

PENNSYLVANIA BULLETIN

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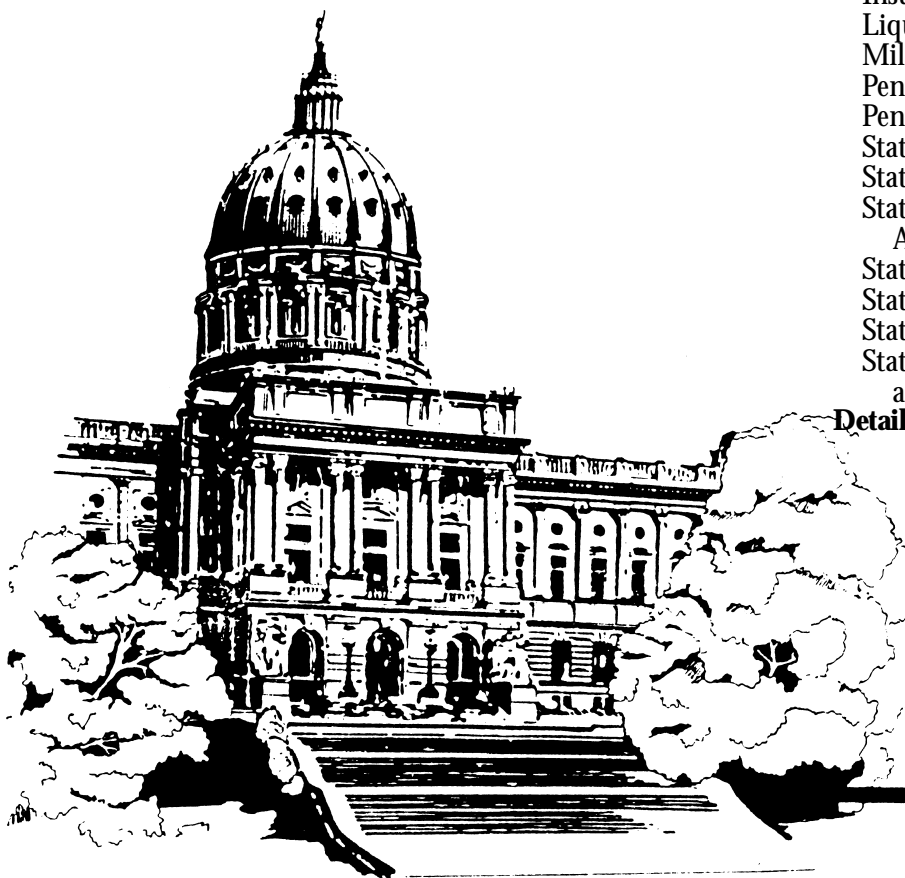
Saturday, July 12, 2008 • Harrisburg, PA

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No. 404, July 2008

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2008.

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THE GENERAL ASSEMBLY

Recent Actions during the 2008 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during 2008 Regular Session.

| <i>Doc. No.</i> | <i>Date of Action</i> | <i>Bill Number</i> | <i>Printer's Number</i> | <i>Effective Date</i> | <i>Subject Matter</i> |
|---|-----------------------|--------------------|-------------------------|-----------------------|--|
| 2008 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 028 through 031 | | | | | |
| 028 | Jun 18 | SB1159 | PN1548 | 60 days | Drs. Joseph and Rose Mattioli Drive—designation |
| 029 | Jun 27 | HB1863 | PN2549 | 60 days | Western Clinton County Veterans Bridge—designation |
| 030 | Jun 27 | HB2496 | PN3687 | Immediately | Conveyance—Commonwealth property in Susquehanna Township, Dauphin County |
| 031 | Jun 27 | SB0987 | PN1741 | 60 days | Third Class City Code—emergency services |

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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

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

[Pa.B. Doc. No. 08-1280. Filed for public inspection July 11, 2008, 9:00 a.m.]

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VIII]

Proposed Amendment of Pa.R.E. 803 to Add a New Rule F.R.E. 803(18)

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the Amendment of Pa.R.E. 803. The change is being proposed to add subsection (18) Learned Treatise and Comment.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The text for the proposed changes precede the Report. Additions are bold, and deletions are in bold and brackets.

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

Richard L. Kearns
Staff Counsel
Supreme Court of Pennsylvania
Committee on Rules of Evidence
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than August 15, 2008.

By the Committee on Rules of Evidence

SANDRA D. JORDAN,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE VIII. HEARSAY

Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial.

The following statements, as hereinafter defined, are not excluded by the hearsay rule, even though the declarant is available as a witness:

* * * * *

(18) *Learned Treatises* [Not Adopted]. **To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.**

This exception to the hearsay rule is not applicable unless the party calling the expert witness on direct examination has given timely notice of the intent to offer the learned treatise.

[Comment

Pennsylvania has not adopted F.R.E. 803(18). Pennsylvania does not recognize an exception to

the hearsay rule for learned treatises. See *Majdic v. Cincinnati Machine Co.*, 370 Pa. Super. 611, 537 A.2d 334 (1988).

Regarding the permissible uses of learned treatises under Pennsylvania law, see *Aldridge v. Edmunds*, 750 A.2d 292 (Pa. 2000).]

Comment

Pa.R.E. 803(18) is similar to F.R.E. 803(18). Prior Pennsylvania law did not permit the substantive use of statements contained in learned treatises. See *Aldridge v. Edmunds*, 561 Pa. 323, 750 A.2d 292 (2000). A clear majority of the states have adopted the Federal rule, based on the judgment that statements contained in learned treatises are especially reliable because they are subject to peer review, and, except in rare instances, the author will have no interest in the case before the court. The second sentence of the federal rule that prohibits giving the statements to the jury during deliberations has been omitted because Pennsylvania law gives the trial judge discretion to decide which exhibits are given to the jury during deliberations. See *Wilson v. Pennsylvania R.R. Co.*, 421 Pa. 419, 219 A.2d 666, n. 8 (Pa. 1966); Pa.R.Crim.P. 646(B).

