

requirements, including not fully analyzing the costs/benefits of regulatory alternatives and not fully assessing the rule's impact on children's health. The OIG recommended that the EPA conduct additional analyses of mercury emissions data, strengthen its cap-and-trade proposal, assess the costs/benefits of regulatory alternatives to its proposal and fully explore potential impacts to children's health.

In February 2005, the United States Government Accountability Office (GAO) issued a report to Congressional requesters entitled *Clean Air Act: Observations on EPA's Cost-Benefit Analysis of Its Mercury Control Options*. The GAO concluded that the EPA's economic analysis of its proposed mercury control options had four major shortcomings: it failed to document some of its analysis; it failed to follow Office of Management and Budget guidance; it did not estimate the value of health benefits that would result from decreased mercury emissions; and it failed to analyze some of the key uncertainties underlying its cost/benefit estimates. The GAO concluded that, as a result of these shortcomings, the EPA's cost/benefit estimates are not comparable and are of limited use for assessing the economic trade-offs of the different options for controlling mercury.

3. *Petition for Rulemaking Process*

On August 9, 2004, Citizens for Pennsylvania's Future, PennEnvironment, Pennsylvania Federation of Sportsmen's Clubs, Pennsylvania NOW, Pennsylvania State Building and Construction Trades Council, Pennsylvania Trout, Planned Parenthood Pennsylvania Advocates, Sierra Club Pennsylvania Chapter, Women's Law Project and WomenVote PA (petitioners) filed a petition for rulemaking, under Chapter 23 (relating to Environmental Quality Board Policy for processing petitions—statement of policy), requesting that the Board adopt regulations to reduce mercury emissions from electric utilities located in this Commonwealth. Since the original filing of the petition, an additional 39 organizations declared their intent to be copetitioners. The petitioners seek to protect human health and the environment through the regulation of mercury emissions from coal-fired power plants in this Commonwealth. They requested that the Department exercise its statutory authority under the APCA and develop a regulatory program to reduce the mercury emissions from electric utilities for consideration by the Board.

The petitioners submitted suggested regulatory language adapted from a January 5, 2004, New Jersey Department of Environmental Protection (NJDEP) proposal to reduce mercury emissions from coal-fired boilers. These regulations, promulgated as a final rulemaking on December 6, 2004, provide that on and after December 15, 2007, each owner or operator of a coal-fired boiler of any size shall operate the coal-fired boiler in accordance with either an emission standard not to exceed 3.00 mg-Hg/MW-hr based on an annual weighted average of all valid stack emission tests performed for 4 consecutive quarters, weighted by megawatt hours produced each quarter; or a reduction efficiency for control of mercury emissions of the air pollution control apparatus for control of mercury of any coal-fired boiler shall be at least 90% based on the annual weighted average of all valid stack emissions tests performed for four consecutive quarters, weighted by megawatt hours produced each quarter.

On October 19, 2004, the Board reviewed the petitioners' petition and found it to be complete and appropriate for consideration and approved its acceptance for further study.

At the January 18, 2005, Board meeting, the Department requested a 120-day extension to develop its report on the petition for rulemaking to determine if that petition proposes appropriate standards in view of the EPA's CAMR for the regulation of mercury emissions from the utility sector for a number of reasons. First, the Department believes that the EPA does not have the legal authority to regulate an HAP like mercury under the less stringent provisions of section 111 of the CAA, as opposed to the more stringent provisions under section 112 of the CAA. Second, the Department believes this approach will significantly delay the control of mercury emissions from the utility sector and will create "hot spots" of mercury exposure that could be very detrimental to humans and wildlife. Third, the Department believes that the CAMR, since it is not a fuel-neutral regulation, requires greater reductions from coal-fired units that burn bituminous coal from states like this Commonwealth. Consequently, the Department recommended that a comprehensive approach to mercury control should be considered and recommended the development of a fuel-neutral regulatory approach to mercury emissions control.

On May 18, 2005, the Department finalized its response to the petitioners' petition for rulemaking and set forth its rationale as to why neither the NJDEP regulation nor the EPA's CAMR was in the best interest of this Commonwealth. The New Jersey regulatory language has one emission standard for both new and existing sources. The Department believes there should be separate emission standards for new and existing coal-fired boilers. Moreover, New Jersey has a limited number of coal-fired utility units, which are not representative of the significantly varied boiler types in this Commonwealth.

The Department also does not believe that the EPA's Section 111 approach to mercury control for the electric generating sector is best for this Commonwealth. The Department strongly opposes a cap-and-trade approach under the CAMR for the regulation of mercury emissions from the utility sector for a number of reasons. First, the Department believes that the EPA does not have the legal authority to regulate an HAP like mercury under the less stringent provisions of section 111 of the CAA, as opposed to the more stringent provisions under section 112 of the CAA. Second, the Department believes this approach will significantly delay the control of mercury emissions from the utility sector and will create "hot spots" of mercury exposure that could be very detrimental to humans and wildlife. Third, the Department believes that the CAMR, since it is not a fuel-neutral regulation, requires greater reductions from coal-fired units that burn bituminous coal from states like this Commonwealth. Consequently, the Department recommended that a comprehensive approach to mercury control should be considered and recommended the development of a fuel-neutral regulatory approach to mercury emissions control.

On August 16, 2005, the Board accepted the Department's recommendation to move forward with a Pennsylvania-specific mercury rule with an expanded public involvement process. The list of stakeholders to be included in the public involvement process was expanded to include the Pennsylvania Chamber of Business and Industry, Pennsylvania Chemical Industry Council, Associated Petroleum Industries of Pennsylvania, Pennsylvania Manufacturers Association, Industrial Energy Users of Pennsylvania, Electric Power Generation Association, Pennsylvania Coal Association, United Mine Workers of America, Air Quality Technical Advisory Committee, Citizens Advisory Council, the petitioners and other representatives of the potentially regulated community.

The Department established a Mercury Rule Workgroup (Workgroup) as part of the expanded public involvement process for a Pennsylvania-specific mercury rule. The first Workgroup meeting was held on October 14, 2005. During the first meeting, presentations included Workgroup objectives, an overview of mercury, its fate and transport and other state regulations. The second meeting of the Workgroup was held on October 28, 2005. The second meeting focused on the health impacts of mercury. The third meeting of the Workgroup was held on November 18, 2005. Speakers at this meeting discussed

the health impacts of mercury and methods of controlling mercury emissions from coal-fired power plants. The last Workgroup meeting was held on November 30, 2005. This last meeting focused on additional health impacts regarding mercury, and Workgroup members and others discussed their organizations' proposals for the control of mercury.

4. Overview of the Pennsylvania Proposal

On February 22, 2006, the Department presented concepts of its proposal at a joint meeting of the Citizens Advisory Council/Air Quality Technical Advisory Committee/Mercury Workgroup. The Pennsylvania-specific proposed rulemaking has a number of elements. First, it does not provide for a cap-and-trade approach for mercury, which is a potent neurotoxin. Second, the proposed rulemaking achieves greater reductions than the EPA's CAMR in a shorter period of time. Lastly, the proposed rulemaking has several administrative provisions to assist companies to come into compliance with the proposed rulemaking.

This proposed rulemaking has two phases: January 1, 2010—December 31, 2014, for Phase 1 and January 1, 2015, and each subsequent year thereafter for Phase 2 for existing units. All new units are subject to the more stringent Phase 2 standards upon construction. Under both phases, in addition to meeting an annual mercury emissions limitation, all existing pulverized coal-fired units (PCF) and circulating fluidized bed (CFB) units must meet a certain output-based emission standard or removal efficiency standard. The provisions for all existing units are fuel-neutral since all units are required to comply with the same emission standard or removal efficiency standard regardless of the type of coal combusted. The provisions for all new coal-fired PCF, CFB and integrated gasification combined cycle units (IGCCU) are fuel-neutral since all units are required to comply with the same emission standard or removal efficiency standard regardless of the type of coal combusted. The provisions for new CFBs burning 100% waste coal would be subject to the EPA NSPS for those units, which is fuel-neutral since it does not distinguish among types of waste coal. The provisions for new CFBs burning all other coals will be subject to a single emission standard or removal efficiency standard. The provisions for new CFBs burning a blend of coal and waste coal would comply with a prorated emission standard, which is fuel-neutral since it does not distinguish among the blends of waste coal and coal. Both phases allow units to comply on a unit-by-unit basis or by facility-wide emissions averaging. In addition, under Phase 1 any existing EGU combusting 100% bituminous that is controlled by the air pollution control technologies of an electrostatic precipitator and WFGD will be considered to be in compliance with the first phase emission standard requirement without any additional compliance demonstration. This last compliance feature allows the owners and operators of existing EGUs to take advantage of any co-benefit mercury reductions from the WFGD. Moreover, this compliance feature is based on a strict technical analysis, which shows this coal-type and air pollution control device combination can meet the required control efficiency standard. Currently, the Department does not have an adequate data set to offer this compliance presumption to EGUs that may combust a different coal-type or coal blend. However, the proposal explicitly provides the Department with the authority to provide a compliance presumption for other technology configurations, which can include other coal-types and coal blends, with the emission standard requirements of

§ 123.205(c)(1) (relating to emission standards for coal-fired EGUs) without additional compliance demonstrations when the Department determines there is sufficient data. WFGD installation will be necessary for these units to comply with the EPA's CAIR mandate to control SO₂ emissions. While this technology has been developed to reduce SO₂ emissions, it also realizes significant collateral reductions in mercury. Moreover, the Phase 1 time frames under the Pennsylvania rule coincide with the time frames under CAIR. As a result, the owners and operators of EGUs are not disadvantaged under this time frame and there should not be any reliability concerns for delivery of power over the electric grid.

Under Phase 2, any existing EGU combusting 100% bituminous coal, which is controlled by the air pollution control device technologies of SCR, electrostatic precipitator and WFGD, will be considered to be in compliance with the second phase emission standard requirement without any additional compliance demonstration. Again, this compliance feature does not disadvantage Pennsylvania coal and allows the owners and operators of existing EGUs to take advantage of any co-benefit mercury reductions from the WFGD and SCR. Also, this compliance feature is based on a strict technical analysis, which shows this coal-type and air pollution control device combination can meet the required control efficiency standard. As previously noted, currently the Department does not have an adequate data set to offer this compliance presumption to EGUs that may combust a different coal-type or coal blend. The proposal explicitly provides the Department with the authority to provide a compliance presumption for other technology configurations, which can include coal-types or coal blends, with the emission standard requirements of § 123.205(c)(2) without additional compliance demonstrations when the Department determines there is sufficient data. In addition to WFGD installation, it will be necessary for these units to install SCRs to comply with the EPA's CAIR mandate to control NO_x emissions. While SCR technology has been developed to reduce NO_x emissions, it also realizes significant collateral reductions in mercury. Therefore, this compliance feature will allow electric generating companies to take advantage of any co-benefit mercury reductions from the WFGD and SCR, while at the same time achieving the SO₂ and NO_x reductions required under the EPA's CAIR requirements. As under Phase 1, owners and operators of EGUs are not disadvantaged under this time frame, and there should not be any reliability concerns for delivery of power over the electric grid.

In addition, this proposed rulemaking has an administrative provision, under both phases of the proposed rulemaking, where the Department may grant an alternative emission standard or schedule, or both, if the owner or operator demonstrates to the Department's satisfaction that the mercury reduction requirements are economically or technologically infeasible. The owner or operator of a unit seeking the Department's approval of an alternative emission standard or schedule, or both, shall submit an application to the Department for approval.

This proposed rulemaking also has an annual emission limit provision, which provides regulatory assurance that the Commonwealth meets the EPA CAMR mercury state budget, provides for new source growth and has a supplemental allowance pool, which reserves allowances for future use. This annual emission limitation provision has a nontradable mercury allowance program. Under this program, the Department will allocate nontradable allowances. Each affected unit shall hold a sufficient amount of allowances to be in compliance with annual limitation. As

an additional administrative provision, owners and operators of noncompliant units may petition the Department for additional allowances to assist that unit to come into compliance. This provision is designed, in part, to assist owners and operators who have employed optimum control technology for reducing mercury emission, but are still not in compliance. The Department has established an order of preference for the distribution of additional allowances based on the following rationale. Stand-by units are given first preference because while these units were allocated allowances under the CAMR, it is proposed under this rule not to allocate allowances to these units unless they are reactivated. CFBs are second in the order of preference because while these units were allocated more allowances under Phase 1 of the CAMR than under Phase 2 of the CAMR, it is proposed to allocate the CAMR Phase 2 allowances under Phase 1 of this proposed rulemaking. Units identified under all other preferences are listed in descending order for the optimum control technology that reduces mercury emissions at units that burn 100% bituminous coal. Currently, the Department does not have an adequate data set to identify the optimum control technology for units burning a coal blend or a type of coal other than bituminous to establish a proposed order of preference. However, each petition would be reviewed on a case-by-case basis and all of the information contained in the petition would be examined to determine if an owner or operator has employed optimum control technology to reduce mercury emissions if additional allowances are distributed. Moreover, if sufficient data becomes available to grant a compliance presumption to EGUs burning other than bituminous under § 123.206 (relating to compliance requirements for the emission standards for coal-fired EGUs).

After Phase 1 of the program, the Department anticipates that the Pennsylvania rule will achieve 29% greater reductions than the CAMR. After Phase 2, the Department anticipates that the Pennsylvania rule will achieve 36% greater reductions than the CAMR. In addition, the Department's analysis shows that the vast majority of EGUs in this Commonwealth will be able to comply with both phases of the proposed rulemaking using existing WFGD and SCR technology. While some EGUs may need to install mercury-specific control technology, the Department believes that there are a number of currently available control technologies that coal-fired power plants can use to reduce their emissions of mercury to the atmosphere. Therefore, compliance with a Pennsylvania-specific mercury rule should be achievable for all affected EGUs, and there should not be any reliability concerns for delivery of power over the electric grid.

The Department worked with the Air Quality Technical Advisory Board (AQTAC) in the development of this proposed rulemaking. At its March 30, 2006, meeting, the AQTAC recommended that the Board consider the proposed rulemaking at its May 17, 2006, meeting. However, the AQTAC would like to see public comment taken on the following issues: (1) the advantages and disadvantages regarding the supplement pool under § 123.208 (relating to annual emission limit supplement pool); (2) the advantages and disadvantages related to the new source set-aside provisions under § 123.207 (relating to annual emission limitations for coal-fired EGUs); (3) whether the precleaning of coal should be taken into consideration as part of the percent reduction in meeting the minimum mercury control percentage under § 123.205; (4) whether Phases 1 and 2 should be compressed to encourage early compliance; (5) whether providing longer "start-up" and "break-in" test periods, cost-

sharing by owner-operators and technology vendors, and providing extended permit life for new, improved and more reliable technology should be offered to encourage newer and more reliable demonstrated technology on a voluntary basis; (6) whether daily sampling of coal combusted under § 123.214 (relating to coal sampling and analysis for input mercury levels) should be expanded to include sampling of coal "as received;" (7) how the Department could encourage over compliance and cost sharing between sources; and (8) whether the Department should consider the results of the EPA's *Steubenville Study* on regulatory requirements.

E. Summary of Proposed Rulemaking

Section 123.201 (relating to purpose) is proposed to provide that §§ 123.202–123.215 establish mercury emission standards, annual emission limitations as part of a Statewide mercury allowance program with annual nontradable mercury allowances and other requirements for the purpose of reducing mercury emissions from coal-fired EGUs or cogeneration units.

Section 123.202 (relating to definitions) defines terms used in §§ 123.203–215. The new definitions include: "Btu—British thermal unit," "Bituminous coal," "CFB—circulating fluidized bed unit," "CO₂," "CS-ESP—cold side electrostatic precipitator," "coal refuse," "cogeneration unit," "EGU—electric generating unit," "existing EGU," "FF—fabric filter," "facility," "GWh—gigawatt-hour," "IGCC—integrated gasification combined cycle unit," "MMBtu," "MW—megawatt," "MWe—megawatt electric," "MWh—megawatt-hour," "nameplate capacity," "new EGU," "O₂," "Phase 1," "Phase 2," "PCF—pulverized coal-fired unit," "rolling 12-month basis," "SCR—selective catalytic reduction," "SO₂," "space velocity," "standby unit," "WFGD—wet flue gas desulfurization unit" and "watt-hour."

Section 123.203 (relating to applicability) provides that the requirements of §§ 123.201, 123.202, 123.204–123.215 and this section apply to owners and operators of an EGU in this Commonwealth.

Section 123.204 (relating to exceptions) is proposed to provide that the owner or operator of an EGU that enters into an enforceable agreement with the Department for the shutdown and replacement of the unit with IGCC technology shall be exempted from compliance with the Phase 1 requirements of §§ 123.205 and 123.207. This exemption will only be available if there are sufficient allowances in the supplemental pool under § 123.208.