The notice requirement in the second paragraph of the rule does not appear in F.R.E. 803(18), but federal discovery practice differs from Pennsylvania practice. The notice requirement is intended to prevent unfair surprise, and so that the opposing party will have the opportunity to investigate the validity of the author's statements or seek other authority. The notice should be provided in the normal course of discovery. See Pa.R.C.P. 4003.5(a)(1)(b).

* * * * *

REPORT

Proposed Amendment of Pa.R.E. 803 to Add the Learned Treatise Exception to the Hearsay Rule

There are some fairly solid grounds for adopting the Learned Treatise exception to the hearsay rule. As a general rule, the material is a pretty reliable type of hearsay. It is subject to peer review, and usually the author will have no interest in the case before the court.

A second reason for adopting the rule is that learned treatises now may come before the jury to explain the basis for an expert's opinion or to impeach an expert. In these cases, the judge is obligated, upon request, to give a limiting instruction to the effect that the learned treatise is not admissible for its truth, but only to explain the basis for the opinion or to impeach. See *Aldridge v. Edmunds*, 750 A.2d 292 (Pa. 2000). It is questionable whether the jurors will understand the instruction. If we adopt the rule the court will not give the instruction, and the jury will not have to figure out what the judge is talking about.

A third reason is that this is so confusing that the courts and counsel frequently trip over the handling of learned treatises in court. Adoption of the rule might simplify the handling of learned treatises for the courts, counsel, and the jury.

When Rule 803(18) of the Federal Rules of Evidence (Federal Rule 803(18)) was adopted in the early 1970's,

the rule that permitted the contents of learned treatises to be admitted as substantive evidence was a distinctly minority view. As the Note to paragraph 18 revealed, only Alabama, Wisconsin, and Kansas then followed the Federal Rule 813(18). However, as of today, thirty states (as well as the Military Code of Justice) have adopted rules or enacted statutes that are either identical or substantively identical to the Federal Rule 803(18). Those states are:

| | | | |
|----------------|-----------------------------|-------------------------|------------|
| Alabama | Alaska | Arizona | Arkansas |
| Delaware | Hawaii | Indiana | Iowa |
| Kentucky | Maine ¹ | Maryland | Minnesota |
| Montana | Nebraska | New Jersey ² | New Mexico |
| North Carolina | North Dakota | Ohio | Oklahoma |
| Rhode Island | South Carolina ³ | South Dakota | Texas |
| Utah | Vermont | Virginia | Washington |
| West Virginia | | Wyoming | |

Another seven states have adopted rules or enacted statutes that also permit statements in learned treatises to be used as substantive evidence, but otherwise differ from Federal Rule 803(18) in that admission of the statements as exhibits is or may be permitted. Those states are:

| | | | |
|------------------------|-------------|---------------|--------|
| Colorado | Connecticut | Idaho | Kansas |
| Louisiana ⁴ | Nevada | New Hampshire | |

Two other states (Mississippi and Wisconsin) have adopted rules or enacted statutes that differ from the Federal Rule 803(18) in that the intended use of the learned treatise must be disclosed to the opposing party prior to trial. Massachusetts, by statute, permits the introduction of statements in learned treatises as substantive evidence only in medical malpractice actions if prior notice is provided.

[Pa.B. Doc. No. 08-1281. Filed for public inspection July 11, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LACKAWANNA COUNTY

Adult Probation ARD Fees; No. 2008-MISC-343

Administrative Order

Now, this 11th day of June, 2008, effective 30 days following publication in the *Pennsylvania Bulletin*, the annual fee imposed by the Adult Probation and Parole Department for entry into the ARD program will increase to \$1,200 for both DUI offenders and non-DUI offenders. ARD fees are shared by a number of funds including the present amount of \$180 which goes to the President Judge's Supervision fund. The increased fee will now apportion \$520 for DUI cases to the President Judge's Supervision fund and \$675 for non-DUI cases to this same fund. The Clerk of Judicial Records shall collect this fee as part of Court fees levied on ARD defendants and

¹Maine's rule permits statements of a learned treatise to be used as substantive evidence only where those statements are used during cross-examination of an expert witness.

²New Jersey's rule differs only in that it permits "graphics" to be shown to a jury.

³South Carolina's rule is identical to Federal Rule 803(18) except that it adds the following sentence at the end thereof: "This rule is in addition to any statutory provisions on the subject."

⁴Louisiana's rule specifically prohibits any exhibit admitted pursuant thereto from being taken into the jury room.

the Lackawanna County Treasurer shall continue to maintain and administer the separate President Judge's Supervision fund.

It is further ordered that, in accordance with Pa.R.C.P. 239, the District Court Administrator of Lackawanna County, Pennsylvania, shall:

(a) File seven (7) certified copies hereof with the Administrative Office of Pennsylvania Courts;

(b) Distribute two (2) certified copies hereof to the Legislative Reference Bureau for Publication on the *Pennsylvania Bulletin*;

(c) File one (1) certified copy hereof with the Criminal Rules Committee;

(d) Cause a copy hereof to be published one (1) time in the *Lackawanna Jurist* at the expense of the County of Lackawanna; and

(e) Supervise and distribute hereof to all Judges of this Court.

It is Further Ordered that copies of this Order are directed to: the Court of Common Pleas; the District Court Administrator; the Lackawanna County District Attorney's Office; the Lackawanna County Public Defender's Office; the Lackawanna County Clerk of Judicial Records Office; the Lackawanna County Adult Probation and Parole Office; and the Lackawanna County Treasurer's Office.