Section 123.205 establishes emission standards for coal-fired EGUs. New PCF EGUs and IGCC EGUs are required to meet either a certain mercury emission standard or minimum mercury control percentage upon construction and new CFB EGUs are required to meet a certain mercury emission standard upon construction. In addition, existing PCF EGUs and IGCC EGUs are required to meet either an increasingly stringent mercury emission standard or minimum mercury control percentage from Phase 1 (effective from January 1, 2010, to December 31, 2014) to Phase 2 (effective beginning January 1, 2015). Existing CFB EGUs are required to meet a certain mercury emission standard or minimum mercury control percentage, which does not change from Phase 1 to Phase 2.

Section 123.206 establishes compliance requirements for the emission standards for coal-fired EGUs. Compliance can be demonstrated on a unit-by-unit basis or by facility-wide emissions averaging. Moreover, the owner or operator of an existing EGU combusting 100% bituminous

coal which is controlled by certain air pollution control device configurations is presumed to be in compliance with the emission standard requirements of § 123.205(c)(1) or (2) without any additional compliance demonstrations. The proposed rulemaking also provides the Department with the authority to provide a compliance presumption for other technology configurations, which can include other coal-types and coal blends, with the emission standard requirements of § 123.205(c)(1) or (2) without additional compliance demonstrations when the Department determines there is sufficient data. The Department may approve in a plan approval or operating permit or both an alternative mercury emission standard or schedule, or both, if the owner or operator of an EGU subject to the emission standards of § 123.205 demonstrates in writing to the Department's satisfaction that the mercury reduction requirements are economically or technologically infeasible. Lastly, the Department has established certain calculation requirements to ensure that a facility does not exceed the applicable emission standard or control percentage requirement.

Section 123.207 establishes an annual emission limitation for coal-fired EGUs. In addition to the mercury emission standard requirements of § 123.205, the owner or operator of a new or existing affected EGU subject to § 123.203 shall comply with the annual emission limitations established through a Statewide mercury nontradable allowance program under this section. The total ounces of mercury emissions available for emission limitation set-asides as annual nontradable mercury allowances in the Statewide mercury allowance program are 56,960 ounces (3,560 pounds) of mercury emissions for Phase 1, effective from January 1, 2010, through December 31, 2014, and 22,464 ounces (1,404 pounds) of mercury emissions for Phase 2, effective beginning January 1, 2015, and each subsequent year. Of this overall total, 5% of the Phase 1 annual allowances will be set aside for new units and 3% of the Phase 2 annual allowances will be set aside for new units for the calendar year beginning January 1, 2015, and subsequent years. However, annual allowances will not be set aside for the owner or operator of an existing affected EGU, which is already shut down, scheduled for shutdown or is on standby as of the effective date of each set-aside phase.

The maximum number of annual nontradable mercury allowances set aside for the owner or operator of each existing affected CFB or PCF will be determined by multiplying the affected unit's baseline heat input fraction of the State's total baseline annual heat input for all EGUs. The Department will publish in the *Pennsylvania Bulletin* the maximum number of annual allowances set aside for the owner or operator of each existing affected CFB and PCF. If the actual emissions of mercury reported to the Department are less than the maximum number of annual allowances set aside in the allowance program for the owner or operator of an EGU, the Department will place the unused portion of annual allowances in the annual emission limit supplement pool established under § 123.208.

Section 123.208 establishes annual emission limitation supplement pool. Annual allowances that have either been created as part of the new EGU set-aside or are unused annual allowances as part of the annual emission limitation for coal-fired EGUs will be set aside in the supplement pool for future use.

Section 123.209 (relating to petition process) establishes a petition process for the owner or operator of an EGU to request additional annual allowances from the annual

emission limit supplement pool. Each calendar year beginning January 1, 2010, the Department may set aside, at its discretion, supplemental annual nontradable mercury allowances from the annual emission limit supplement pool for the owners or operators of existing affected EGUs that successfully petition the Department in accordance with the requirements of this section. If the petition for supplemental annual nontradable mercury allowances is approved by the Department, the supplemental annual nontradable mercury allowances set aside for the owner or operator of the existing affected EGU will be added to the maximum number of annual nontradable mercury allowances set aside for the owner or operator of the EGU under § 123.207 only for the calendar year of the request.

Section 123.210 (relating to general monitoring and reporting requirements) creates general monitoring and reporting requirements for the owner or operator of a new or existing EGU subject to §§ 123.201–215. The owner or operator of a new EGU shall demonstrate compliance with §§ 123.205 and 207 by installing and operating a continuous emissions monitoring system to measure, record and report the concentration of mercury in the exhaust gases from each stack. The owner or operator of an existing affected EGU shall comply with the monitoring, recordkeeping and reporting requirements in this section and in §§ 123.211–123.215 and § 139.101 (relating to general requirements) and the applicable provisions of the *Continuous Source Monitoring Manual* (DEP 274-0300-001). However, the owner or operator of an affected EGU that emits 464 ounces (29 pounds) or less of mercury per year must meet the general operating requirements in 40 CFR Part 75 (relating to continuous emission monitoring) for the continuous emission monitors and shall perform mercury emissions testing for the initial certification and ongoing quality-assurance as described in 40 CFR Part 75.

Section 123.211 (relating to initial certification and recertification procedures for emissions monitoring) creates initial certification and recertification procedures for emissions monitoring. By the applicable deadline in § 123.210, the owner or operator of an affected EGU shall comply with certain initial certification and recertification procedures for a continuous monitoring system or continuous emission monitoring system and an excepted monitoring system (sorber trap monitoring system) as required under 40 CFR 75.15 (relating to special provisions for measuring Hg mass emissions using the excepted sorber trap monitoring methodology) and Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources).

Section 123.212 (relating to out-of-control periods for emissions monitors) creates out-of-control periods for emissions monitors if an emissions monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements.

Section 123.213 (relating to monitoring of gross electrical output) creates monitoring requirements regarding gross electrical output of an affected EGU.

Section 123.214 creates sampling and coal analysis for input mercury levels of affected EGUs. The Department may revise the frequency of the sampling of the coal combusted in the EGU for the mercury content based on historical data provided by the owner or operator of the EGU.

Section 123.215 (relating to recordkeeping and reporting) creates recordkeeping and reporting requirements.

Among other things, the owner or operator of an affected EGU shall comply with all recordkeeping and reporting requirements in this section and the applicable recordkeeping and reporting requirements in 40 CFR Part 75 and Chapter 139, Subchapter C.

F. *Benefits, Costs and Compliance*

Benefits

Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will result in improved air quality by reducing mercury emissions. In addition, it is anticipated that local mercury deposition will be reduced since coal-fired power plants that burn bituminous coal emit oxidized forms of mercury, which are deposited near their source. Moreover, the Board believes that there are a number of reliable cost/benefit studies which indicate cost savings and public health benefits from controlling mercury emissions from EGUs.

The Commonwealth is concerned that the CAMR's cap and trade approach will result in hot spots to which this Commonwealth is particularly susceptible given that all 36 coal-fired utilities in this Commonwealth burn bituminous coal as their primary fuel source. Bituminous coals generally have high mercury, chlorine and sulfur contents and low calcium content, resulting in a high percentage of organic mercury. This type of mercury has a residence time of a few days and is deposited near the source of the release. Therefore, it is not a suitable candidate for emission trading against emission reductions in other regions because it results in hot spots.

Impacts regarding mercury deposition were studied at the Bruce Mansfield coal-fired power plant in Shippingport, PA. Sullivan, T.M., *et al.*, *Assessing the Mercury Health Risks Associated with Coal-Fired Power Plants: Impacts of Local Depositions*, Brookhaven National Laboratory, Upton, NY. This plant is characterized by high total mercury emissions. From the deposition modeling, the average increase in deposition as compared to a background deposition rate of 20 ug/m²/yr over a 2,500 km² around the plant was 15% at Bruce Mansfield. Over an area that is 50–100 km², immediately adjacent to the plant, deposition doubled at the Bruce Mansfield plant. The report concluded that if the plant emissions double local deposition, the fish concentration would be similarly doubled. As a result, the United States mean fish mercury content is 0.21 ppm and near the Bruce Mansfield plant the mean fish mercury content is 0.41 ppm.

The 2003 results of the EPA Office of Water study *Draft Mercury REMSAD Deposition Modeling Results* reinforce the Commonwealth's concern. This Regulatory Modeling System for Aerosols and Deposition modeling shows that, at mercury hot spots, local emission sources within a state can be the dominant source of deposition. At hot spots, local sources within a state commonly account for 50% to 80% of the mercury deposition. In-state sources contribute more than 50% of the pollution to sites in the top eight worst hot spot states, which are Michigan, Maryland, Florida, Illinois, South Carolina, North Carolina, Pennsylvania and Texas, respectively.

In addition to these studies, on April 27, 2005, preliminary results from the EPA Steubenville Mercury Deposition Source Apportionment Study were released. This study found that nearly 70% of the mercury in rain collected at an Ohio River Valley monitoring site originated from nearby coal-burning industrial plants. It is anticipated that this peer-reviewed study will be published in the scientific literature within the next couple of months.

The Northeast States for Coordinated Air Use Management (NESCAUM) sponsored a report analyzing the cost savings and public health benefits of controlling mercury emissions from power plants. NESCAUM, *Economic Valuation of Human Health Benefits of Controlling Mercury Emissions from U.S. Coal-fired Power Plants*, (Feb. 2005) (Harvard Study). The Harvard Study was prepared by the Harvard Center for Risk Analysis, funded by the EPA, co-authored by an EPA scientist and peer-reviewed by two other EPA scientists. The Harvard Study reveals that the EPA miscalculated the "nature of the risk involved" by underestimating the public health benefits of reducing mercury. Specifically, the Harvard Study indicates that the public benefit of reducing power plant mercury emissions to 15 tpy ranges from \$119 million annually (if only persistent IQ deficits from fetal exposures to methylmercury are counted) to as much as \$5.2 billion annually (if IQ deficits, cardiovascular effects and premature mortality are all counted).

The May 2005 edition of *Environmental Health Perspectives* indicates that the EPA underestimated the health benefits to be gained from reducing mercury. In one study, scientists from the Mount Sinai School of Medicine examined National blood mercury prevalence data from the CDC and found that between 316,588 and 637,233 children each year have cord blood mercury levels greater than 5.8 micrograms per liter—the level associated with loss of IQ. See Leonardo Trasande, et al., *Public Health and Economic Consequences of Methylmercury Toxicity to the Developing Brain*, 113 ENVIRONMENTAL HEALTH PERSPECTIVES, No. 5 (May 2005). They estimated that the resulting loss of intelligence and diminished economic activity amounted to \$8.7 billion annually, with \$1.3 billion each year being directly attributable to mercury emissions from power plants. The scientists further caution that these costs will recur each year with each new birth cohort as long as mercury emissions are not controlled.

On April 28, 2005, an unpublished report that was funded and completed by the EPA's Office of Wetlands, Oceans and Watersheds became available to the public. See Douglas Rae & Laura Graham, *Benefits of Reducing Mercury in Saltwater Ecosystems*. This study found that a 30–100% reduction of mercury emissions would translate into a \$600 million to \$2 billion cost savings. The cost savings were largely attributable to reduced health risks, including cardiovascular risks.

As a result of these and other studies, the Board believes that there are substantial benefits regarding the proposed rulemaking. Moreover, the proposed rulemaking is designed to maximize the co-benefit of mercury emission reduction achieved through the installation of pollution controls, which are required for compliance with the CAIR program. Owners and operators of EGUs are not disadvantaged under this time frame, and there should not be any reliability concerns for delivery of power over the electric grid.

The Department's analysis assumes the continued use of the existing coal feedstocks. Because we anticipate the majority of the mercury reductions in this Commonwealth to be achieved through the installation of CAIR controls for NO_x and SO_x, there will not exist the same incentive to utilize fuel switching to lower mercury content coal as there is under the CAMR. A control strategy combining fuel switching and the purchase of mercury allowances is a viable option that many companies are expected to use to meet the CAMR requirements. The Department's proposed rulemaking disallows the purchase and trading

of allowances. Based on the data submitted in response to the Department's data request, fuel switching is not necessary to comply with its proposed emission standards. Therefore, fuel switching is not necessary to comply with the proposed rulemaking and the continued use of the existing coal feedstocks should not be affected. However, owners and operators of affected EGUs are free to employ any compliance strategy necessary to comply with this proposed rulemaking.

Compliance Costs

It is anticipated that the majority of EGUs in this Commonwealth will be able to comply with both phases of the proposed rule using existing WFGD and SCR technology, which will be necessary to comply with CAIR. While some EGUs may need to install mercury specific control technology, the Department believes that there are a number of currently available control technologies that coal-fired power plants can use to reduce their emissions of mercury to the atmosphere, which will result in a minor cost increase on a cents per kW-hr. basis.

The proposed rulemaking will, to some extent impact all EGUs in this Commonwealth. There will be compliance costs regarding the construction and operation of air pollution control devices to control mercury, NO_x and SO_x. For Phase 1 the total annualized cost (capital and operating) of mercury-specific control technology that EGUs must install beyond CAIR to comply with the Pennsylvania-specific mercury rule would be \$15.4 million per year. The total cost of purchasing mercury allowances (at \$953 per ounce, according to a United States Department of Energy estimate) if EGUs did not do anything beyond the CAIR to comply with the CAMR would be \$15.7 million per year. As a result, the total cost of complying with the Pennsylvania-specific mercury rule for Phase 1 would be no more than the cost of complying with CAMR.

For Phase 2, the total annualized cost (capital and operating) of mercury-specific control technology that EGUs must install beyond CAIR to comply with the Pennsylvania-specific mercury rule would be \$16.7 million per year. The total cost of purchasing mercury allowances (at \$2,619 per ounce, according to a United States Department of Energy estimate) if EGUs did not do anything beyond the CAIR to comply with the CAMR would be \$14.5 million per year. The difference between \$16.7 million and \$14.5 million is \$2.2 million, which would be the total cost of complying with the Pennsylvania-specific mercury rule for Phase 2. This would be an increase of \$0.000016 per kW-hr.

Compliance Assistance

The Department plans to educate and assist the public and regulated community with understanding any newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing Regional Compliance Assistance Program.

Paperwork Requirements

This proposed rulemaking will not increase the paperwork that is already generated during the normal course of business.

G. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101–13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through

the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposed rulemaking will reduce mercury emissions from EGUs. Coal-fired power plants that burn sub-bituminous coal emit Hg⁰, which can be transported over transcontinental distances. Coal-fired power plants that burn bituminous coal emit oxidized forms of mercury, which are deposited near their source. In this Commonwealth, 85% of the coal burned by coal-fired power plants is bituminous, with the remainder as waste coal. Reducing mercury emissions will reduce mercury deposition and will therefore reduce mercury related water pollution.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 16, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

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

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by August 26, 2006. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by August 26, 2006. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final rulemaking will be considered.

Electronic Comments—Comments may be submitted electronically to the Board by completing the online form at www.depweb.state.pa.us/RegComments or by email RegComments@state.pa.us and must be received by the Board by August 26, 2006. A subject heading of the proposal and a return name and address must be included in each transmission.

K. Public Hearings

The Environmental Quality Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held as follows:

July 25, 2006 1 p.m. Department of Environmental Protection
Southwest Regional Office
Waterfront A & B Conference Room
400 Waterfront Drive
Pittsburgh, PA 15222

July 27, 2006 1 p.m. Department of Environmental Protection
Southeast Regional Office
Delaware Room
2 East Main Street
Norristown, PA 19401

July 26, 2006 1 p.m. Department of Environmental Protection
Rachel Carson State Office Building
Room 105
400 Market Street
Harrisburg, PA 17105

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-405. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 123. STANDARDS FOR CONTAMINANTS

(Editor's Note: The following text is new and is printed in regular type to enhance readability.)

MERCURY EMISSIONS

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123.201.	Purpose.
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123.206.	Compliance requirements for the emission standards for coal-fired EGUs.
123.207.	Annual emission limitations for coal-fired EGUs.
123.208.	Annual emission limit supplement pool.
123.209.	Petition process.
123.210.	General monitoring and reporting requirements.

- 123.211. Initial certification and recertification procedures for emissions monitoring.
 123.212. Out-of-control periods for emissions monitors.
 123.213. Monitoring of gross electrical output.
 123.214. Coal sampling and analysis for input mercury levels.
 123.215. Recordkeeping and reporting.

MERCURY EMISSIONS

§ 123.201. Purpose.

Sections 123.202—123.215 establish mercury emission standards, annual emission limitations as part of a Statewide mercury allowance program with annual nontradable mercury allowances and other requirements for the purpose of reducing mercury emissions from coal-fired EGUs or cogeneration units.

§ 123.202. Definitions.

The following words and terms, when used in this section and §§ 123.201 and 123.203—123.215, have the following meanings, unless the context clearly indicates otherwise:

Btu—British thermal unit—The amount of thermal energy necessary to raise the temperature of 1 pound of pure liquid water by 1° Fahrenheit at the temperature at which water has its greatest density (39°F).

Bituminous coal—

(i) Coal that is classified as bituminous according to the ASTM International Standard D388-90, Standard Classification of Coals by Rank.