By the Court

CHESTER T. HARHUT,
President Judge

[Pa.B. Doc. No. 08-1282. Filed for public inspection July 11, 2008, 9:00 a.m.]

LACKAWANNA COUNTY

Adult Probation CallTrack Fee; No. 2008-MISC-346

Administrative Order

Now, this 11th day of June, 2008, it is hereby ordered that a monthly fee be imposed on ARD cases and other specific probation or parole cases when the offender is placed on CallTrack in lieu of direct officer contact. This fee will be \$48.00 for the six month period billed directly by the vendor, Digital Solutions, Inc. Since a portion of this fee will be returned to the County's Probation and Parole Department, the Lackawanna County Treasurer shall establish and administer a separate Lackawanna County Adult Probation CallTrack Fund, consisting of those funds received from the CallTrack program.

It is further ordered that, in accordance with Pa.R.C.P. 239, the District Court Administrator of Lackawanna County, Pennsylvania, shall:

(a) File seven (7) certified copies hereof with the Administrative Office of Pennsylvania Courts;

(b) Distribute two (2) certified copies hereof to the Legislative Reference Bureau for Publication on the *Pennsylvania Bulletin*;

(c) File one (1) certified copy hereof with the Criminal Rules Committee;

(d) Cause a copy hereof to be published one (1) time in the *Lackawanna Jurist* at the expense of the County of Lackawanna; and

(e) Supervise and distribute hereof to all Judges of this Court.

It is Further Ordered that copies of this Order are directed to: the Court of Common Pleas; the District Court Administrator; the Lackawanna County District Attorney's Office; the Lackawanna County Public Defender's Office; the Lackawanna County Clerk of Judicial Records Office; the Lackawanna County Adult Probation and Parole Office; and the Lackawanna County Treasurer's Office.

By the Court

CHESTER T. HARHUT,
President Judge

[Pa.B. Doc. No. 08-1283. Filed for public inspection July 11, 2008, 9:00 a.m.]

LACKAWANNA COUNTY

Adult Probation Drug Test Fees; No. 2008-MISC-344

Administrative Order

Now, this 11th day of June, 2008, effective 30 days following publication in the *Pennsylvania Bulletin*, the Adult Probation and Parole Department will impose a \$30.00 annual fee for those ordered by the courts to undergo one or more Drug Tests. The Clerk of Judicial Records shall collect this fee as part of Court fees levied on defendants and the Lackawanna County Treasurer shall establish and administer a separate Lackawanna County Adult Probation Drug Test Fund, consisting of those funds received from this Drug Test Fee.

It is further ordered that, in accordance with Pa.R.C.P. 239, the District Court Administrator of Lackawanna County, Pennsylvania, shall:

(a) File seven (7) certified copies hereof with the Administrative Office of Pennsylvania Courts;

(b) Distribute two (2) certified copies hereof to the Legislative Reference Bureau for Publication on the *Pennsylvania Bulletin*;

(c) File one (1) certified copy hereof with the Criminal Rules Committee;

(d) Cause a copy hereof to be published one (1) time in the *Lackawanna Jurist* at the expense of the County of Lackawanna; and

(e) Supervise and distribute hereof to all Judges of this Court.

It is Further Ordered that copies of this Order are directed to: the Court of Common Pleas; the District Court Administrator; the Lackawanna County District Attorney's Office; the Lackawanna County Public Defender's Office; the Lackawanna County Clerk of Judicial Records Office; the Lackawanna County Adult Probation and Parole Office; and the Lackawanna County Treasurer's Office.

By the Court

CHESTER T. HARHUT,
President Judge

[Pa.B. Doc. No. 08-1284. Filed for public inspection July 11, 2008, 9:00 a.m.]

LACKAWANNA COUNTY

Adult Probation Supervision Fund Fee Increase; No. 2008-MISC-345

Administrative Order

Now, this 11th day of June, 2008, effective 30 days following publication in the *Pennsylvania Bulletin*, the monthly Adult Probation Supervision fee will increase from \$35.00 monthly to \$47.00 monthly. This fee is apportioned half (new amount \$23.50) to the Adult Probation Supervision Fund (Account Line item # 4010) and half (\$23.50) to the Adult Probation PBPP Supervision Fund (per Act 35 of 1991/Account Line item # 4528), the latter of which is maintained by the Lackawanna County Treasurer's Office for the President Judge.

It is further ordered that, in accordance with Pa.R.C.P. 239, the District Court Administrator of Lackawanna County, Pennsylvania, shall:

(a) File seven (7) certified copies hereof with the Administrative Office of Pennsylvania Courts;

(b) Distribute two (2) certified copies hereof to the Legislative Reference Bureau for Publication on the *Pennsylvania Bulletin*;

(c) File one (1) certified copy hereof with the Criminal Rules Committee;

(d) Cause a copy hereof to be published one (1) time in the *Lackawanna Jurist* at the expense of the County of Lackawanna; and

(e) Supervise and distribute hereof to all Judges of this Court.

It is Further Ordered that copies of this Order are directed to: the Court of Common Pleas; the District Court Administrator; the Lackawanna County District Attorney's Office; the Lackawanna County Public Defender's Office; the Lackawanna County Clerk of Judicial Records Office; the Lackawanna County Adult Probation and Parole Office; and the Lackawanna County Treasurer's Office.

By the Court

CHESTER T. HARHUT,
President Judge

[Pa.B. Doc. No. 08-1285. Filed for public inspection July 11, 2008, 9:00 a.m.]