(ii) For the purposes of this section and §§ 123.201 and 123.203—123.215, the term shall also include anthracite coal according to the ASTM International Standard D388-77, Standard Classification of Coals by Rank.

CFB—Circulating fluidized bed unit—Combustion of fuel in a bed or series of beds (including bubbling bed units and circulating bed units) of limestone aggregate (or other sorbent materials) in which these materials are forced upward by the flow of combustion air and the gaseous products of combustion.

CO₂—Carbon dioxide.

CS-ESP—Cold side electrostatic precipitator—A particulate control device installed downstream of a boiler air preheater that does the following:

(i) Charges particles with an electric field and causes them to migrate from the gas to a collection surface.

(ii) Treats flue gas after heat extraction from the gas has been completed.

(iii) Operates within a temperature range of no greater than 400°F.

Coal refuse—Waste products of coal mining, physical coal cleaning, and coal preparation operations (for example—culm, gob, and the like) containing coal, matrix material, clay, and other organic and inorganic material.

Cogeneration unit—A stationary, coal-fired boiler or stationary, coal-fired combustion turbine which:

(i) Has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating or cooling purposes through the sequential use of energy.

(ii) Produces, for a topping-cycle cogeneration unit, during the 12-month period starting on the date the unit first produces electricity and during any calendar year after the 12-month period in which the unit first produces electricity:

(A) Useful thermal energy not less than 5% of total energy output.

(B) Useful power that when added to one-half of useful thermal energy produced:

(I) Is not less than 42.5% of total energy input, if useful thermal energy produced is 15% or more of total energy output.

(II) Is not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output.

(III) Produces, for a bottoming-cycle cogeneration unit, during the 12-month period starting on the date the unit first produces electricity and during any calendar year after the 12-month period in which the unit first produces electricity, useful power not less than 45% of total energy input.

EGU—Electric generating unit—

(i) Except as provided in subparagraph (ii), a stationary coal-fired boiler or stationary, coal-fired combustion turbine that serves or has served at any time since the start-up of the unit's combustion chamber, a generator:

(A) With a nameplate capacity of more than 25 MWe.

(B) That produces electricity for sale.

(ii) For a unit that qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit, a unit that both:

(A) Serves a generator with a nameplate capacity of more than 25 MWe.

(B) Supplies, in a calendar year, more than one third of its potential electric output capacity or 219,000 MWh, whichever is greater, to a utility power distribution system for sale.

(iii) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity but subsequently no longer qualifies as a cogeneration unit, it shall become subject to subparagraph (i) starting on the day it first no longer qualifies as a cogeneration unit.

Existing EGU—An EGU which commenced construction, modification or reconstruction before January 30, 2004.

FF—Fabric filter—An add-on air pollution control system that removes particulate matter (PM) and emissions of nonvaporous metals by passing flue gas through filter bags.

Facility—All units located on one or more contiguous or adjacent properties and which are owned or operated by the same person under common control.

GWh—Gigawatt-hour—One billion watt-hours.

IGCC—Integrated gasification combined cycle unit—A coal-fired electric utility steam generating unit that burns a synthetic gas derived from coal in a combined-cycle gas turbine. No coal is directly burned in the unit during operation.

MMBtu—One million British thermal units.

MW—Megawatt—A unit for measuring power equal to one million watts.

MWe—Megawatt electric—One million watts of electric capacity.

MWh—Megawatt-hour—One million watt-hours.

Nameplate capacity—The maximum electrical generating output (in MWe) that the generator is capable of

producing on a steady-state basis during continuous operation (when not restricted by seasonal or other deratings):

(i) As specified by the manufacturer, starting from the initial installation of the generator.

(ii) As specified by the person conducting the physical change, starting from the completion of a subsequent physical change in the generator resulting in an increase in the maximum electrical generating output in MWe.

New EGU—An EGU which commenced construction, modification or reconstruction, as defined under 40 CFR Part 60 (relating to standards of performance for new stationary sources), on or after January 30, 2004.

O₂—Oxygen.

PCF—Pulverized coal-fired unit—

(i) A steam generating unit in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the steam generating unit where it is fired in suspension.

(ii) The term includes both conventional pulverized coal-fired and micropulverized coal-fired steam generating units.

Phase 1—The period from January 1, 2010, through December 31, 2014.

Phase 2—The period beginning January 1, 2015, and each subsequent year thereafter.

Rolling 12-month basis—A determination made on a monthly basis from the relevant data for a particular calendar month and the preceding 11 calendar months (total of 12 months of data).

SCR—Selective catalytic reduction—A process where a gaseous or liquid reductant (most commonly ammonia or urea) is added to the flue gas stream in the presence of a catalyst. The reductant reacts with nitrogen oxides in the flue gas to form nitrogen.

SO₂—Sulfur dioxide.

Space velocity—The exhaust gas volume per hour of the SCR corrected to standard temperature and pressure divided by the volume of the catalyst.

Standby unit—A unit that is out of operation but under a Department-approved maintenance plan as provided under § 127.11a (relating to reactivation of sources), which will enable the source to be reactivated in accordance with the terms of the permit issued to the source.

WFGD—Wet flue gas desulfurization unit—A sulfur dioxide control system located downstream of the steam generating unit that removes sulfur oxides from the combustion gases of the steam generating unit by contacting the combustion gases with an alkaline slurry or solution including lime and limestone.

Watt-hour—A unit of energy equivalent to 1 watt of power expended for 1 hour of time.

§ 123.203. Applicability.

The requirements of this section and §§ 123.201, 123.202 and 123.204—123.215 apply to owners and operators of an EGU located in this Commonwealth.

§ 123.204. Exceptions.

Consistent with § 123.207(b)(1) (relating to annual emission limitations for coal-fired EGUs), the owner or operator of an EGU that enters into an enforceable agreement with the Department not later than December 31, 2007, for the shutdown and replacement of the unit

with IGCC technology no later than December 31, 2012, shall be exempted from compliance with the following Phase 1 requirements for the converted unit:

(1) Section 123.205 (relating to emission standards for coal-fired EGUs).

(2) Section 123.207.

§ 123.205. Emission standards for coal-fired EGUs.

(a) *New EGUs*. In addition to the mercury emission limitation requirements of § 123.207 (relating to annual emission limitations for coal-fired EGUs), the owner or operator of a new EGU subject to § 123.203 (relating to applicability) shall comply at the commencement of operation on a rolling 12-month basis with one of the following standards:

(1) *PCF EGU*. The owner or operator of a PCF EGU shall comply with one of the following:

(i) A mercury emission standard of 0.011 pounds of mercury per GWh.

(ii) A minimum 90% control of total mercury as measured from the mercury content in the coal as fired.

(2) *CFB EGU*. The owner or operator of a CFB EGU shall comply with the following applicable provisions:

(i) CFB EGUs burning 100% waste coal shall comply with the mercury emission standard for new units as established under 40 CFR Part 60, Subpart D (relating to standards of performance for fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971), which is adopted and incorporated by reference in § 122.3 (relating to adoption of standards).

(ii) CFB EGUs burning 100% bituminous coal shall comply with either:

(A) A mercury emission standard of 0.011 pounds of mercury per GWh.

(B) A minimum 90% control of total mercury as measured from the mercury content in the coal as fired.

(iii) CFB EGUs burning multiple fuels shall comply with a prorated emission standard based on the percentage of heat input from the coal and the percentage of heat input from the waste coal.

(3) *IGCC EGU*. The owner or operator of an IGCC EGU shall comply with one of the following:

(i) A mercury emission standard of 0.0048 pounds of mercury per GWh.

(ii) A minimum 95% control of total mercury as measured from the mercury content in the coal as processed.

(b) *Baseline for review*. The emission standards in this subsection will serve as a baseline for review and approval of case-by-case best available technology determinations for a new EGU in accordance with the requirements of Chapter 127 (relating to construction, modification, reactivation and operation of sources).

(c) *Existing EGUs*. In addition to the mercury emission limitation requirements of § 123.207, the owner or operator of an existing EGU subject to § 123.203 shall comply on a rolling 12-month basis with one of the following standards:

(1) *Phase 1*. Effective from January 1, 2010, through December 31, 2014:

(i) *PCF EGU*. The owner or operator of a PCF shall comply with one of the following:

(A) A mercury emission standard of 0.024 pounds of mercury per GWh.

(B) A minimum 80% control of total mercury as measured from the mercury content in the coal as fired.

(ii) *CFB EGU*. The owner or operator of a CFB shall comply with one of the following:

(A) A mercury emission standard of 0.0058 pounds of mercury per GWh.

(B) A minimum 95% control of total mercury as measured from the mercury content in the coal as fired.

(2) *Phase 2*. Effective beginning January 1, 2015, and each subsequent year:

(i) *PCF EGU*. The owner or operator of a PCF shall comply with one of the following:

(A) A mercury emission standard of 0.012 pounds of mercury per GWh.

(B) A minimum 90% control of total mercury as measured from the mercury content in the coal as fired.

(ii) *CFB EGU*. The owner or operator of a CFB shall comply with one of the following:

(A) A mercury emission standard of 0.0058 pounds of mercury per GWh.

(B) A minimum 95% control of total mercury as measured from the mercury content in the coal as fired.

§ 123.206. Compliance requirements for the emission standards for coal-fired EGUs.

(a) The owner or operator of one or more EGUs subject to the emission standards of § 123.205 (relating to emission standards for coal-fired EGUs) shall demonstrate compliance with the standards using one of the following methods:

- (1) Compliance on a unit-by-unit basis.
- (2) Facility-wide emissions averaging.

(b) The owner or operator of an existing EGU combusting 100% bituminous coal which is controlled by an air pollution control device configuration of:

(1) A CS-ESP or FF and a WFGD will be presumed to be in compliance with the emission standard requirements of § 123.205(c)(1) without any additional compliance demonstrations.

(2) SCR, CS-ESP or FF and WFGD will be presumed to be in compliance with the emission standard requirements of § 123.205(c)(2) without additional compliance demonstrations if the design space velocity of the SCR catalyst is no more than 3000 hr⁻¹.

(3) Other technologies when the Department determines that there is sufficient data to provide a compliance presumption with the emission standard requirements of § 123.205(c)(1) or (2) without additional compliance demonstrations. The Department will publish these determinations in the *Pennsylvania Bulletin*.

(c) The Department may approve in a plan approval or operating permit, or both, an alternative mercury emission standard or schedule, or both, if the owner or operator of an EGU subject to the emission standards of § 123.205 demonstrates in writing to the Department's satisfaction that the mercury reduction requirements are economically or technologically infeasible. The owner or operator shall:

(1) Submit a plan approval application or operating permit application requesting an alternative emission

standard or schedule, or both, to the Department for approval no later than 120 days before the applicable compliance deadline.

(2) Include the following in the application:

(i) A brief description, including make, model and location of each EGU.

(ii) A list of all air pollution control technologies and measures that have been installed on each EGU and are operating to control emissions of air contaminants including mercury.

(iii) The dates of installation and commencement of operation for each of the technologies and measures required under subparagraph (ii).

(iv) An explanation of how the technology or measure was installed and if it is being operated according to the manufacturer's instructions for each of the technologies and measures required under subparagraph (ii).

(v) The results of each mercury stack test and other emissions measurements for the EGU following installation and commencement of operation of the air pollution control technologies and measures listed in accordance with subparagraph (ii).

(vi) A list of other air pollution control technologies or measures that the owner or operator proposes to install and operate on each EGU to control emissions of air contaminants including mercury.

(vii) A summary of how the owner or operator of the EGU intends to operate and maintain the unit during the term of the approved plan approval or operating permit, or both, including the associated air pollution control equipment and measures that are designed to maintain compliance with all other applicable plan approval or operating permit requirements and that are designed and operated to minimize the emissions of mercury to the extent practicable.

(viii) A proposed schedule that lists the increments of progress and the date for final compliance if an alternative compliance schedule is requested.

(ix) An emission reduction proposal and information on the technological feasibility of meeting the requirements of this section and §§ 123.205, 123.207—123.215 if an alternative emission standard is requested.

(x) Other information which the Department requests that is necessary for the approval of the application.

(d) For an EGU complying with the energy output-based mercury emission standards of § 123.205 (expressed in pounds of mercury per GWh), the actual mercury emission rate of the EGU for each 12-month rolling period, monitored in accordance with §§ 123.210—123.215 and calculated as follows, may not exceed the applicable emission standard:

$$ER = \frac{\sum_{i=1}^{12} E_i}{\sum_{i=1}^{12} O_i}$$

Where:

ER = Actual mercury emissions rate of the EGU for the particular 12-month rolling period, expressed in pounds per GWh.

E_i = Actual mercury emissions of the EGU, in pounds, in an individual month in the 12-month rolling period, as determined in accordance with the monitoring provisions.

O_i = Gross electrical output of the EGU, in GWhs, in an individual month in the 12-month rolling period.

(e) For an EGU complying with the percent control requirements of § 123.205, the actual control efficiency for mercury emissions achieved by the EGU for each 12-month rolling period, monitored in accordance with §§ 123.210—123.215 and calculated as follows, shall meet or exceed the applicable efficiency requirement:

$$CE = 100 * \{1 - (i = 1^{\sum 12} E_i \div i = 1^{\sum 12} I_i)\}$$

Where:

CE = Actual control efficiency for mercury emissions of the EGU for the particular 12-month rolling period, expressed as a percent.

E_i = Actual mercury emissions of the EGU, in pounds, in an individual month in the 12-month rolling period, as determined in accordance with the monitoring provisions of §§ 123.210—123.215.

I_i = Amount of mercury in the fuel fired in the EGU, in pounds, in an individual month in the 12-month rolling period, as determined in accordance with § 123.214 (relating to coal sampling and analysis for input mercury levels).

§ 123.207. Annual emission limitations for coal-fired EGUs.

(a) *Statewide mercury nontradable allowance program.* In addition to the mercury emission standard requirements of § 123.205 (relating to emission standards for coal-fired EGUs), the owner or operator of a new or existing affected EGU subject to § 123.203 (relating to applicability) shall comply with the annual emission limitations established through a Statewide mercury nontradable allowance program under this section.

(b) *Emission limitation set-asides.* The total ounces of mercury emissions available for emission limitation set-asides as annual nontradable mercury allowances in the Statewide mercury allowance program are:

(1) 56,960 ounces (3,560 pounds) of mercury emissions for Phase 1, effective from January 1, 2010, through December 31, 2014.

(2) 22,464 ounces (1,404 pounds) of mercury emissions for Phase 2, effective beginning January 1, 2015, and each subsequent year.

(c) *New affected EGUs.* For each calendar year beginning January 1, 2010, the Department will set aside a total number of annual nontradable mercury allowances for the owners and operators of new affected EGUs in this Commonwealth that do not yet have a baseline heat input determined in accordance with the requirements of an approved plan approval application or operating permit.

(1) The total number of annual nontradable mercury allowances set aside for the owners and operators of new affected EGUs will be equal to a percentage of the amount of ounces of mercury emissions in the Statewide mercury allowance program established in subsection (a). The percentage of set-aside is:

(i) 5% of the Phase 1 annual nontradable mercury allowances established in subsection (b)(1) for the years beginning January 1, 2010, through December 31, 2014.

(ii) 3% of the Phase 2 annual nontradable mercury allowances established in subsection (b)(2) for the calendar year beginning January 1, 2015, and subsequent years.

(2) The annual nontradable mercury allowances set aside for the owners and operators of new affected EGUs

shall be placed in the annual emission limit supplement pool established under § 123.208 (relating to annual emission limit supplement pool).

(d) *Existing affected CFBs.* For each calendar year beginning January 1, 2010, the Department will set aside for the owners and operators of existing affected CFBs a total number of annual nontradable mercury allowances from the total ounces of mercury emissions available for annual emission limit set-asides in Phase 2 of the Statewide mercury allowance program established in subsection (b)(2).

(e) *Maximum allowances set aside for CFBs.* The maximum number of annual nontradable mercury allowances set aside for the owner or operator of each existing affected CFB in accordance with subsection (d) shall be determined by multiplying the affected CFB's baseline heat input fraction of the State's total baseline annual heat input for all EGUs by the Department's Phase 2 annual mercury allowance set-aside for existing EGUs, as follows:

(1) The baseline heat input in MMBtu for each existing affected mercury allowance program CFB will be the average of the three highest amounts of annual heat input using the heat input data for the CFB from the Department's acid rain database for the calendar years 2000 through 2004.

(2) The State's annual mercury emission allowance set-aside for existing EGUs for Phase 2 is 21,790 ounces.

(f) *Existing affected PCFs.* For each calendar year beginning January 1, 2010, the Department will set aside for the owners and operators of existing affected PCFs a total number of annual nontradable mercury allowances from the total ounces of mercury emissions available for annual emission limit set-asides in Phase 1 and Phase 2 of the Statewide mercury allowance program established in subsection (b).

(g) *Maximum allowances set aside for PCFs.* The maximum number of annual nontradable mercury allowances set aside for the owner or operator of each existing affected PCF in accordance with subsection (f) shall be determined by multiplying the existing affected PCF's baseline heat input fraction of the State's total baseline annual heat input for all EGUs by the Department's annual mercury allowance set-aside for existing affected EGUs in each phase, as follows:

(1) The baseline heat input in MMBtu for each existing affected mercury allowance program PCF will be the average of the three highest amounts of annual heat input using the heat input data for the PCF from the Department's acid rain database for calendar years 2000 through 2004.

(2) The State's annual mercury emission allowance set-aside for existing EGUs is:

(i) 54,112 ounces for Phase 1.

(ii) 21,790 ounces for Phase 2.

(h) *Publication of maximum number of allowances set aside for Phase 1.* By July 1, 2009, the Department will publish in the *Pennsylvania Bulletin* the maximum number of annual nontradable mercury allowances set aside for the owner or operator of each existing affected CFB and PCF for Phase 1 of the Statewide mercury allowance program. The nontradable allowances shall only be used to demonstrate compliance with the annual emission limitation requirements.

(i) *Publication of maximum number of allowances set aside for Phase 2.* By July 1, 2014, the Department will publish in the *Pennsylvania Bulletin* the maximum number of annual nontradable mercury allowances set aside for the owner or operator of each existing affected CFB and PCF for Phase 2 of the Statewide mercury allowance program. The nontradable allowances shall only be used to demonstrate compliance with the annual emission limitation requirements.

(j) *Maximum number of allowances awarded.* By March 31 of the year following each reporting year, the Department will notify the owner or operator of each existing affected CFB and PCF, in writing, of the actual number of annual nontradable mercury allowances awarded to the owner or operator of the EGU for the reporting year.

(1) The actual number of annual nontradable mercury allowances awarded to the owner or operator of the EGU shall be based on the actual emissions reported to the Department in accordance with §§ 123.210—123.215.

(2) If the actual emissions of mercury reported to the Department in accordance with §§ 123.210—123.215 are less than the maximum number of annual nontradable mercury allowances set aside in the Statewide mercury allowance program for the owner or operator of an EGU in accordance with the requirements of either subsection (d) or (f), the Department will place the unused portion of annual nontradable mercury allowances in the annual emission limit supplement pool established under § 123.208 (relating to annual emission limit supplement pool).

(3) The unused portion of annual nontradable mercury allowances set aside under subsection (d) or (f) may not be added to the maximum number of annual nontradable mercury allowances set aside for the owner or operator of the existing affected EGU for subsequent years.

(4) The actual number of annual nontradable mercury allowances awarded to the owner or operator of the EGU may not exceed the maximum number of annual nontradable mercury allowances set aside for the owner or operator of the EGU in the Statewide mercury allowance program in accordance with subsection (d) or (f) except as provided in § 123.209 (relating to petition process).

(5) Each ounce of mercury emitted in excess of the maximum number of annual nontradable mercury allowances set aside for the owner or operator of the affected EGU in accordance with subsection (d) or (f) shall constitute a violation of this section and the act, except as provided under § 123.209.

(k) *Standby units.* Annual nontradable mercury allowances will not be set aside for the owner or operator of an existing affected EGU that is already shut down, scheduled for shutdown, or is on standby as of the effective date of each set-aside phase under subsection (d) or (f). When a standby unit is ready for normal operation, the owner and operator may petition the Department for a number of annual nontradable mercury allowances as provided under § 123.209.

(l) *Future emission limitations.* The Department may revise the percentage of set-aside used to determine the number of ounces of mercury set aside for future annual mercury emission limitations to accommodate the emissions from new EGUs so that the total number of ounces of mercury emissions in the Statewide mercury allowance program is not exceeded.

(m) *Changes in calculation of baseline heat input.* The Department may revise the percentage of set-aside used

to determine the number of ounces of mercury set aside for future annual mercury emission limitations to accommodate changes in the calculation of baseline heat input in accordance with the subsection (e) or (g) so that the total number of ounces of mercury emissions in the Statewide mercury allowance program is not exceeded.

(n) *Maintained by Department.* The Statewide mercury allowance program established under subsection (a) and the annual nontradable mercury allowances set aside for emission limitations under subsections (b)—(m) will be maintained by the Department.

(o) *Demonstration of compliance.* The owner or operator of one or more existing affected mercury allowance program EGUs subject to this section shall demonstrate compliance with the applicable requirements using one of the following methods:

- (1) Compliance on a unit-by-unit basis.
- (2) Facility-wide emissions averaging.

§ 123.208. Annual emission limit supplement pool.

(a) Effective January 1, 2010, the Department will establish an annual emission limit supplement pool to monitor annual nontradable mercury allowances that:

(1) Have been created as part of the new affected EGU set-aside under § 123.207(c) (relating to annual emission limitations for coal-fired EGUs).

(2) Are unused annual nontradable mercury allowances set aside as emission limit supplements under § 123.207(j)(2).

(b) The emission limit supplement pool of annual nontradable mercury allowances established under subsection (a) will be administered in accordance with § 123.209 (relating to petition process) by the Department.

§ 123.209. Petition process.

(a) Each calendar year beginning January 1, 2010, the owner or operator of either an existing affected EGU that emits amounts of mercury in excess of the maximum number of annual nontradable mercury allowances set aside in accordance with § 123.207 (relating to annual emission limitations for coal-fired EGUs) or a standby affected EGU that is ready for normal operation may petition the Department, in writing, for supplemental annual nontradable mercury allowances to be set aside for the owner or operator from the annual emission limit supplement pool established under § 123.208(a) (relating to annual emission limit supplement pool).

(b) The owner or operator shall submit a separate petition for each calendar year for which the owner or operator requests supplemental annual nontradable mercury allowances to be set aside from the annual emission limit supplement pool.

(c) The owner or operator with more than one affected EGU shall submit a separate petition for each EGU for which the owner or operator requests supplemental annual nontradable mercury allowances to be set aside from the annual emission limit supplement pool.

(d) The owner or operator of the existing affected EGU shall submit the petition to the Department by January 31 of the year following the calendar year for which the supplemental annual nontradable mercury allowances are requested to be set aside.

(e) The owner or operator of the standby affected EGU shall submit the petition to the Department no later than 120 days before the date of anticipated start-up of the EGU.

(f) The petition must include the following:

(1) A brief description, including make, model and location of each affected EGU.

(2) A list of all air pollution control technologies and measures that have been installed on each affected EGU and are operating to control emissions of air contaminants, including mercury.

(3) For each of the technologies and measures listed in accordance with paragraph (2), the date of installation and original commencement of operation.

(4) For each of the technologies and measures listed in accordance with paragraph (2), an explanation of how the mercury control technology or measure as installed has been optimized for the maximum mercury emission reduction.

(5) The results of each mercury stack test and other emissions measurements for the affected EGU following installation and commencement of operation of the air pollution control technologies and measures listed in accordance with paragraph (2).

(6) A list of other air pollution control technologies or measures that the owner or operator proposes to install and operate on each affected EGU to control emissions of air contaminants, including mercury.

(7) A summary of how the owner or operator of the affected EGU intends to operate and maintain the EGU during the term of the approved plan approval or operating permit, or both, including the associated air pollution control equipment and measures that are designed to maintain compliance with all other applicable plan approval or operating permit requirements and that are designed and operated to minimize the emissions of mercury to the extent practicable.

(g) Each calendar year beginning January 1, 2010, the Department may set aside at its discretion supplemental annual nontradable mercury allowances from the annual emission limit supplement pool established under § 123.208(a) for the owners or operators of existing affected EGUs that successfully petition the Department in accordance with this section, to be distributed in the following order of preference:

(1) Each owner or operator of a standby unit as defined under § 123.202 (relating to definitions).

(2) Each owner or operator of an existing affected EGU that is a CFB combusting 100% waste coal or bituminous coal along with any approved noncoal fuels.

(3) Each owner or operator of an existing affected EGU combusting 100% bituminous coal that is controlled by an air pollution control device configuration of SCR, CS-ESP or FF, WFGD and mercury-specific control technology.

(4) Each owner or operator of an existing affected EGU combusting 100% bituminous coal that is controlled by an air pollution control device configuration of SCR, CS-ESP or FF and WFGD.

(5) Each owner or operator of an existing affected EGU combusting 100% bituminous coal that is controlled by an air pollution control device configuration of WFGD and mercury-specific control technology.

(6) Each owner or operator of an existing affected EGU combusting 100% bituminous coal that is controlled by an air pollution control device configuration of CS-ESP or FF and WFGD.

(7) Each owner or operator of an existing affected EGU based on the air pollution control technologies and mea-

asures that have been installed and are operating to control emissions of air contaminants, including mercury.

(h) If the petition for supplemental annual nontradable mercury allowances is approved by the Department, the supplemental annual nontradable mercury allowances set aside for the owner or operator of the existing affected EGU will be added to the maximum number of annual nontradable mercury allowances set aside for the owner or operator of the EGU in accordance with § 123.207 only for the calendar year of the request.

(i) The supplemental annual nontradable mercury allowances set aside under subsection (h) may not be added to the maximum number of annual nontradable mercury allowances set aside for the owner or operator of the EGU for subsequent years.

§ 123.210. General monitoring and reporting requirements.

(a) The owner or operator of a new EGU subject to the requirements of this section and §§ 123.201—123.209 and 123.211—123.215 shall demonstrate compliance with §§ 123.205 and 123.207 (relating to emission standards for coal-fired EGUs; and annual emission limitations for coal-fired EGUs) by installing and operating a continuous emissions monitoring system to measure, record and report the concentration of mercury in the exhaust gases from each stack.

(b) Except as provided in subsection (c), the owner or operator of an existing affected EGU shall comply with the monitoring, recordkeeping and reporting requirements as provided in this section and, §§ 123.211—123.215 and § 139.101 (relating to general requirements) and the applicable provisions of the *Continuous Source Monitoring Manual* (DEP 274-0300-001). For purposes of complying with these requirements, the definitions in § 123.202 (relating to definitions) and in 40 CFR 72.2 (relating to definitions) apply.

(c) For an affected EGU that emits 464 ounces (29 lbs) or less of mercury per year, the owner or operator of the affected EGU:

(1) Shall meet the general operating requirements in 40 CFR 75.10 (relating to general operating requirements) for the continuous emission monitors described in 40 CFR 75.81(a)(2) and (4) (relating to monitoring of Hg mass emissions and heat input at the unit level).

(2) Shall perform mercury emissions testing for the initial certification and ongoing quality assurance as described in 40 CFR 75.81(c)—(e).

(3) May demonstrate compliance with the percent control requirements by averaging the coal mercury content and stack emission data collected during the rolling 12-month period.

(d) The owner or operator of each EGU shall:

(1) Install all monitoring systems required under this section and §§ 123.211—123.215 and the applicable provisions of Chapter 139, Subchapter C (relating to requirements for continuous in-stack source monitoring for stationary sources), for monitoring mercury mass emissions (including all systems required to monitor mercury concentration, stack gas moisture content, stack gas flow rate and CO₂ or O₂ concentration, as applicable, in accordance with 40 CFR 75.81 and 75.82 (relating to monitoring of Hg mass emissions and heat input at common and multiple stacks).

(2) Successfully complete the certification tests required under § 123.211 (relating to initial certification

and recertification procedures for emissions monitoring) and meet the other requirements of this section and §§ 123.211—123.215 that are applicable to the monitoring systems required under paragraph (1).

(e) The owner or operator shall comply with the monitoring system certification and other requirements of subsection (d) on or before the later of:

(1) March 1, 2009.

(2) Ninety EGU operating days or 180 calendar days, whichever occurs first, after the date on which the EGU commences commercial operation.

(f) The owner or operator shall record, report and quality-assure the data from the monitoring systems required under subsection (d)(1) on and after the later of:

(1) March 1, 2009.

(2) Ninety EGU operating days or 180 calendar days, whichever occurs first, after the date on which the EGU commences commercial operation.

(g) The owner or operator of an EGU that does not meet the applicable monitoring date in subsections (e) and (f) for any monitoring system required under subsection (d)(1) shall, for each monitoring system, determine, record and report maximum potential (or, as appropriate, minimum potential) values for:

(1) Mercury concentration.

(2) Stack gas flow rate.

(3) Stack gas moisture content.

(4) Other parameters required to determine mercury mass emissions in accordance with 40 CFR 75.80(g) (relating to general provisions).

(h) The owner or operator of an EGU that does not meet the applicable monitoring date in subsections (e) and (f) for a monitoring system required under subsection (d)(1) shall, for each monitoring system, determine, record and report substitute data using the applicable missing data procedures in 40 CFR 75.80(f) instead of the maximum potential (or, as appropriate, minimum potential) values for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation of the monitoring systems required under subsection (d)(1).

(i) An owner or operator of an affected EGU may not use any alternative monitoring system, alternative reference method or any other alternative to the requirements of this section and §§ 123.211—123.215 unless the alternative is approved in writing by the Department.

(j) An owner or operator of an affected EGU may not operate the EGU so as to discharge or allow to be discharged mercury emissions to the atmosphere without accounting for all of the emissions in accordance with the applicable provisions of this section, §§ 123.211—123.215 and Chapter 139, Subchapter C.

(k) An owner or operator of an affected EGU may not disrupt the continuous emission monitoring system or portion of it or other approved emission monitoring method to avoid monitoring and recording mercury mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this section, §§ 123.211—123.215 and Chapter 139, Subchapter C.

(l) An owner or operator of an affected EGU may not retire or permanently discontinue use of the continuous emission monitoring system or component of it or other approved monitoring system required under this section and §§ 123.211—123.215, except under either of the following circumstances:

(1) The owner or operator is monitoring emissions from the affected EGU with another certified monitoring system that has been approved by the Department, in writing, for use at that EGU and that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system, in accordance with the applicable provisions of this section, §§ 123.211—123.215 and Chapter 139, Subchapter C.

(2) The owner or operator submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with § 123.211(a)(5)(i) (relating to initial certification and recertification procedures for emissions monitoring) and a complete certification application in accordance with § 123.211(a)(5)(ii).

§ 123.211. Initial certification and recertification procedures for emissions monitoring.

(a) By the applicable deadline specified in § 123.210(e) and (f) (relating to general monitoring and reporting requirements), the owner or operator of an affected EGU shall comply with the following initial certification and recertification procedures for a continuous monitoring system (continuous emission monitoring system) and an excepted monitoring system (sorber trap monitoring system) as required under 40 CFR 75.15 (relating to special provisions for measuring Hg mass emissions using the excepted sorber trap monitoring methodology) and Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources):

(1) The owner or operator of the EGU shall ensure that each continuous monitoring system required by the applicable provisions of § 123.210 successfully completes all of the initial certification testing required under 40 CFR 75.80(d) (relating to general provisions) and Chapter 139, Subchapter C.

(2) If the owner or operator of the EGU installs a monitoring system to meet the requirements of this section and §§ 123.210 and 123.212—123.215 in a location where no monitoring system was previously installed, initial certification testing is required in accordance with the applicable provisions of 40 CFR 75.80(d) and Chapter 139, Subchapter C.

(3) If the owner or operator of the EGU makes a replacement, modification or change to a certified continuous emission monitoring system or excepted monitoring system (sorber trap monitoring system) required by § 123.210 that may significantly affect the ability of the system to accurately measure or record mercury mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.81 (relating to monitoring of Hg mass emissions and heat input at the unit level) or 40 CFR Part 75, Appendix B (relating to quality assurance and quality control procedures), the monitoring system for the EGU shall be recertified in accordance with 40 CFR 75.20(b) (relating to initial certification and recertification procedures) and Chapter 139, Subchapter C.

(4) If the owner or operator of the EGU makes a replacement, modification or change to the flue gas handling system or the operation of the EGU that may significantly change the stack gas flow or concentration

profile, the owner or operator shall recertify each continuous emission monitoring system and each excepted monitoring system (sorbent trap monitoring system) whose accuracy is potentially affected by the change in accordance with 40 CFR 75.20(b) and Chapter 139, Subchapter C.

(5) This subsection applies to both the initial certification and recertification procedures of a continuous monitoring system required by § 123.210. For recertifications, replace the words “certification” and “initial certification” with the word “recertification,” replace the word “certified” with the word “recertified,” and follow the procedures required under 40 CFR 75.20(b)(5) or Chapter 139, Subchapter C as directed by the Department instead of the following procedures:

(i) The owner or operator shall submit to the Department written notice of the dates of certification testing.

(ii) The owner or operator shall submit to the Department a certification application for each monitoring system. A complete certification application shall include the information specified in Chapter 139, Subchapter C.

(iii) If the Department issues a notice of disapproval of a certification application or a notice of disapproval of certification status, the owner or operator shall:

(A) Substitute, for each disapproved monitoring system, for each hour of EGU operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii) or 75.21(e) (relating to quality assurance and quality control procedures) and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i), either the following values or, if approved by the Department in writing, an alternative emission value that is more representative of actual emissions that occurred during the period:

(I) For a disapproved mercury pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of mercury and the maximum potential flow rate, as defined in Sections 2.1.4.1 and 2.1.7.1 of 40 CFR Part 75, Appendix A (relating to specifications and test procedures).