LUZERNE COUNTY

Order Adopting Rule 1038; Amending Rules 1301 and 1308 and Adopting Rule 1311; Rules of Civil Procedure; No. 8804 of 2008

Order

Now, this 25th day of June, 2008, the Court hereby adopts Luzerne County Rule of Civil Procedure 1038, amends Luzerne County Rules of Civil Procedure 1301 and 1308 and adopts Luzerne County Rule of Civil Procedure 1311, in the attached form, effective immediately.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Order and the following Rules, along with a diskette to the Administrative Office of Pennsylvania Courts, two (2) certified copies of this Order and the following Rules along with a

diskette to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, one (1) certified copy to the Civil Procedural Rules Committee, one (1) certified copy to the Judicial Council of Pennsylvania Statewide Rules Committee, and one (1) copy to the *Luzerne Legal Register* for publication in the next issue.

It is further ordered that these local rules shall be kept continuously available for public inspection and copying in the Prothonotary's Office.

By the Court

MARK A. CIAVARELLA, Jr.,
President Judge

Rule 1038. Trial without a Jury.

Appeals From Tax Assessments of Real Estate.

The following provisions shall govern trial of appeals from tax assessments of real estate:

1. The court shall refer trial of all tax assessment appeals to a special master for trial without a jury.

2. Conciliation.

(a) All appeals shall be conciliated before trial by a special master assigned thereto.

(b) At the time of conciliation, all parties or their counsel shall be present with full authority to effectuate a settlement of the appeal. Note: Parties and counsel are advised to pay particular attention to the notice of conciliation. In appropriate cases, the conciliation and trial may be scheduled on the same day. In such instances, the parties must appear at the conciliation ready to move directly into trial if the conciliation does not result in settlement.

(c) If any party fails to comply with the provisions of this local rule, the special master may include in the report a recommendation for the imposition of appropriate sanctions, including but not limited to, attorneys' fees and costs against the party or parties failing to comply.

3. Pre-Trial Statement.

a. Sixty days prior to the date scheduled for conciliation of tax assessment appeal, the appellant shall distribute to all counsel of record, or if counsel have not entered an appearance, on the party(ies), and to the special master assigned to the case a pre-trial statement. The pre-trial statement shall incorporate the following:

(i) a description of the user of the real estate and the nature of the real estate.

(ii) a list of all persons who will give testimony in the trial of this appeal.

(iii) a list of all exhibits which the party intends to use at trial.

(iv) any report, including without limitation an expert report or appraisal, of any person or entity who has been retained, employed, or consulted by the parties, who will give testimony in the trial of this appeal.

b. Twenty days prior to the date scheduled for conciliation of a tax assessment appeal, the appellee(s) shall distribute to all counsel of record, or if counsel have not entered an appearance, on the party(ies), and to the special master assigned to the

case a pre-trial statement. The pre-trial statement shall incorporate the following information or documents:

(i) a description of the use of the real estate and the nature of the real estate.

(ii) a list of all persons who will give testimony in the trial of this appeal.

(iii) a list of all exhibits which the party intends to use at trial.

(iv) any report, including without limitation an expert report or appraisal, of any person or entity who has been retained, employed, or consulted by the parties, who will give testimony in the trial of this appeal.

c. All interested parties whose interests are aligned with the appellant shall distribute their Pre-Trial Statement in accordance with subsection (a) herein. All interested parties whose interests are aligned with the appellee(s) shall distribute their Pre-Trial Statement in accordance with subsection (b) herein.

d. The failure to comply with subsections (a), (b) and (c) of this local rule shall result in appropriate relief, which may include the exclusion or limitation at trial of testimony or evidence which was not provided in the pre-trial statement or a recommendation for the imposition of attorneys' fees and costs against the party or parties failing to comply.

4. Trial.

a. The special master shall schedule a trial and shall provide notice of the trial to all party(ies) and/or counsel of record.

b. The trial shall be open to the public and recorded by a court reporter.

c. The special master, in the discretion of the special master, may continue the trial.

5. Report.

Following the trial, the special master shall file a written report and recommendation which may be in narrative form stating the reasons for the recommendations and shall include a proposed final order. The special master shall serve a copy of the report and recommendation on all counsel of record or the party(ies), if not represented, by first class United States mail and the court administrator.

6. Objections.

The parties shall file objections, if any, to the report and recommendation in writing within twenty days of the date of mailing of the report and recommendation by the special master. Objections must be accompanied by a certification of counsel that the trial transcript, or necessary portions thereof, has been ordered from the court reporter. Copies of the objections and certification shall be served on all counsel of record or if counsel have not entered their appearance on the party(ies), the special master and the court administrator.

7. Briefs on Objections.

Within twenty days of the date on which the transcript is filed of record, the moving party shall file a brief in support of objections and shall serve a copy on all counsel of record or if counsel have

not entered their appearance on the party(ies) and the court administrator. The brief in support of objections shall refer to transcript page numbers where possible. The moving party's failure to file a brief in support of objections shall constitute a waiver of all issues which could have been raised therein.

8. Opposing Briefs.

Within twenty days after the moving party has filed a brief in support of objections, responding parties shall file their briefs in opposition to objections and serve a copy on all counsel of record or if counsel have not entered their appearance, on the party(ies), and the court administrator.

9. Oral Argument.

After the date set for briefs in opposition to objections has passed, the moving party shall notify the court administrator that the matter is ripe for argument by filing a notice that matter is ripe for oral argument with the court administrator on the civil argument request form which shall be made available at the court administrator's office. The moving party shall serve a copy of this notice on all counsel of record or if counsel have not entered their appearance on the party(ies). Upon the filing of this notice, the court shall schedule oral argument.

10. Final Order.

Following oral argument the court may enter an appropriate final order. In the event that none of the parties file objections as described above to the report and recommendation, the court shall enter a final order consistent with the report, recommendation and proposed final order submitted by the special master.

Rule 1301. Arbitration. Scope.

The following civil actions shall first be submitted to compulsory arbitration and heard by a board of arbitrators:

(a) All appeals to court from tax assessments of real estate.