(II) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration (as applicable), as defined in Sections 2.1.3.1, 2.1.3.2 and 2.1.5 of 40 CFR Part 75, Appendix A.

(III) For a disapproved excepted monitoring system (sorbent trap monitoring system) under 40 CFR 75.15 and disapproved flow monitor, respectively, the maximum potential concentration of mercury and maximum potential flow rate, as defined in Sections 2.1.4.1 and 2.1.7.1 of 40 CFR Part 75, Appendix A.

(B) Submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (i) and (ii).

(C) Repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department’s notice of disapproval, within the time period specified by the Department in the notice of disapproval.

(b) The owner or operator shall submit a certification application to the Department within 45 calendar days after completing all initial certification or recertification tests required under this section.

§ 123.212. Out-of-control periods for emissions monitors.

(a) If an emissions monitoring system fails to meet the quality-assurance and quality-control requirements or data-validation requirements of Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources), data for the demonstration of compliance with § 123.207 (relating to annual emission limitations for coal-fired EGUs) shall be substituted using the applicable missing data procedures in the *Continuous Source Monitoring Manual* (DEP 274-0300-001).

(b) If both an audit of a monitoring system and a review of the initial certification or recertification application reveal that a monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under § 123.210 (relating to general monitoring and reporting requirements) or the applicable provisions of 40 CFR Part 75 (relating to continuous emission monitoring), both at the time of the initial certification or recertification application submission and at the time of the audit, the Department will issue a notice of disapproval of the certification status of the monitoring system.

(1) For the purposes of this subsection, an audit must be either a field audit or an audit of information submitted to the Department.

(2) By issuing the notice of disapproval, the Department revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system will not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system.

(3) The owner or operator shall follow the applicable initial certification or recertification procedures in § 123.210 for each disapproved monitoring system.

§ 123.213. Monitoring of gross electrical output.

The owner or operator of an EGU complying with the requirements of either § 123.206(d) (relating to compliance requirements for the emission standards for coal-fired EGUs) using electrical output (O_i) or § 123.206(e) using percent control efficiency shall monitor gross electrical output of the associated generators and report in watt-hours per hour.

§ 123.214. Coal sampling and analysis for input mercury levels.

(a) Except as provided in § 123.210(c) (relating to general monitoring and reporting requirements), the owner or operator of an EGU complying with this section and §§ 123.201—123.213 and 123.215 shall:

(1) Perform daily sampling of the coal combusted in the EGU for mercury content, in pounds per trillion Btu, as follows:

(i) Collect coal samples from the feeders or other representative location in accordance with 40 CFR 63.7521(c) (relating to what fuel analyses and procedures must I use?).

(ii) Composite coal samples in accordance with the requirements of 40 CFR 63.7521(d).

(2) Analyze each of the composited coal samples for mercury content in accordance with the procedures of ASTM D 6414-01 or the current revision of this method, or other alternative as approved by the Department.

(b) The owner or operator of an EGU shall use the data collected from the sampling and analysis required under subsection (a) to determine the input mercury content of the coal combusted in the EGU in terms of pounds of mercury per trillion Btu.

(c) The Department may change the frequency of the sampling and analysis of the coal combusted in the EGU for the input mercury level based on historical data provided by the owner or operator of the EGU. The change in the frequency will be approved by the Department as a minor modification to the Title V operating permit.

§ 123.215. Recordkeeping and reporting.

(a) The owner or operator of an affected EGU shall comply with the recordkeeping and reporting requirements in this section and the applicable recordkeeping and reporting requirements of 40 CFR 75.84 (relating to recordkeeping and reporting) and Chapter 139, Subchapter C (relating to requirements for source monitoring for stationary sources).

(b) The owner or operator of an affected EGU complying with this section and §§ 123.201—123.214 through the requirements of § 123.206(d) (relating to compliance requirements for the emission standards for coal-fired EGUs) by using electrical output to determine the allowable emissions of the EGU shall maintain the daily gross electrical output in GWhs in the file required under 40 CFR 75.84(a).

(c) The owner or operator of an affected EGU complying with this section and §§ 123.201—123.214 through the requirements of § 123.206(e) by using input mercury levels to determine the allowable emissions of the EGU shall maintain the daily mercury content of coal used in pounds of mercury per trillion Btu and the daily input mercury content in pounds in the file required under 40 CFR 75.84(a).

(d) Except as provided in § 123.210(c) (relating to general monitoring and reporting requirements), the owner or operator of an affected EGU shall maintain records as follows:

(1) Record the daily outlet mercury or output mercury data using the time period appropriate to the excepted methodology (sorvent trap monitoring system).

(2) If using an averaging methodology, record all other information collected on a daily basis necessary to calculate the average.

(3) Record for each 12-month compliance demonstration period the method through which each EGU demonstrated compliance.

(4) For an owner or operator who uses the averaging option of § 123.206(a)(2), calculate and record:

(i) The monthly actual mercury emissions within 30 days of the end of each month.

(ii) The 12-month rolling actual emissions each month.

(5) Maintain the following records onsite:

(i) The results of quarterly assessments conducted under Section 2.2 of 40 CFR Part 75, Appendix B (relating to quality assurance and quality control procedures).

(ii) Daily/weekly system integrity checks under Section 2.6 of 40 CFR Part 75, Appendix B.

(iii) Quality assurance records as required by the *Continuous Source Monitoring Manual* (DEP 274-0300-001).

(6) Make available to the Department upon request the records required under paragraph (5).

(e) The owner or operator shall submit quarterly reports to the Department in accordance with the *Continuous Source Monitoring Manual* (DEP 274-0300-001).

[Pa.B. Doc. No. 06-1193. Filed for public inspection June 23, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 1187 AND 1189]

Nursing Facility Services; County Nursing Facility Services

The Department of Public Welfare (Department) amends Chapter 1187 (relating to nursing facility services) and adds Chapter 1189 (relating to county nursing facility services) to read as set forth in Annex A under the authority of sections 201(2), 206(2), 403(b) and 443.1(5) of the Public Welfare Code (code) (62 P. S. §§ 201(2), 206(2), 403(b) and 443.1(5)(iii)), as amended by the act of July 7, 2005 (P. L. 177, No. 42) (Act 42).

Act 42 amended, among other things, provisions of the code regarding payment for nursing facility services under the Medical Assistance (MA) Program. More specifically, Act 42 added subparagraph (iii) to § 443.1(5) of the code. This subparagraph authorizes the Department to adopt regulations specifying the methods and standards that the Department will use to set rates and make payments for nursing facility services effective July 1, 2006. This section also specifies that, until June 30, 2006, notwithstanding any other provision of law, including section 814-A of the code (62 P. S. § 814-A), provider payment rate regulations effective July 1, 2006, must be promulgated under section 204(1)(iv) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iv)), act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law (CDL), which permits an agency to omit or modify proposed rulemaking when the regulation pertains to Commonwealth grants or benefits. Furthermore, under section 204(3) of the CDL, any delay in the effective date of this final-omitted rulemaking beyond July 1, 2006, would be impracticable and contrary to the public interest since it would violate the requirement of section 443.1(5) of the code. In addition, section 443.1 of the code expressly exempts these provider payment rate regulations from review under the Regulatory Review Act (71 P. S. §§ 745.1—745.15) and from review by the Attorney General under section 205 of the CDL (45 P. S. § 1205) and section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)).

Justification for Adoption of Final-Omitted Rulemaking

In accordance with sections 443.1(5)(iii) of the code, the Department is adopting the final-omitted rulemaking because:

- As recognized by section 443.1(5)(iii) of the code, the final-omitted rulemaking relates to MA provider payments, which are Commonwealth grants or benefits.
- The final-omitted rulemaking relates to payments for MA nursing facility services provided on or after July 1, 2006.

Purpose

The purposes of this final-omitted rulemaking are to institute a new rate-setting methodology for county-owned nursing facilities that are enrolled in the MA Program as providers of nursing facility services (county nursing facilities) and to modify the rate-setting methodology for all other enrolled providers of nursing facility services (nursing facilities), effective as of July 1, 2006.

Background

In January 1996, the Department implemented the current case-mix payment methodology for nursing facilities participating in the MA Program. See 25 Pa.B. 4477 (October 14, 1995). The purpose of the case-mix payment system was to establish a prospective payment system that would both serve the needs of the Commonwealth's MA nursing facility residents and promote the economic and efficient operation of MA nursing facilities. The system was intended to encourage MA nursing facilities to admit and provide care for individuals who require higher levels of care and to channel a higher level of MA funds to activities involving direct resident care activities, and to provide for an environment of economic predictability and moderate increases in MA Program expenditures.

Over the past 10 years the Department has monitored and evaluated the case-mix payment system to determine whether the initial objectives of the system have been realized and whether modifications to the system are needed. The Department has found that the current case-mix payment system, as designed, has not adequately fulfilled the objective of moderating MA Program costs. To the contrary, since the case-mix payment system was implemented in 1996, MA nursing facility payment rates have risen more than 56% and, since 2000, have increased by 27.4% overall. During this same period, expenditures for MA nursing facility services have grown to nearly \$3 billion and expenditures for MA services to the elderly and disabled now consume approximately 70% of the \$14 billion MA Program budget.

The amendments to Chapter 1187 refine the case-mix payment system so that it can better achieve its original intended objective of serving the needs of this Commonwealth's MA nursing facility residents while providing for reasonable and adequate payments to MA nursing facility providers and, at the same time, establishing a mechanism that permits the controlled expansion of public expenditures. In addition, the amendments support the balancing of long-term care by encouraging consumer choice in long-term care services.

The addition of Chapter 1189 as the exclusive mechanism for reimbursing county nursing facilities will permit the Department to receive matching Federal funds for all allowable public expenditures made on behalf of MA residents in county nursing facilities. Under Chapter 1187, matching Federal funds are only received for payments made by the Department to the county nursing facilities. Under Chapter 1187, if a county nursing facility incurs costs that exceed its MA payments, there is no mechanism for obtaining matching Federal funds for those costs. As a result, inclusion of county nursing facilities in Chapter 1187 has caused the Commonwealth to receive less in matching Federal funds than it is eligible to receive. The function of Chapter 1189 is to permit the Commonwealth to qualify for the maximum amount of matching Federal funds on public expenditures made to provide services to MA residents of county nursing facilities.

An overview and explanation of the major regulatory changes adopted by this final-omitted rulemaking follows.

Chapter 1187—Requirements

Definitions

The final-omitted rulemaking adds definitions for "CMI Report," "initial Federally-approved PA specific MDS" and

“Resident Data Reporting Manual” and amended the definitions of “county nursing facility,” “hospital-based nursing facility,” “Medicare Provider Reimbursement Manual” and “nursing facility.”

Removal of County Nursing Facilities from the Case-Mix Payment System

As discussed as follows, the final-omitted rulemaking creates a new payment methodology for county nursing facilities which will be in Chapter 1189. Corresponding amendments to Chapter 1187 make the case-mix payment system applicable solely to nonpublic nursing facilities. To mitigate the impact of these changes on the rates of nonpublic nursing facilities, the final-omitted rulemaking also provides that the case-mix payment system in Chapter 1187 will continue to include county nursing facilities in the process of computing the peer group prices used to set per diem rates for nonpublic facilities for the 2006-2007 and 2007-2008 rate years.

Resident Assessment Submission Requirements

Under the case-mix payment system, the Department uses resident assessment data to issue reports to nursing facilities each calendar quarter that identify the resident acuity information for the calendar quarter picture date that will be used in the case-mix rate-setting process. Nursing facilities review the reports and may submit corrections to the resident assessment data used to generate the reports and eventually certify that the information in the report is accurate for the picture date. Prior to this final-omitted rulemaking, the reports for all 4 quarters included acuity information for the MA residents of the nursing facilities on the four picture dates. However, only the first quarter report for the February picture date included acuity information for all residents of the nursing facilities, regardless of payor source. This final-omitted rulemaking changes the quarterly reporting and verification requirements for the second, third and fourth calendar quarters to include resident acuity information for all nursing facility residents on the picture date, rather than only MA residents. The additional data for the non-MA residents collected from the Case-Mix Index (CMI) report will be used for analysis purposes only and will not be used in the rate-setting process.

The final-omitted rulemaking also clarifies which residents are included in the CMI report for quarterly reporting purposes.

Early Notification

As a condition of participating as providers in the Medicare and Medicaid Programs, nursing facilities are required to submit various resident assessment records and tracking forms using the Federally-approved PA Specific MDS. This final-form rulemaking requires nursing facilities to submit the initial Federally-approved PA Specific MDS record for each resident admitted to the facility within 7 calendar days of the completion of the assessment record. Through this prompt notification of a resident's admission to a nursing facility, the Department will be able to educate residents on their long-term care options while their housing is still available for their return or transition into the community, before they and their caregivers have become acclimated to the facility environment and before they lose their social supports in the community.

Cost Neutrality

The final-omitted rulemaking authorizes the Department to apply a budget adjustment factor (BAF) in setting quarterly rates for nursing facilities for the 2006-

2007 and 2007-2008 rate years. The BAF will be based on the funding that is appropriated for nursing facility services in the General Appropriations Act and will be determined in accordance with a formula specified in the Commonwealth's approved State Plan. For Fiscal Year (FY) 2006-2007, 19.1074% of the amount included in the General Appropriations Act for nursing facility per diem payments will be available for reimbursing county nursing facilities and 80.8926% will be available for nonpublic nursing facilities.

Chapter 1189—Requirements

Subchapter A. General Provisions

Chapter 1189 establishes a new rate-setting and payment methodology for county nursing facilities. However, it also incorporates Chapter 1187, Subchapters B—D, I and K.

The terms defined in Chapter 1187 are also incorporated into the regulations for county nursing facilities in Chapter 1189. In addition, § 1189.2 (relating to definitions) sets forth a few additional terms specific to Chapter 1189.

Subchapter B. Allowable Program Costs and Policies

The final-omitted rulemaking adds § 1189.51 (relating to allowable costs) to identify the costs incurred by county nursing facilities that are recognized as allowable for MA Program purposes. The intent of this section is to define allowable county nursing facility costs in a manner that will enable the Commonwealth to obtain additional Federal matching funds for the necessary and reasonable expenditures incurred by county nursing facilities in the course of providing services to their MA residents.

The final-omitted rulemaking also adds provisions in this subchapter that ensure that county nursing facilities act as prudent purchasers and that relate to cost allocation, changes in bed complements during a cost reporting period and related-party transactions. These provisions are based on analogous requirements in Chapter 1187 and impose no new obligations on county nursing facilities.

Subchapter C. Cost Reporting and Audit Requirements

The final-omitted rulemaking adds provisions in this subchapter that set forth the requirements that county nursing facilities must meet regarding the submission of acceptable cost reports, the exhaustion of Medicare Part B and reporting of Medicare Part B costs and the management of resident personal funds. The final-omitted rulemaking also specifies the auditing standards that will be used in auditing county nursing facility resident personal fund accounts and MA cost reports. These provisions are based on analogous requirements in Chapter 1187 and impose no new obligations on county nursing facilities.

Subchapter D. Rate Setting

The final-omitted rulemaking adds provisions in this subchapter that specify how per diem rates are set for county nursing facilities. Generally, under these provisions, the Department will calculate a county nursing facility's per diem rate for rate year 2006-2007 by taking the facility's April 1, 2006, case-mix rate, multiplied by a BAF as determined in accordance with a formula set forth in the Commonwealth's approved State Plan. For rate years beginning on or after July 1, 2007, the Department will determine a county nursing facility's per diem rate by taking the facility's prior rate year per diem rate multiplied by the BAF as determined by the formula

in the Commonwealth's approved State Plan. County nursing facilities may also be eligible for various incentive payments based on the requirements in § 1189.105 (relating to incentive payments).

Subchapter E. Payment Conditions, Limitations and Adjustments

The final-omitted rulemaking adds provisions in this subchapter that incorporate the requirements in §§ 1187.101—1187.106 and 1187.116. These provisions impose no new obligations on county nursing facilities.

The final-omitted rulemaking also adds provisions in § 1189.105 which authorize additional payments to qualifying county nursing facilities in the form of disproportionate share and pay for performance incentive payments. The disproportionate share incentive payment provisions are based on analogous provisions in Chapter 1187, except that the amounts identified in subsection (a)(2) are based on the most recent disproportionate share payments that were made to qualifying nursing facilities for the FY ending June 30, 2005, cost reports.

Subchapter F. Right of Appeal

The final-omitted rulemaking includes provisions in this subchapter outlining the situations in which a county nursing facility may file an appeal and explains the requirements that the facility must meet when filing an appeal.

Disproportionate Share Incentive Payments

The double disproportionate share provisions have been extended through June 30, 2009, for Chapters 1187 and 1189 in accordance with Intergovernmental Transfer agreements and the Commonwealth's approved State Plan.