(b) All other civil actions and actions in replevin in which the amount in controversy, exclusive of interest and costs, is Fifty Thousand (\$50,000.00) Dollars or less shall be submitted to and heard and decided by a Board of Arbitrators pursuant to and in accordance with the provisions of 42 Pa.C.S. § 7361 and Pa.R.C.P. 1301 et seq.

[Rule 1308. Appeal—Praecept for Trial List

Appeals from an award of the board of arbitrators shall be ordered on the trial list on praecipe of either party.]

Rule 1308. Appeal from Award of Arbitrators. Tax Assessments. Notice.

(b) In addition to the requirements of Pa.R.C.P. 1308(b), the appellant shall also provide the Prothonotary with a copy of the required notice of appeal from award of arbitrators in a tax assessment appeal for service by the Prothonotary upon the court administrator.

Rule 1311. Procedure On Appeal.

(1) The court shall refer an appeal of an award of arbitrators in a tax assessment appeal to a special master for conciliation and a trial de novo, if necessary, pursuant to Luzerne County Rule of Civil Procedure 1038.

(2) Appeals from an award of the board of arbitrators, except as set forth in paragraph 1 hereof, shall be ordered on the trial list on praecipe of any party.

[Pa.B. Doc. No. 08-1286. Filed for public inspection July 11, 2008, 9:00 a.m.]

NORTHAMPTON COUNTY

Administrative Order 2008-3—N-801 Qualification to Serve as Defense Counsel in a Capital Case

Administrative Order

And Now, this 23rd day of June, 2008, it is hereby ordered that the attached Northampton County Rule of Criminal Procedure N-801, Qualification To Serve As Counsel In a Capital Case, is adopted. Said rule is effective immediately.

By the Court

ROBERT A. FREEDBERG,
President Judge

N-801 Qualification To Serve As Defense Counsel In a Capital Case

In all cases in which the District Attorney has filed a Notice of Aggravating Circumstances pursuant to Pa.R.Crim.P. 802, before an attorney may participate in the case either as retained or appointed counsel for defendant, the attorney shall file a statement certifying qualification to serve as defense counsel in a capital case pursuant to Pa.R.Crim.P. 801.

[Pa.B. Doc. No. 08-1287. Filed for public inspection July 11, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13]

Forms Review

The State Board of Funeral Directors (Board) amends §§ 13.204 and 13.224 (relating to written agreement; and funding and reporting of prepaid burial contracts) to read as set forth in Annex A.

Description and Need for the Rulemaking

Currently, §§ 13.204 and 13.224 set forth requirements for contracts typically used by licensees in providing, or agreeing to provide, funeral goods and services. Under § 13.204(a), a licensee must use a form agreement or statement of funeral goods and services that has been reviewed and approved by the Board. Likewise, § 13.224(f) requires a licensee to use a form prepaid burial contract or preneed contract form that has been reviewed and approved by the Board. However, the existing provisions do not state the basis upon which the Board may disapprove a form submitted to it. In implementing the existing sections, the Board has refused to approve form contracts or agreements that include a term prohibited by the Funeral Director Law (act) (63 P. S. §§ 479.1—479.20) or Board regulations, or form contracts or agreements that do not include a term required by the act or Board regulations. However, in the absence of express language in its regulations, the Board has not questioned whether the enforcement of any contractual provision of the form would lead to a violation of a provision of the act or Board regulations and accordingly has not disapproved any form agreements on that basis.

By this final-form rulemaking, the Board makes clear that it will refuse to approve a form that does not comply with the act or Board regulations or if the enforcement of any of terms of the form would result in a violation of the act or the regulations.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 37 Pa.B. 1867 (April 21, 2007) with a 30-day public comment period. The Board received written comments from the following members of the public: James J. Kutz, Esquire, on behalf of AmeriServe Trust and Financial Services Co. and others; and John Eirkson, executive director of the Pennsylvania Funeral Directors Association (PFDA).

On June 6, 2007, the House Professional Licensure Committee (HPLC), as part of its review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12a), notified the Board that the HPLC had no comments and would take no formal action on the proposed rulemaking until final promulgation. The Board received no comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act. On June 20, 2007, the Independent Regulatory Review Commission (IRRC), as part of

its review of proposed rulemaking under the Regulatory Review Act, notified the Board that IRRC had no objection, comments or recommendations to offer on the proposed rulemaking.

James Kutz first commented that he saw no reason, let alone a compelling reason, to promulgate a regulation which informs the licensee that the Board will not approve any prepaid burial contract or statement of funeral goods and services that violates the act or Board regulations. According to James Kutz, it should go without saying that the Board is not in the business of approving illegal agreements. As a corollary, James Kutz also questioned whether the Board “has had a policy of approving agreements that violate the law and if so, what is the explanation for that troublesome fact?” As indicated previously, in the absence of regulatory language on this point, in reviewing form agreements the Board has not looked beyond those terms required or permitted by the existing regulations. The Board could simply delete from its regulations the obligation to review and approve form agreements, thereby avoiding any questions of estoppel and trusting its licensees to comply with the licensure law until shown otherwise. However, doing so would simply be abdicating the important consumer protection function of verifying in advance that the form agreements the licensee presents to a customer comply with the act and regulations. James Kutz next suggested that the proposed amendments would “create more confusion than clarity” by not further addressing who will make any determination of whether the form agreement violated the act or regulations. The regulatory amendments place licensees on notice of what the Board will consider in reviewing the licensees’ form agreements. It goes without saying that the Board will conduct that review in a way that fully comports with the licensee’s procedural due process rights. Also, James Kutz asserts that, because the Board is separately proposing additional regulations also related to preneed funeral arrangements, these proposed amendments were “simply the forerunner for anticipated prosecution by the Board in the event it is successful in securing approval of its more comprehensive regulations [that James Kutz believes] are intended to effectively blunt the affect (sic) of the Federal court decision in *Walker v. Flitton*,” 364 F. Supp. 2d 503 (U.S.D.C. M.D. Pa. 2005). While the merits of any other proposed rulemaking will be addressed in that rulemaking, these regulatory amendments simply set forth the scope of Board review of form agreements and do not set forth the basis for any prosecution. Finally, James Kutz went on to opine that the industry would be better served by a single comprehensive statutory proposal to modernize the law applicable to the funeral industry. The Board can only promulgate regulations that are authorized by the act, that is, regulations needed to implement and enforce the act; the Board cannot act outside the scope of its authority under the act and cannot revise or repeal the act.

PFDA first noted its agreement with the proposed amendments. However, PFDA suggested that the Board go further in reviewing not just the licensee’s form agreement with the customer, but also the licensee’s master trust agreement with the financial institution in which the licensee will place the customer’s prepaid funds. The Board has neither the expertise nor the statutory authority to consider terms of banking arrangements. Section 13(c) of the act (63 P. S. § 479.13(c)) requires a funeral director who has received preneed

money to “either deposit the same in an escrow account in, or transfer the same in trust to, a banking institution in this Commonwealth.” By enacting this requirement, the General Assembly made clear that the Department of Banking, though its authority to regulate banking institutions, would assure the integrity of that money. The Board’s obligation was only to assure that the money would be held by a banking institution. Subsequent to the close of the public comment period, PFDA additionally commented that, in addition to the Board, the Department of Banking, the Insurance Department and the State Securities Commission should review form agreements of funeral directors. While that additional review may be beneficial and authorized in the other agencies’ enabling statutes, the Board through its rulemaking cannot obligate these other agencies to review licensee forms.

In conclusion, the Board has not revised its proposed rulemaking in response to the comments that it received.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective date

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

Statutory Authority

The final-form rulemaking is authorized under section 16(a) of the act (63 P. S. § 479.16(a)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 11, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1867, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 7, 2008, the HPLC approved the final-form rulemaking. On June 4, 2008, the SCP/PLC was deemed to have approved the final-form rulemaking. Under section 5(g) of the Regulatory Review Act (71 P. S. § 845.5(g)), the final-form rulemaking was deemed approved by IRRC effective June 4, 2008.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Heidi Weirich, Administrator, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649, or st-funeral@state.pa.us.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

(3) There are no amendments to this final-form rulemaking that would enlarge the scope of proposed rulemaking published at 37 Pa.B. 1867.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 13, are amended, by amending §§ 13.204 and 13.224 to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

MICHAEL J. YEOSOCK,
Chairperson

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16A-4813 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

STANDARDS OF PRACTICE AND CONDUCT

§ 13.204. Written agreement.

(a) A written agreement form, either for at need or preneed, statement of funeral goods and services approved by the Board, containing the name and address of the funeral director, the date the arrangements were made, the name of the deceased and the date of death, a specific listing of professional services, merchandise, facilities and equipment to be supplied by the funeral director for the preparation and burial, cremation or other disposition of the deceased as outlined in subsection (c); an itemized statement of cash advances and expenditures as explained in subsection (d); and the total cost, signed by the funeral director, shall be given to the family representative or agency official arranging for the funeral at the time of arrangements which must be prior to the disposition of the deceased. The forms or statements used by licensees in this Commonwealth must conform with the requirements imposed by the Federal Trade Commission under 16 CFR Part 453 (relating to funeral industry practices).

(b) A specific listing of professional services, merchandise, facilities and equipment to be supplied by the funeral director for the preparation and burial, cremation or other disposition of the deceased as specified in

subsection (a) shall be completely spelled out as to what is included. Examples are as follows:

(1) Professional services include, if provided, funeral counseling, available on a 24-hour basis; arrangements for funerals and interments; preparation and local removal; obituary information to newspapers; filing of necessary forms; handling of flowers; direction of the funeral service; and presence at cemetery for interment services.

(2) Merchandise includes, if provided, a casket, including space for a description; an outer case or vault, including space for a description; memorial cards, prayer cards and acknowledgement cards, indicating the amount; candles; a register book; temporary grave marker; and pallbearer gloves.

(3) Facilities and equipment shall include, if provided, reposing rooms, chapel facilities, lounges, reception areas, parking, drape decoration or fern decoration, necessary religious equipment such as prayer rails and mass card holder, hearse (local), vehicle for removal (local), family car, flower transportation vehicle, clergy vehicle and pallbearer vehicle, if applicable.

(c) The written agreement form shall include a specific listing of cash advances paid for by the funeral director as a convenience to the family when the advances are dollar-for-dollar exchanges and not a part of the normal services and merchandise rendered by the licensee.

(d) The written agreement form must also include a specific listing of additional items of service and merchandise not covered by subsection (c) and differing from cash advances as explained in subsection (d).

(e) Interest on delinquent accounts, if charged, shall be listed and conform with State and Federal laws and regulations.

(f) A copy of the written agreement, signed by the family representative or agency official as well as the funeral director, shall be retained by the funeral director along with the records of the transaction for 6 years.

(g) If a family member or representative is located where a signature on an agreement is impossible, a fax, a telex, a telegram or a mailgram authorizing the procedure or arrangements will be acceptable. For the purpose of this subsection, the fax, telex, telegram or mailgram is to be used for "ship in" or "ship out" accommodations.

(h) The Board will not approve a form statement of funeral goods and services that does not comply with the act or this chapter, or the enforcement of any term of which would result in the violation of the act or this chapter.

PREPAID BURIAL CONTRACTS

§ 13.224. Funding and reporting of prepaid burial contracts.