Affected Individuals and Organizations

This final-omitted rulemaking affects nonpublic and county nursing facilities enrolled in the MA Program. The final-omitted rulemaking institutes a new rate-setting methodology for county nursing facilities and amends the rate-setting methodology for other enrolled providers of nursing facility services (nursing facilities), effective as of July 1, 2006.

Accomplishments and Benefits

This final-omitted rulemaking benefits Commonwealth residents by assuring that, upon admission to a county or nonpublic nursing facility, they are promptly given information that will enable them to determine whether home and community-based services are an appropriate alternative to institutional long term care services.

This final-omitted rulemaking further assures that county MA nursing facility residents will continue to have access to medically necessary nursing facility services, particularly MA day one eligible residents, by moderating the rate at which long-term care expenditures increase, and enhancing the Commonwealth's ability to obtain matching Federal funds on the full amount of allowable MA program public expenditures.

Fiscal Impact

The change in payment rates, effective July 1, 2006, and the quarterly case-mix adjustments are estimated to cost the Department \$120.374 million (\$30.918 million in State funds) in FY 2006-2007.

Paperwork Requirements

Implementation of this final-omitted rulemaking may result in minimal additional paperwork for the MA nonpublic nursing facilities, MA county nursing facilities and the Department.

Public Process

Federal law requires that the Department undertake a public process whenever it proposes to change how it sets payment rates for nursing facility services so that providers, consumers and other concerned State residents have a reasonable opportunity to comment on the Department's proposed changes. See section 1396a(a)(13)(A) of the Social Security Act (42 U.S.C.A. § 1396a(a)(13)(A)). In compliance with this Federal requirement, the Department has taken several steps to solicit input from affected stakeholders and the public.

The Department sought advice on how it should amend its nursing facility payment system at the Long-Term Care Subcommittee of the Medical Assistance Advisory Committee on March 3, 2006, and April 12, 2006, and the Consumer Subcommittee meeting on March 22, 2006.

In addition, from late December 2005 through late June 2006, the Department met with representatives of the four nursing facility associations: Pennsylvania Health Care Association (PHCA), Hospital and Healthsystem Association of Pennsylvania (HAP), Pennsylvania Association of Non-Profit Homes for the Aging (PANPHA) and Pennsylvania Association of County Affiliated Homes (PACAH) on numerous occasions both before and after publication of a public notice to confer with, solicit and obtain input and recommendations on how the Department might best improve the case-mix payment system and contain the steady inflation of nursing facility payment rates. The Department also discussed the changes at a PACAH conference on April 26, 2006, with PHCA members on May 3, 2006, with HAP's long-term care providers on May 12, 2006, with the Pennsylvania Association of Area Agencies on Aging on February 15, 2006, and with Pennsylvania Home Care Association on June 2, 2006, as well as with various individual nursing facilities throughout the process.

As the public process took place, the Department continued to consider and make refinements in the methodology that would be used to set nursing facility payment rates and implement other changes to the system. On April 13, 2006, the Department met with and shared the latest rate-setting model with the four nursing facility associations. In early May and early June 2006, the Department met with the four associations as well as legislative staff to discuss the proposed rate-setting methodology. As a result of these discussions, the Department made additional changes to the rate-setting model.

The Department published an advance public notice at 36 Pa.B. 1804 (April 15, 2006) in which it announced its intent to amend its State Plan to change its methods and standards for payment of MA nursing facility services provided by nonpublic nursing facilities beginning FY 2006-2007 and invited interested persons to comment on the proposed amendment.

The Department also published an advance public notice at 36 Pa.B. 1803 (April 15, 2006) in which it announced its intent to amend its State Plan to change its methods and standards for payment of MA nursing facility services provided by county nursing facilities beginning FY 2006-2007 by implementing a new regulation specific to county nursing facilities, and invited interested persons to comment on the proposed amendments.

The Department also held public hearings throughout this Commonwealth to educate the public and solicit comments regarding amendments to Chapter 1187 for nonpublic nursing facilities and the addition of Chapter

1189 for county nursing facilities. The meetings were held in Harrisburg on April 17, 2006; in Pittsburgh on April 18, 2006; in Sharon on April 19, 2006; two meetings in State College on April 20, 2006; in Scranton on April 21, 2006; in Philadelphia on April 25, 2006; in Lancaster on April 27, 2006; and two meetings in Allentown on April 28, 2006.

In response to the notice to amend Chapter 1187, the Department received a total of 30 comment letters and 102 statements were presented both orally and in writing at the public hearings. The Department received three comment letters and nine statements concerning the notice published at 36 Pa.B. 1803 regarding a separate reimbursement system for county nursing facilities. In addition, although not required by Act 42, the Department shared this final-omitted rulemaking with the associations and legislative staff on June 9, 2006, prior to publication in the *Pennsylvania Bulletin*.

Through these various efforts, the Department obtained thoughtful, substantive comments and recommendations. The Department considered all of that input in the course of developing this final-omitted rulemaking. More detailed information on these comments and recommendations and the Department's responses to them are posted on the Department's website at www.dpw.state.pa.us/omap/provinf/ltc/omapltc.asp.

Sunset Date

There is no sunset date for Chapter 1187. Section 1189.108 (relating to county nursing facility supplementation payments) sunsets on June 30, 2009. There is no sunset date for the remainder of Chapter 1189. However, the Department will review the effectiveness of Chapters 1187 and 1189 as part of its continuing discussions with the nursing facility industry, consumers and other stakeholders and evaluate the need for further amendments.

Regulatory Review Act

Under section 443.1(5)(iii) of the code, this final-omitted rulemaking is not subject to review under the Regulatory Review Act.

Order

The Department finds that:

(1) Notice of proposed rulemaking is omitted in accordance with section 204(1)(iv) and (3) of the CDL and 1 Pa. Code § 7.4(1)(iv) and (3) because this final-omitted rulemaking relates to Commonwealth grants and benefits.

(2) The adoption of this final-omitted rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the code.

(3) Any delay in the effective date of this final-omitted rulemaking beyond July 1, 2006, would be impracticable and contrary to the public interest since it would violate the requirement of section 443.1(5) of the code.

Order

The Department, acting under sections 201(2), 206(2), 403(b) and 443.1(5) of the code, orders that:

(a) The regulations of the Department, 55 Pa. Code, are amended by amending §§ 1187.1, 1187.2, 1187.22, 1187.31—1187.33, 1187.51, 1187.91, 1187.93, 1187.95—1187.97, 1187.103 and 1187.111; by deleting § 1187.116; and by adding §§ 1187.98, 1189.1—1189.3, 1189.51—1189.55, 1189.71—1189.75, 1189.91, 1189.92, 1189.101—1189.108 and 1189.141 to read as set forth in Annex A,

with ellipses referring to the existing text of the regulations, contingent upon approval of the State Plan amendment.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect July 1, 2006. Sections 1187.22(18) and 1187.33(a) (relating to ongoing responsibilities of nursing facilities; and resident data and picture date reporting requirements) shall take effect October 1, 2006.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-507. (1) General Fund; (2) Implementing Year 2006-07 is \$30.918 million; (3) 1st Succeeding Year 2007-08 is \$37.694 million; 2nd Succeeding Year 2008-09 is \$37.694 million; 3rd Succeeding Year 2009-10 is \$37.694 million; 4th Succeeding Year 2010-11 is \$37.694 million; 5th Succeeding Year 2011-12 is \$37.694 million; (4) 2004-05 Program—\$476.116 million; 2003-04—\$588.528 million; 2002-03—\$250.568 million; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1187. NURSING FACILITY SERVICES

Subchapter A. GENERAL PROVISIONS

§ 1187.1. Policy.

(a) This chapter applies to nursing facilities, and to the extent specified in Chapter 1189 (relating to county nursing facility services), to county nursing facilities.

(b) This chapter governs MA payments to nursing facilities on the basis of the Commonwealth's approved State Plan for reimbursement.

(c) The MA Program provides payment for nursing facility services provided to eligible recipients by enrolled nursing facilities. Payment for services is made subject to this chapter and Chapter 1101 (relating to general provisions).

(d) Extensions of time will be as follows:

(1) The time limits established by this chapter for the filing of a cost report, resident assessment data, an appeal or an amended appeal cannot be extended, except as provided in this section.

(2) Extensions of time in addition to the time otherwise prescribed for nursing facilities by this chapter with respect to the filing of a cost report, resident assessment data, an appeal or an amended appeal may be permitted only upon a showing of fraud, breakdown in the Department's administrative process or an intervening natural disaster making timely compliance impossible or unsafe.

(3) This subsection supersedes 1 Pa. Code § 31.15 (relating to extensions of time).

§ 1187.2. Definitions.

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

* * * * *

CMI Report—A report generated by the Department from submitted resident assessment records and tracking forms and verified by a nursing facility each calendar quarter that identifies the total facility and MA CMI average for the picture date, the residents of the nursing facility on the picture date and the following for each identified resident:

- (i) The resident's payor status.
- (ii) The resident's RUG category and CMI.
- (iii) The resident assessment used to determine the resident's RUG category and CMI and the date and type of the assessment.

* * * * *

County nursing facility—

- (i) A long-term care nursing facility that is:
 - (A) Licensed by the Department of Health.
 - (B) Enrolled in the MA program as a provider of nursing facility services.
 - (C) Controlled by the county institution district or by county government if no county institution district exists.
- (ii) The term does not include intermediate care facilities for the mentally retarded controlled or totally funded by a county institution district or county government.

* * * * *

Fixed property—Land, land improvements, buildings including detached buildings and their structural components, building improvements, and fixed equipment located at the site of the licensed nursing facility that is used by the nursing facility in the course of providing nursing facility services to residents. Included within this term are heating, ventilating, and air-conditioning systems and any equipment that is either affixed to a building or structural component or connected to a utility by direct hook-up.

Hospital-based nursing facility—A nursing facility that was receiving a hospital-based rate as of June 30, 1995, and is:

- (i) Located physically within or on the immediate grounds of a hospital.
- (ii) Operated or controlled by the hospital.
- (iii) Licensed or approved by the Department of Health and meets the requirements of 28 Pa. Code § 101.31 (relating to hospital requirements) and shares support services and administrative costs of the hospital.

* * * * *

Initial Federally-approved PA Specific MDS—The first assessment or tracking form completed for a resident upon admission.

* * * * *

Medicare Provider Reimbursement Manual (Centers for Medicare and Medicaid Services (CMS) Pub. 15-1)—Guidelines and procedures for Medicare reimbursement.

* * * * *

Nursing facility—

- (i) A long-term care nursing facility, that is:
 - (A) Licensed by the Department of Health.
 - (B) Enrolled in the MA Program as a provider of nursing facility services.

(C) Owned by an individual, partnership, association or corporation and operated on a profit or nonprofit basis.

(ii) The term does not include intermediate care facilities for the mentally retarded, Federal or State-owned long-term care nursing facilities, Veteran's homes or county nursing facilities.

* * * * *

Resident Data Reporting Manual—The Department's Manual of instructions for submission of resident assessment records and tracking forms and verification of the CMI report.

* * * * *

Subchapter C. NURSING FACILITY PARTICIPATION

§ 1187.22. Ongoing responsibilities of nursing facilities.

In addition to meeting the ongoing responsibilities established in Chapter 1101 (relating to general provisions), a nursing facility shall, as a condition of participation:

* * * * *

(5) Assure that the data in each resident's Federally-approved PA Specific MDS are accurate and that all assessment records and tracking forms for the resident are completed and submitted to the Department as required by applicable Federal and State regulations and instructions, including the *Centers for Medicare and Medicaid Services Long-Term Care Resident Assessment Instrument User's Manual* and the *Resident Data Reporting Manual*.

(6) Assure and verify that the information contained on the quarterly CMI report is accurate for the picture date as specified in § 1187.33(a)(5) (relating to resident data and picture date reporting requirements) and the *Resident Data Reporting Manual*.

* * * * *

(18) Submit the initial Federally-approved PA Specific MDS record for each resident admitted to the nursing facility to the Department within 7 calendar days of the date the record is completed.

Subchapter D. DATA REQUIREMENTS FOR NURSING FACILITY APPLICANTS AND RESIDENTS

§ 1187.31. Admission or MA conversion requirements.

A nursing facility shall meet the following admission or MA conversion requirements:

(1) *Prescreening.* The nursing facility shall ensure that individuals applying for admission to the facility are prescreened by the Department as required by section 1919 of the Social Security Act (42 U.S.C.A. § 1396r(e)(7)) and 42 CFR Part 483 Subpart C (relating to preadmission screening and annual review of mentally ill and mentally retarded individuals).

(2) *Preadmission or MA conversion evaluation and determination.*

(i) The nursing facility shall ensure that before an MA applicant or recipient is admitted to a nursing facility, or before authorization for MA payment for nursing facility services in the case of a resident, the MA applicant,

recipient or resident has been evaluated by the Department or an independent assessor and found to need nursing facility services.

(ii) The nursing facility shall maintain a copy of the Department's or the independent assessor's notification of eligibility in the business office.

(3) *Notification to the Department.*

(i) The nursing facility shall notify the Department on forms designated by the Department whenever an MA applicant or recipient is admitted to the nursing facility or whenever a resident is determined eligible for MA.

(ii) The nursing facility shall submit information regarding target residents to the Department on forms designated by the Department within 48 hours of the admission of a target resident to the nursing facility.

(4) *Physician certification.* Within 48 hours of admission of a resident to a nursing facility or, if a resident applies for MA while in the nursing facility before the Department authorizes payment for nursing facility services, the nursing facility shall ensure that a resident's attending physician certifies in writing in the resident's clinical record that the resident requires nursing facility services.

§ 1187.32. Continued need for nursing facility services requirements.

A nursing facility shall meet the following continued need for nursing facility services requirements:

(1) The nursing facility shall complete a new prescreening form for a resident whenever there is a change in the resident's condition that affects whether the resident is a target resident. The nursing facility shall maintain a copy of the new prescreening form in the resident's clinical record and notify the Department within 48 hours of the change in the resident's condition on forms designated by the Department.

(2) The nursing facility shall ensure that a resident's attending physician, or a physician assistant or nurse practitioner acting within the scope of practice as defined by State law and under the supervision of the resident's attending physician, recertifies the resident's need for nursing facility services in the resident's clinical record at the time the attending physician's orders are reviewed and renewed, consistent with Department of Health licensure time frames for renewing orders.

(3) The nursing facility shall notify the Department within 48 hours whenever the facility or resident's attending physician determines that the resident no longer requires nursing facility services. The notification shall be submitted on forms designated by the Department.

(4) The nursing facility shall obtain a physician's certification and written order for the resident's discharge whenever a resident no longer requires nursing facility services.

§ 1187.33. Resident data and picture date reporting requirements.

(a) *Resident data and picture date requirements.* A nursing facility shall meet the following resident data and picture date reporting requirements:

(1) The nursing facility shall submit the resident assessment data necessary for the CMI report to the Department as specified in the *Resident Data Reporting Manual*.

(2) The nursing facility shall ensure that the Federally approved PA specific MDS data for each resident accu-

ately describes the resident's condition, as documented in the resident's clinical records maintained by the nursing facility.

(i) The nursing facility's clinical records shall be current, accurate and in sufficient detail to support the reported resident data.

(ii) The Federally approved PA specific MDS shall be coordinated and certified by the nursing facility's RNAC.

(iii) The records listed in this section are subject to periodic verification and audit.

(3) The nursing facility shall maintain the records pertaining to each Federally-approved PA Specific MDS record and tracking form submitted to the Department for at least 4 years from the date of submission.

(4) The nursing facility shall ensure that resident assessments accurately reflect the residents' conditions on the assessment date.

(5) The nursing facility shall correct and verify that the information in the quarterly CMI report is accurate for the picture date and in accordance with paragraph (6) and shall sign and submit the CMI report to the Department postmarked no later than 5 business days after the 15th day of the third month of the quarter.

(6) The CMI report must include resident assessment data for every MA and every non-MA resident included in the census of the nursing facility on the picture date. Assessments completed solely for Medicare payment purposes are not included on the CMI report.

(i) A resident shall be included in the census of the nursing facility on the picture date if all of the following apply:

(A) The resident was admitted to the nursing facility prior to or on the picture date.

(B) The resident was not discharged with return not anticipated prior to or on the picture date.

(C) Any resident assessment is available for the resident from which data may be obtained to calculate the resident's CMI.

(ii) A resident who, on the picture date, is temporarily discharged from the nursing facility with a return anticipated shall be included in the census of the nursing facility on the picture date as a non-MA resident.

(iii) A resident who, on the picture date, is on therapeutic leave shall be included in the census of the nursing facility on the picture date as an MA resident if the conditions of § 1187.104(2) (relating to limitations on payment for reserved beds) are met on the picture date. If the conditions of § 1187.104(2) are not met, the resident shall be included in the census of the nursing facility as a non-MA resident.

(b) *Failure to comply with the submission of resident assessment data.*

* * * * *

(3) If a valid CMI report is not received in the time frame outlined in subsection (a)(5), the facility will be assigned the lowest individual RUG-III CMI value for the computation of the facility MA CMI and the highest RUG-III CMI value for the computation of the total facility CMI.