(a) A funeral director shall deposit in escrow or transfer in trust to a banking institution in this Commonwealth, the entire amount of monies received by the funeral director under a prepaid contract for funeral services or merchandise, including additional service fees or arrangement fees.

(b) In regard to prepaid contracts entered into by funeral directors after November 4, 1989, a funeral director shall file a report with the Board within 90 days containing the information specified in subsection (c) with respect to each prepaid contract for funeral services and merchandise. Forms for the reports, including the report required under subsection (d), will be provided by the Board.

(c) A funeral director shall file a report with the Board on a form provided by the Board, certifying as true and correct, the following information with respect to each prepaid contract for funeral services and merchandise entered into:

(1) The date of the prepaid contract and the name and address of the purchasers under the contract.

(2) The name and address of the banking institution in which 100% of the money received by the funeral director on account of the contract has been deposited.

(3) The account number, account registration title—name and persons for whom the account is established—and the date the account was established.

(4) In installment contracts, if the entire amount of the contract has not been paid, the report must expressly indicate the fact that an installment contract is involved, and the total amount of installments received by the funeral director and deposited in escrow or in trust.

(d) A funeral director shall report within 30 days all fulfilled prepaid contracts, including the following:

(1) The name of the deceased.

(2) The date of the death.

(3) The account number.

(4) The name of the banking institution.

(e) The report required in subsection (c) is not a public record under the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4), known as the Right-to-Know Law. The report will be available to the following:

(1) Parties privy to the contract.

(2) Heirs of the deceased.

(3) Executors or administrators of the estate of the deceased.

(4) Courts of competent jurisdiction.

(5) The Board.

(f) Form prepaid burial contracts or form preneed contracts to be used by a funeral director shall be reviewed and approved by the Board and should reflect whether or not an additional service fee or arrangement fee is charged. Form prepaid burial contracts or form preneed contracts used by a funeral director may not incorporate a contract for funeral merchandise entered into by a person or entity other than a funeral director. The Board will not approve a form prepaid burial contract or preneed contract that does not comply with the act or this chapter, or the enforcement of any term of which would result in the violation of the act or this chapter.

[Pa.B. Doc. No. 08-1288. Filed for public inspection July 11, 2008, 9:00 a.m.]

STATE BOARD OF NURSING [49 PA. CODE CH. 21]

Continuing Education for Professional Nurses

The State Board of Nursing (Board) adopts §§ 21.1, 21.5 and 21.131—21.134, regarding continuing education for professional nurses (RNs), to read as set forth in Annex A.

Notice of proposed rulemaking was published at 37 Pa.B. 1980 (April 28, 2007). Publication was followed

by a 30-day public comment period during which the Board received approximately 100 comments from the regulated community (licensees) and numerous comments from stakeholder groups. On June 17, 2007, the House Professional Licensure Committee (HPLC) submitted its comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on June 28, 2007.

Statutory Authority

The final-form rulemaking is authorized under section 12 of The Professional Nursing Law (act) (63 P. S. § 212), which mandates continuing education for all professional nurses. In addition, section 2.1(k) of the act (63 P. S. § 212.1(k)) authorizes the Board to promulgate regulations for the administration of the act.

Summary of Comments and Responses to Proposed Rulemaking

Comments from the Public

The Board received approximately 100 comments from the licensees. The most prevalent concern of licensees related to the \$75 fee to be charged to those continuing education providers that were not preapproved by the Board for approval of a continuing education course. In addition, many school nurses requested that the Board clarify, in its regulation, how school nurses were to submit proof that they had complied with the continuing education requirement. Finally, a few licensees and other stakeholders expressed their belief that the civil penalties to be imposed for failure to complete statutorily-mandated continuing education were too high.

Fee for Approval of Continuing Education Activities.

There appeared to be significant confusion regarding the \$75 fee to be charged to continuing education providers who request that the Board review and approve a continuing education activity. Many licensees believed that the \$75 fee would be imposed on each licensee for each of the 30 hours of statutorily-mandated continuing education, resulting in additional biennial renewal costs to each licensee of \$2,250. In most instances, the fee is not charged to licensees; the fee is charged to a provider of continuing education that is not on the list of preapproved providers of continuing education. The Board's list of preapproved providers is extensive; the Board does not anticipate that many continuing education providers will need to apply to the Board for approval.

It is possible that the \$75 per credit hour fee could be imposed on an individual licensee. The only instance when the fee would be imposed on an individual licensee is if the individual licensee requested that the Board review and approve a continuing education activity that was not sponsored by a preapproved provider, and when the provider itself did not request approval of the activity. However, because the Board's list of preapproved providers of continuing education is so extensive, and because most, if not all, other providers will apply directly to the Board for approval of their continuing education activities, the Board does not anticipate that any individual licensee will be required to apply to the Board for review and approval of a nonpreapproved continuing education activity.

To make the regulation more clear, the Board has amended § 21.5 (relating to fees) to specify that the \$75 per credit hour fee is based on the request submitted under § 21.134(b) (relating to continuing education

sources) for approval of a continuing education activity offered by a continuing education provider that is not listed in § 21.134(a).

Under these regulations, a provider needing approval of a continuing education activity would have the option of requesting approval from the Board or from one of the preapproved credentialing organizations, such as the Pennsylvania State Nurses Association (PSNA) or the American Nurses Credentialing Center (ANCC), as set forth in § 21.134(a)(8).

Submission of Continuing Education Information by School Nurses.

Section 12.1 of the act (63 P. S. § 212.1) sets forth the requirement that RNs complete at least 30 hours of continuing education in each biennial renewal period. Section 12.1(g) of the act provides that "[i]n lieu of meeting the requirements of this section . . . school nurses who as certified education specialists are required to obtain continuing professional education under section 1205.2 of the act of March 10, 1949 (Pub. L. 30, No. 14), known as the 'Public School Code of 1949,' and under this act shall be permitted to submit evidence of the completion of education courses approved for their certification by the school district."