Subchapter E. ALLOWABLE PROGRAM COSTS AND POLICIES

§ 1187.51. Scope.

(a) This subchapter sets forth principles for determining the allowable costs of nursing facilities.

(b) *The Medicare Provider Reimbursement Manual* (CMS Pub. 15-1) and the Federal regulations in 42 CFR Part 489 (relating to provider and supplier agreements) appropriate to the reimbursement for nursing facility services under the Medicare Program are a supplement to this chapter. If a cost is included in this subchapter as allowable, the CMS Pub. 15-1 and applicable Federal regulations may be used as a source for more detailed information on that cost. The CMS Pub. 15-1 and applicable Federal regulations will not be used for a cost that is nonallowable either by a statement to that effect in this chapter or because the cost is not addressed in this chapter or in the MA-11. The CMS Pub. 15-1 or applicable Federal regulations will not be used to alter the treatment of a cost provided for in this subchapter or the MA-11.

* * * * *

Subchapter G. RATE SETTING

§ 1187.91. Database.

The Department will set rates for the case-mix payment system based on the following data:

(1) *Net operating costs.*

(i) The net operating prices will be established based on the following:

(A) Audited nursing facility costs for the 3 most recent years available in the NIS database adjusted for inflation. This database includes audited MA-11 cost reports that are issued by the Department on or before March 31 of each July 1 price setting period.

(B) If a nursing facility that has participated in the MA Program for 3 or more consecutive years has fewer than three audited cost reports in the NIS database that are issued by the Department on or before March 31 of each July 1 price setting period, the Department will use reported costs, as adjusted to conform to Department regulations, for those years not audited within 15 months of the date of acceptance, until audits have been completed and are available in the NIS database for price setting.

(C) If a nursing facility, that has not participated in the MA Program for 3 or more consecutive years, has fewer than three audited cost reports in the NIS database that are issued by the Department on or before March 31 of each July 1 price setting period, the Department will use all available audited cost reports in the NIS database.

(D) For net operating prices effective on or after July 1, 2001, the Department will revise the audited costs specified in clauses (A)—(C) by disregarding audit adjustments disallowing or reclassifying to capital costs, the costs of minor movable property (as defined in § 1187.2 (relating to definitions), effective on July 1, 2001) or linens reported as net operating costs on cost reports for fiscal periods beginning prior to January 1, 2001. The Department will not adjust the audited statistics when revising the nursing facility audited resident care, other resident care and administrative allowable costs to disregard the adjustments relating to minor movable property and linen costs. After revising the audited costs to disregard these adjustments, the Department will recalculate the maximum allowable administrative cost, and will disallow administrative costs in excess of the 12% limitation as specified in § 1187.56(1)(i) (relating to selected administrative cost policies).

(ii) Subparagraph (i)(B) does not apply if a nursing facility is under investigation by the Office of Attorney

General. In this situation, the Department will use a maximum of the three most recent available audited cost reports in the NIS database used for price setting.

(iii) A cost report for a period of less than 12 months will not be included in the NIS database used for each price setting year.

(iv) Prior to price setting, cost report information will be indexed forward to the 6th month of the 12-month period for which the prices are set. The index used is the 1st Quarter issue of the CMS Nursing Home Without Capital Market Basket Index.

(v) Total facility and MA CMI averages from the quarterly CMI reports will be used to determine case-mix adjustments for each price-setting and rate-setting period as specified in § 1187.96(a)(1)(i) and (5) (relating to price- and rate-setting computations).

* * * * *

§ 1187.93. CMI calculations.

The Pennsylvania Case-Mix Payment System uses the following three CMI calculations:

(1) An individual resident's CMI shall be assigned to the resident according to the RUG-III classification system.

(2) The facility MA CMI shall be the arithmetic mean of the individual CMIs for MA residents identified on the nursing facility's CMI report for the picture date. The facility MA CMI shall be used for rate determination under § 1187.96(a)(5) (relating to price and rate-setting computations.) If there are no MA residents identified on the CMI report for a picture date, the Statewide average MA CMI shall be substituted for rate determination under § 1187.96(a)(5).

(3) The total facility CMI is the arithmetic mean of the individual resident CMIs for all residents, regardless of payor, identified on the nursing facility's CMI report for the picture date. The total facility CMI for the February 1 picture date shall be used for price and rate setting computations as specified in § 1187.96(a)(1)(i).

§ 1187.95. General principles for rate and price setting.

* * * * *

(b) Rates will be set prospectively each quarter of the calendar year and will be in effect for 1 full quarter. Net operating rates will be based on peer group prices as limited by § 1187.107 (relating to limitations on resident care and other resident related cost centers). The nursing facility per diem rate will be computed as defined in § 1187.96(e) (relating to price- and rate-setting computations). Resident care peer group prices will be adjusted for the MA CMI of the nursing facility each quarter and be effective on the first day of the following calendar quarter.

§ 1187.96. Price- and rate-setting computations.

(a) Using the NIS database in accordance with this subsection and § 1187.91 (relating to database), the Department will set prices for the resident care cost category.

(1) The Department will use each nursing facility's cost reports in the NIS database to make the following computations:

* * * * *

(iii) The Department will calculate the 3-year arithmetic mean of the case-mix neutral resident care cost per

diem for each nursing facility to obtain the average case-mix neutral resident care cost per diem of each nursing facility.

(2) The average case-mix neutral resident care cost per diem for each nursing facility will be arrayed within the respective peer groups, and a median determined for each peer group.

(3) For rate years 2006-2007 and 2007-2008, the median used to set the resident care price will be the phase-out median as determined in accordance with § 1187.98 (relating to phase-out median determination).

(4) The median of each peer group will be multiplied by 1.17, and the resultant peer group price assigned to each nursing facility in the peer group.

(5) The price derived in paragraph (4) for each nursing facility will be limited by § 1187.107 (relating to limitations on resident care and other resident related cost centers) and the amount will be multiplied each quarter by the respective nursing facility MA CMI to determine the nursing facility resident care rate. The MA CMI picture date data used in the rate determination are as follows: July 1 rate—February 1 picture date; October 1 rate—May 1 picture date; January 1 rate—August 1 picture date; and April 1 rate—November 1 picture date.

(b) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set prices for the other resident related cost category.

(1) The Department will use each nursing facility's cost reports in the NIS database to make the following computations:

* * * * *

(ii) The Department will calculate the 3-year arithmetic mean of the other resident related cost for each nursing facility to obtain the average other resident related cost per diem of each nursing facility.

(2) The average other resident related cost per diem for each nursing facility will be arrayed within the respective peer groups and a median determined for each peer group.

(3) For rate years 2006-2007 and 2007-2008, the median used to set the other resident related price will be the phase-out median as determined in accordance with § 1187.98.

(4) The median of each peer group will be multiplied by 1.12, and the resultant peer group price assigned to each nursing facility in the peer group. This price for each nursing facility will be limited by § 1187.107 to determine the nursing facility other resident related rate.

(c) Using the NIS database in accordance with this subsection and § 1187.91, the Department will set prices for the administrative cost category.

(1) The Department will use each nursing facility's cost reports in the NIS database to make the following computations:

* * * * *

(iii) The Department will calculate the 3-year arithmetic mean of the administrative cost for each nursing facility to obtain the average administrative cost per diem of each nursing facility.

(2) The average administrative cost per diem for each nursing facility will be arrayed within the respective peer groups and a median determined for each peer group.

(3) For rate years 2006-2007 and 2007-2008, the median used to set the administrative price will be the phase-out median as determined in accordance with § 1187.98.

(4) The median of each peer group will be multiplied by 1.04, and the resultant peer group price will be assigned to each nursing facility in the peer group to determine the nursing facility's administrative rate.

* * * * *

(e) The following applies to the computation of nursing facilities' per diem rates:

* * * * *

(2) For each quarter of the 2006-2007 and 2007-2008 rate-setting years, the nursing facility per diem rate will be computed as follows:

(i) *Generally.* If a nursing facility is not a new nursing facility or a nursing facility experiencing a change of ownership during the rate year, that nursing facility's resident care rate, other resident related rate, administrative rate and capital rate will be computed in accordance with subsections (a)—(d) and the nursing facility's per diem rate will be the sum of those rates multiplied by a budget adjustment factor determined in accordance with subparagraph (iv).

(ii) *New nursing facilities.* If a nursing facility is a new nursing facility for purposes of § 1187.97(1) (relating to rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities) that nursing facility's resident care rate, other resident related rate, administrative rate and capital rate will be computed in accordance with § 1187.97(1), and the nursing facility's per diem rate will be the sum of those rates multiplied by a budget adjustment factor determined in accordance with subparagraph (iv).

(iii) *Nursing facilities with a change of ownership and reorganized nursing facilities.* If a nursing facility undergoes a change of ownership during the rate year, that nursing facility's resident care rate, other resident related rate, administrative rate and capital rate will be computed in accordance with § 1187.97(2), and the nursing facility's per diem rate will be the sum of those rates multiplied by a budget adjustment factor determined in accordance with subparagraph (iv).

(iv) *Budget adjustment factor.* The budget adjustment factor for the rate year will be determined in accordance with the formula set forth in the Commonwealth's approved State Plan.

§ 1187.97. Rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities.

The Department will establish rates for new nursing facilities, nursing facilities with a change of ownership, reorganized nursing facilities and former prospective payment nursing facilities as follows:

(1) *New nursing facilities.*

(i) The net operating portion of the case-mix rate is determined as follows:

(A) A new nursing facility, unless a former county nursing facility, will be assigned the Statewide average MA CMI until assessment data submitted by the nursing facility under § 1187.33 (relating to resident data and

picture date reporting requirements) is used in a rate determination under § 1187.96(a)(5) (relating to price-and rate-setting computations).

(B) For a former county nursing facility, the county nursing facility's assessment data and MA CMI will be transferred to the new nursing facility.

(C) The nursing facility will be assigned to the appropriate peer group. The peer group price for resident care, other resident related and administrative costs will be assigned to the nursing facility until there is at least one audited nursing facility cost report used in the rebasing process.

* * * * *

(2) *Nursing facilities with a change of ownership and reorganized nursing facilities.*

(i) *New provider.* The new nursing facility provider will be paid exactly as the old nursing facility provider, except that, if a county nursing facility becomes a nursing facility between July 1, 2006, and June 30, 2008, the per diem rate for the nursing facility will be computed in accordance with § 1187.96, using the data contained in the NIS database. Net operating and capital rates for the old nursing facility provider will be assigned to the new nursing facility provider.

* * * * *

§ 1187.98. Phase-out median determination.

For rate years 2006-2007 and 2007-2008, the Department will determine a phase-out median for each net operating cost center for each peer group to calculate a peer group price. The Department will establish the phase-out median as follows:

(1) Peer groups will be established in accordance with §§ 1187.91 and 1187.94 (relating to database; and peer grouping for price-setting).

(2) County nursing facilities will be included when determining the number of nursing facilities in a peer group in accordance with § 1187.94(1)(iv).

(3) Audited county nursing facilities' costs from the 3 most recent audited cost reports audited in accordance with this chapter, will be included in the established peer groups when determining a median in accordance with § 1187.96 (relating to price and rate setting computations).

Subchapter H. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS

§ 1187.103. Cost finding and allocation of costs.

(a) A nursing facility shall use the direct allocation method of cost finding. The costs will be apportioned directly to the nursing facility and residential or other facility, based on appropriate financial and statistical data.

(b) Allowable operating cost for nursing facilities will be determined subject to this chapter and the *Medicare Provider Reimbursement Manual*, CMS Pub. 15-1, except that if this chapter and CMS Pub. 15-1 differ, this chapter applies.

§ 1187.111. Disproportionate share incentive payments.

* * * * *

(e) For the period July 1, 2005, to June 30, 2009, the disproportionate share incentive payment to qualified nursing facilities shall be increased to equal two times

the disproportionate share per diem incentive calculated in accordance with subsection (c).

(1) For the period commencing July 1, 2005, through June 30, 2006, the increased incentive shall apply to cost reports filed for the fiscal period ending December 31, 2005, or June 30, 2006.

(2) For the period commencing July 1, 2006, through June 30, 2007, the increased incentive shall apply to cost reports filed for the fiscal period ending December 31, 2006, or June 30, 2007.

(3) For the period commencing July 1, 2007, through June 30, 2008, the increased incentive shall apply to cost reports filed for the fiscal period ending December 31, 2007, or June 30, 2008.

(4) For the period commencing July 1, 2008, through June 30, 2009, the increased incentive shall apply to cost reports filed for the fiscal period ending December 31, 2008, or June 30, 2009.

§ 1187.116. (Reserved).

CHAPTER 1189. COUNTY NURSING FACILITY SERVICES

Subchap.

- A. GENERAL PROVISIONS
- B. ALLOWABLE PROGRAM COSTS AND POLICIES
- C. COST REPORTING AND AUDIT REQUIREMENTS
- D. RATE SETTING
- E. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS
- F. RIGHT OF APPEAL

Subchapter A. GENERAL PROVISIONS

Sec.

- 1189.1. Policy.
- 1189.2. Definitions.
- 1189.3. Compliance with regulations governing noncounty nursing facilities.

§ 1189.1. Policy.

(a) This chapter applies to county nursing facilities.

(b) This chapter sets forth conditions of participation for county nursing facilities, identifies the costs incurred by county nursing facilities to provide nursing facility services that will be recognized as allowable MA Program expenditures and specifies the methodology by which rates will be set and payments made to county nursing facilities for services provided to MA residents.

(c) Payment for nursing facility services provided by county nursing facilities is made subject to this chapter and Chapter 1101 (relating to general provisions).

(d) Extensions of time will be as follows:

(1) The time limits established by this chapter for the filing of a cost report, resident assessment data and picture date reporting, or other document or submission to the Department cannot be extended, except as provided in this section.

(2) Extensions of time in addition to the time otherwise prescribed by this chapter may be permitted only upon a showing of fraud, breakdown in the Department's administrative process or an intervening natural disaster making timely compliance impossible or unsafe.

(3) This subsection supersedes 1 Pa. Code § 31.15 (relating to extensions of time).

§ 1189.2. Definitions.

(a) Except for those terms defined in subsection (b), the defined words and terms set forth in § 1187.2 (relating to definitions), have the same meanings when used in this chapter, unless the context clearly indicates otherwise.

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

Allowable MA Program Expenditure—A cost incurred by a county nursing facility to provide nursing facility services to MA residents that is allowable under this chapter and that is reported and certified by the county nursing facility in a form and manner specified by the Department.

MA Cost Report—The package of certifications, schedules and instructions designated by the Department which county nursing facilities shall use to record and report the costs that they incur to provide nursing facility services during a calendar year.

New county nursing facility—One of the following:

(i) A newly constructed, licensed and certified county nursing facility.

(ii) An existing nursing facility that through a change of ownership, is controlled by the county institution district or by county government if no county institution district exists.

Per diem rate—The amount established under this chapter at which the Department makes payment to a county nursing facility for a resident day of care provided to an MA resident.

§ 1189.3. Compliance with regulations governing noncounty nursing facilities.

(a) Unless a specific provision of this chapter provides to the contrary, the following subchapters of Chapter 1187 (related to nursing facility services) are applicable to county nursing facilities:

(1) Subchapter B (relating to scope of benefits).

(2) Subchapter C (relating to nursing facility participation).

(3) Subchapter D (relating to data requirements for nursing facility applicants and residents), except for § 1187.33(d) (relating to resident data and picture data reporting requirements).

(4) Subchapter I (relating to enforcement of compliance for nursing facilities with deficiencies).

(5) Subchapter K (relating to exceptional payment for nursing facility services).

(b) If a provision of Chapter 1187 is made applicable to county nursing facilities by subsection (a) or other provision of this chapter, and the provision of Chapter 1187 uses the term "nursing facility," that term shall be understood to mean "county nursing facility," unless the context clearly indicates otherwise.

Subchapter B. ALLOWABLE PROGRAM COSTS AND POLICIES

Sec.

1189.51. Allowable costs.

1189.52. Allocating cost centers.

1189.53. Changes in bed complement during a cost reporting period.

1189.54. Costs of related parties.

1189.55. Prudent buyer concept.

§ 1189.51. Allowable costs.

A cost incurred by a county nursing facility is an allowable cost if the cost was incurred in the course of providing nursing facility services and one of the following applies:

(1) The cost is allowable pursuant to the Medicare Provider Reimbursement Manual (CMS Pub. 15-1).

(2) The cost is not allowable under the CMS Pub. 15-1 but is allowable as a net operating cost under Chapter 1187 (relating to nursing facility services).

(3) The cost is identified as an allowable county nursing facility cost in the Commonwealth's approved State Plan.

§ 1189.52. Allocating cost centers.

(a) The county nursing facility shall allocate costs in accordance with the allocation bases and methodology established by the Department as contained in this chapter and the MA cost report. If the nursing facility has its own more accurate method of allocation basis, it may be used only if the nursing facility receives written approval from the Department prior to the first day of the applicable cost report year.

(b) The absence of documentation to support allocation or the use of other methods which do not properly reflect use of the Department's required allocation bases or approved changes in bases shall result in disallowances being imposed for each affected line item.

§ 1189.53. Changes in bed complement during a cost reporting period.

(a) When the county nursing facility's bed complement changes during a cost reporting period, the allocation bases are subject to verification at audit.

(b) The county nursing facility shall keep adequate documentation of the costs related to bed complement changes during a cost reporting period. The county nursing facility shall submit the supplemental schedules as may be required by the Department to identify the costs being allocated by the required statistical methods for each period of change.

§ 1189.54. Costs of related parties.

Costs applicable to services, movable property and supplies, furnished to the county nursing facility by organizations related to the county nursing facility by common ownership or control shall be included as an allowable cost of the county nursing facility at the cost to the related organization. This cost may not exceed the price of comparable services, movable property or supplies that could be purchased elsewhere.

§ 1189.55. Prudent buyer concept.

The purchase or rental by a county nursing facility of services, movable property and supplies, including pharmaceuticals, may not exceed the cost that a prudent buyer would pay in the open market to obtain these items, as described in the CMS Pub. 15-1.

Subchapter C. COST REPORTING AND AUDIT REQUIREMENTS

Sec.

1189.71. Cost reporting.

1189.72. Cost reporting for Medicare Part B type services.

1189.73. Accountability requirements related to resident personal fund management.

1189.74. Auditing requirements related to resident personal fund management.

1189.75. Auditing requirements related to MA cost report.

§ 1189.71. Cost reporting.

(a) A county nursing facility shall submit an acceptable MA cost report to the Department within 120 days following the close of each calendar year in a form and manner specified by the Department. Requests for an extension to file an annual cost report will not be granted except as provided under § 1189.1 (relating to policy).

(b) An acceptable MA cost report is one that meets the following requirements:

(1) Applicable items are fully completed in accordance with the instructions provided for the cost report including the necessary original signatures on the required number of copies.

(2) Computations carried out on the cost report are accurate and consistent with other related computations.

(3) The treatment of cost conforms to the applicable requirements of this chapter.

(4) Required documentation is included.

(5) The cost report is filed with the Department within the time limits specified.

§ 1189.72. Cost reporting for Medicare Part B type services.

(a) County nursing facilities shall utilize Medicare as a primary payer resource when appropriate, under § 1189.102 (relating to utilizing Medicare as a resource).

(b) If Medicare is the primary payer resource, the county nursing facility shall exclude from allowable costs operating costs incurred in or income derived from the provision of Medicare Part B coverable services to nursing facility residents. The county nursing facility shall attach to the MA cost report a copy of the cost report the nursing facility submits to Medicare for the Part B services and, when available, submit a copy of the Medicare final audit, including audit adjustments.

(c) If there is a discrepancy between the costs on the Medicare cost report or, if available, the Medicare audit report, and the adjustments made by the county nursing facility on the MA cost report to exclude Medicare Part B costs, the Department will make the necessary adjustments to conform the county nursing facility's MA cost report to the Medicare report.

§ 1189.73. Accountability requirements related to resident personal fund management.

(a) A county nursing facility may not require residents to deposit their personal funds with the county nursing facility. A county nursing facility shall hold, safeguard and account for a resident's personal funds upon written authorization from the resident in accordance with this section and other applicable provisions in State and Federal law.

(b) A resident's personal funds may not be commingled with county nursing facility funds or with the funds of a person other than another resident.

(c) A resident's personal funds in excess of \$50 shall be maintained in an interest bearing account, and interest earned shall be credited to that account.

(d) A resident's personal funds that do not exceed \$50 may be maintained in a noninterest bearing account, interest bearing account or petty cash fund.

(e) Statements regarding a resident's financial record shall be available upon request to the resident or to the resident's legal representative.

(f) The county nursing facility shall notify each resident that receives MA benefits when the amount in the resident's personal fund account reaches \$200 less than the SSI resource limit for one person.

(g) Within 60 days of the death of a resident, the county nursing facility shall convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

(h) The county nursing facility may not impose a charge against the personal funds of a resident for an item or service for which payment is made under MA or Medicare.

(i) The county nursing facility shall maintain records relating to its management of residents' personal funds for a minimum of 4 years. These records shall be available to Federal and State representatives upon request.

(j) The county nursing facility shall purchase a surety bond or otherwise provide assurances of the security of personal funds of the residents deposited with the county nursing facility.

§ 1189.74. Auditing requirements related to resident personal fund management.

(a) The Department will periodically audit residents' personal fund accounts.

(b) If discrepancies are found at audit, the county nursing facility shall make restitution to the residents for funds improperly handled, accounted for or disbursed. The Department may sanction the nursing facility in accordance with Chapter 1187, Subchapter I (relating to enforcement of compliance for nursing facility services).

§ 1189.75. Auditing requirements related to MA cost report.

(a) The Department will conduct an audit of each acceptable MA cost report with an end date of December 31, 2005, and thereafter to determine the county nursing facility's allowable MA Program expenditures for the calendar year.

(b) To determine the county nursing facility's audited allowable MA Program expenditures for a calendar year, the Department will audit the county nursing facility's MA cost report for compliance with:

- (1) This chapter.
- (2) Chapter 1101 (relating to general provisions).
- (3) The schedules and instructions included in the MA cost report.

(c) A county nursing facility shall make financial and statistical records to support its MA cost reports available to the Department upon request and to other State and Federal representatives as required by Federal and State law and regulations.

(d) The Department will conduct audits in accordance with auditing requirements in Federal regulations and generally accepted government auditing standards.

(e) A county nursing facility that has certified financial statements, Medicare intermediary audit reports with adjustments and Medicare reports for the reporting period shall submit these reports with its cost report, at audit or when available.

Subchapter D. RATE SETTING

- Sec. 1189.91. Per diem rates for county nursing facilities.
- 1189.92. Per diem rates for new county nursing facilities.

§ 1189.91. Per diem rates for county nursing facilities.

(a) For the rate year 2006-2007, the per diem rate paid to a county nursing facility for a rate year will be the facility's April 1, 2006, case-mix per diem rate as calculated under Chapter 1187, Subchapter G (relating to rate setting) multiplied by a budget adjustment factor determined in accordance with subsection (d).

(b) For each rate year beginning on or after July 1, 2007, the per diem rate paid to a county nursing facility for a rate year will be the facility's prior rate year per diem rate multiplied by a budget adjustment factor determined in accordance with subsection (d).

(c) The Department, at its discretion, may revise the per diem rates for county nursing facilities by calculating updated case-mix per diem rates in accordance with Chapter 1187, Subchapter G or under an alternative method specified in the Commonwealth's approved State Plan.

(d) The budget adjustment factor for the rate year will be determined in accordance with the formula in the Commonwealth's approved State Plan.

§ 1189.92. Per diem rates for new county nursing facilities.

The per diem rate for a new county nursing facility will be the Statewide average of all other county nursing facilities' per diem rates for the same rate year established in accordance with § 1189.91 (relating to per diem rates for county nursing facilities).

Subchapter E. PAYMENT CONDITIONS, LIMITATIONS AND ADJUSTMENTS

Sec.

- 1189.101. General payment policy for county nursing facilities.
- 1189.102. Utilizing Medicare as a resource.
- 1189.103. Limitations on payment for reserved beds.
- 1189.104. Limitations on payment during strike or disaster situations requiring resident evacuation.
- 1189.105. Incentive payments.
- 1189.106. Adjustments relating to sanctions and fines.
- 1189.107. Adjustments relating to errors and corrections of county nursing facility payments.
- 1189.108. County nursing facility supplementation payments.

§ 1189.101. General payment policy for county nursing facilities.

(a) Payment for nursing facility services provided by a county nursing facility will be made subject to the following conditions and limitations:

- (1) This chapter and Chapter 1101 (relating to general provisions).
- (2) Applicable State statutes.
- (3) Applicable Federal statutes and regulations and the Commonwealth's approved State Plan.

(b) A per diem rate payment for nursing facility services provided by a county facility will not be made if full payment is available from another public agency, another insurance or health program or the resident's resources.

(c) Payment will not be made in whole or in part to a county nursing facility for nursing facility services provided during a period in which the nursing facility's participation in the MA Program is terminated.

(d) Claims submitted by a county nursing facility for payment under the MA Program are subject to the utilization review procedures established in Chapter 1101. In addition, the Department will perform the reviews specified in this chapter for controlling the utilization of nursing facility services.

§ 1189.102. Utilizing Medicare as a resource.

(a) An eligible resident who is a Medicare beneficiary, is receiving care in a Medicare certified county nursing facility and is authorized by the Medicare Program to receive county nursing facility services shall utilize available Medicare benefits before payment will be made by the MA Program. If the Medicare payment is less than the county nursing facility's MA per diem rate for nursing

facility services, the Department will participate in payment of the coinsurance charge to the extent that the total of the Medicare payment and the Department's and other coinsurance payments do not exceed the MA per diem rate for the county nursing facility. The Department will not pay more than the maximum coinsurance amount.

(b) If a resident has Medicare Part B coverage, the county nursing facility shall use available Medicare Part B resources for Medicare Part B services before payment is made by the MA Program.

(c) The county nursing facility may not seek or accept payment from a source other than Medicare for any portion of the Medicare coinsurance amount that is not paid by the Department on behalf of an eligible resident because of the limit of the county nursing facility's MA per diem rate.

(d) The Department will recognize the Medicare payment as payment in full for each day that a Medicare payment is made during the Medicare-only benefit period.

(e) The cost of providing Medicare Part B type services to MA residents not eligible for Medicare Part B services which are otherwise allowable costs under this part are reported in accordance with § 1189.72 (relating to cost reporting for Medicare Part B type services).

§ 1189.103. Limitations on payment for reserved beds.

The Department will make payment to a county nursing facility for a reserved bed when the resident is absent from the nursing facility for a continuous 24-hour period because of hospitalization or therapeutic leave. A county nursing facility shall record each reserved bed for therapeutic leave on the nursing facility's daily census record and MA invoice. When the bed reserved for a resident who is hospitalized is temporarily occupied by another resident, a county nursing facility shall record the occupied bed on the nursing facility's daily MA census record and the MA invoice. During the reserved bed period the same bed shall be available for the resident upon the resident's return to the nursing facility. The following limits on payment for reserved bed days apply:

(1) *Hospitalization.*

(i) A resident receiving nursing facility services is eligible for a maximum of 15 consecutive reserved bed days per hospitalization. The Department will pay a county nursing facility at a rate of 1/3 of the county nursing facility's current per diem rate on file with the Department for a hospital reserved bed day.

(ii) If the resident's hospital stay exceeds the Department's 15 reserved bed days payment limitation, the county nursing facility shall readmit the resident to the county nursing facility upon the first availability of a bed in the county nursing facility if, at the time of readmission, the resident requires the services provided by the county nursing facility.

(iii) Hospital reserved bed days may not be billed as therapeutic leave days.

(2) *Therapeutic leave.* A resident receiving nursing facility services is eligible for a maximum of 30 days per calendar year of therapeutic leave outside the county nursing facility if the leave is included in the resident's plan of care and is ordered by the attending physician. The Department will pay a county nursing facility the county nursing facility's current per diem rate on file with the Department for a therapeutic leave day.

§ 1189.104. Limitations on payment during strike or disaster situations requiring resident evacuation.

Payment may continue to be made to a county nursing facility that has temporarily transferred residents, as the result or threat of a strike or disaster situation, to the closest medical institution able to meet the residents' needs, if the institution receiving the residents is licensed and certified to provide the required services. If the county nursing facility transferring the residents can demonstrate that there is no certified nursing facility available for the safe and orderly transfer of the residents, the payments may be made so long as the institution receiving the residents is certifiable and licensed to provide the services required. The resident assessment submissions for the transferring nursing facility residents shall be maintained under the transferring county nursing facility provider number as long as the transferring county nursing facility is receiving payment for those residents. If the nursing facility to which the residents are transferred has a different per diem rate, the transferring county nursing facility shall be reimbursed at the lower rate. The per diem rate established on the date of transfer will not be adjusted during the period that the residents are temporarily transferred. The county nursing facility shall immediately notify the Department in writing of an impending strike or a disaster situation and follow with a listing of MA residents and the nursing facility to which they will be or were transferred.

§ 1189.105. Incentive payments.

(a) *Disproportionate share incentive payment.*

(1) A disproportionate share incentive payment will be made based on MA paid days of care times the per diem incentive to facilities meeting the following criteria for a 12-month facility cost reporting period:

(i) The county nursing facility shall have an annual overall occupancy rate of at least 90% of the total available bed days.

(ii) The county nursing facility shall have an MA occupancy rate of at least 80%. The MA occupancy rate is calculated by dividing the MA days of care paid by the Department by the total actual days of care.

(2) The disproportionate share incentive payments will be based on the following:

	Overall Occupancy	MA Occupancy (y)	Per Diem Incentive
Group A	90%	> 90%	y \$3.32
Group B	90%	88% < y < 90%	\$2.25
Group C	90%	86% < y < 88%	\$1.34
Group D	90%	84% < y < 86%	\$0.81
Group E	90%	82% < y < 84%	\$0.41
Group F	90%	80% < y < 82%	\$0.29

(3) The disproportionate share incentive payments as described in paragraph (2) will be inflated forward using the first quarter issue CMS Nursing Home Without Capital Market Basket Index to the end point of the rate setting year for which the payments are made.

(4) These payments will be made annually within 120 days after the submission of an acceptable cost report provided that payment will not be made before 210 days of the close of the county nursing facility fiscal year.

(5) For the period July 1, 2005, to June 30, 2009, the disproportionate share incentive payment to qualified county nursing facilities shall be increased to equal two

times the disproportionate share per diem incentive calculated in accordance with paragraph (3).

(i) For the period commencing July 1, 2005, through June 30, 2006, the increased incentive applies to cost reports filed for the fiscal period ending December 31, 2005.

(ii) For the period commencing July 1, 2006, through June 30, 2007, the increased incentive applies to cost reports filed for the fiscal period ending December 31, 2006.

(iii) For the period commencing July 1, 2007, through June 30, 2008, the increased incentive applies to cost reports filed for the fiscal period ending December 31, 2007.

(iv) For the period commencing July 1, 2008, through June 30, 2009, the increased incentive applies to cost reports filed for the fiscal period ending December 31, 2008.

(b) *Pay for performance incentive payment.* The Department will establish pay for performance measures that will qualify a county nursing facility for additional incentive payments. The incentive payments will be made in accordance with the formula and qualifying criteria set forth in the Commonwealth's approved State Plan.

§ 1189.106. Adjustments relating to sanctions and fines.

County nursing facility payments shall be withheld, offset, reduced or recouped as a result of sanctions and fines in accordance with Chapter 1187, Subchapter I (relating to enforcement of compliance for nursing facilities with deficiencies).

§ 1189.107. Adjustments relating to errors and corrections of county nursing facility payments.

County nursing facility payments shall be withheld, offset, increased, reduced or recouped as a result of errors, fraud and abuse or appeals under Chapter 1187, Subchapter I (relating to enforcement of compliance for nursing facilities with deficiencies) and § 1189.141 (relating to county nursing facility's right to appeal and to a hearing).

§ 1189.108. County nursing facility supplementation payments.

Supplementation payments are made according to a formula established by the Department to county nursing facilities, in which Medicaid funded resident days account for at least 80% of the facility's total resident days and the number of certified MA beds is greater than 270 beds. Payment of the supplementation payments is contingent upon the determination by the Department that there are sufficient State and Federal funds appropriated to make these supplementation payments.

Subchapter F. RIGHT OF APPEAL

Sec.

1189.141. County nursing facility's right to appeal and to a hearing.

§ 1189.141. County nursing facility's right to appeal and to a hearing.

(a) A county nursing facility has a right to appeal and have a hearing if the county nursing facility does not agree with the Department's decision regarding:

(1) The Department's denial, nonrenewal or termination of the county nursing facility's MA provider agreement.

(2) The Department's imposition of sanctions or fines on the county nursing facility under Chapter 1187, Subchapter I (relating to enforcement of compliance for nursing facilities with deficiencies).

(3) The per diem rate established by the Department.

(4) Other written orders or decisions of the Department that cause the county nursing facility to be aggrieved for purposes of 67 Pa.C.S. Chapter 11 (relating to Medical Assistance hearings and appeals).

(b) A county nursing facility appeal is subject to § 1101.84 (relating to provider right of appeal).

(c) If a county nursing facility wishes to contest any of the decisions listed in subsection (a)(1)—(4), it shall file a request for hearing within the time limits set forth in 67 Pa.C.S. Chapter 11.

(d) A county nursing facility's appeal is subject to the requirements set forth in 67 Pa.C.S. Chapter 11 and the Standing Practice Order of the Bureau of Hearings and Appeals (33 Pa.B. 3053 (June 28, 2003)), or in any regulations that supersede the Standing Practice Order.

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