The Board agrees with the commentators that its regulation should instruct licensees subject to this provision how to submit evidence that they completed education courses approved for their certification by the school district. Therefore, the Board has amended § 21.29(c)(3) (relating to expiration and renewal of license) to provide that school nurses verify on their biennial renewal application that they have complied with the continuing education requirements for certification by the school district. If the school nurse's renewal is selected for a compliance audit, the nurse would submit proof of current certification by the Department of Education, as set forth in § 21.131(c)(5) (relating to continuing education).

Civil Penalty for Failure to Complete Mandatory Continuing Education.

Several individuals expressed the opinion that the schedule of civil penalties for nurses who fail to complete mandatory continuing education is too harsh. In addition, the Pennsylvania State Education Association (PSEA) commented that there did not appear to be any due process provisions in the regulations to allow the nurse to appeal the imposition of a fine. The schedule of civil penalties published separately by the Commissioner of Professional and Occupational Affairs at 37 Pa.B. 1986 (April 28, 2007) calls for a civil penalty of \$250 for a nurse who fails to complete 1 to 10 hours of continuing education, a civil penalty of \$500 for a nurse who fails to complete 11 to 20 hours of continuing education, and a civil penalty of \$1,000 for a nurse who fails to complete 21 to 30 hours of continuing education over the biennial renewal period.

The Board does not believe that these fines are excessive; in fact, the fines are significantly lower than the fines imposed by other licensing boards in the Bureau of Professional and Occupational Affairs for violations of the continuing education regulations. For example, some boards routinely impose civil penalties of \$50 to \$100 per deficient credit hour. For ease of administration and due to the significantly larger licensee population of the Board, the Board determined it should impose the civil penalty in blocks of credits deficient rather than per credit hour. The Board believes that the proposed civil

penalty schedule will act as a sufficient deterrent to prevent nurses from neglecting their mandatory continuing education requirement.

The procedures for appealing a civil penalty imposed by citation are set forth in § 43b.3 (relating to procedures). A nurse who wishes to dispute the imposition of a civil penalty imposed by citation simply declares this intention and mails the citation form back to the Bureau. A hearing is then scheduled before a hearing examiner, for which the nurse is notified by first class mail. If the nurse disagrees with the decision of the hearing examiner, the nurse may appeal it to the Board. If the Board ultimately determines that the nurse has violated the regulations and is subject to the civil penalty, the nurse may appeal the Board's decision to the Commonwealth Court of Pennsylvania. The nurse's due process rights are fully protected by these procedures.

The PSEA noted that § 21.131(g)(2) requires a nurse who has failed to complete 30 hours of continuing education in a biennial period to make up the deficiency within 6 months and that § 21.131(g)(3) imposes a higher level of discipline for a nurse who does not make up the deficiency within 6 months. PSEA expressed concern that nurses would not know whether the Board had accepted their credits until months after the 6-month deadline had passed. The Board disagrees. A nurse would know, by virtue of the list of preapproved providers, whether the Board approves the activity at the time the nurse enrolls in a continuing education activity. When the nurse receives the certificate of attendance, the nurse can determine how many hours the nurse has completed toward the 30-hour minimum required biennially. A nurse does not need notice from the Board to discern whether he has complied with the act and the regulations.

Calculation of Time for a Continuing Education Activity.

Three commentators questioned how the Board determined to use a 50-minute hour instead of a 60-minute hour for calculating continuing education credit. The Board based its decision on the standard academic hour, which is 50 minutes, because it will be much easier for continuing education providers that are not educational institutions to adjust their continuing education courses than to require all schools of nursing to adjust their classes. In addition, the 50-minute hour is already used for continuing education for CRNPs.

PSEA commented that a three-credit course in a semester program should be considered equal to 30 continuing education hours. The Board has determined that it is appropriate to limit the number of continuing education hours that may be obtained from a single source and will, therefore, retain its 15 credit hour limit.

Preapproved Continuing Education.

One commentator asked if "standard CEU providers" such as "the California Nurses Association" and "the numerous small companies who give CEUs" would be included. National and state nursing organizations are included as preapproved providers under § 21.134(a)(6). The Board is unsure what the commentator means by "numerous small companies who give CEUs." A Pennsylvania nurse may obtain continuing education that is creditable toward the biennial requirement from any company or organization that has obtained accreditation of its continuing education offerings from a preapproved credentialing organization as set forth in § 21.134(a)(8).

Another commenter suggested that the Board apply the requirements of § 21.133 (relating to continuing education content) to all approved continuing education, includ-

ing continuing education offered by a preapproved provider. The Board intended the continuing education content provisions to apply to all continuing education for professional nurses and has amended § 21.134(a) to clarify this intent.

Villanova University College of Nursing (College) submitted several comments. First, the College suggested that the Board limit the ability of a nurse to obtain continuing education credit for research to the principal and/or co-investigator, or both, on a research project. The Board agrees that this is an appropriate limit to place on the use of research for continuing education credit and has amended § 21.133(d) in accordance with this suggestion. The College opined that the list of preapproved providers of continuing education was overly broad and that all continuing education programs should meet standards such as those used by ANCC. The Board has amended § 21.134(a) to clarify that the criteria of § 21.133 apply to all continuing education programs. Even those continuing education activities offered by preapproved providers must meet the content restrictions of § 21.133.

The continuing education department of the College questioned the approval of hospitals and health care facilities licensed by the Department of Health as providers of continuing education. Hospitals and health care facilities have been educating their staff for many years and have a vested interest in a well-educated and competent workforce. The Board is confident that hospitals and health care facilities will provide high quality continuing education. In addition, preapproval of these entities will lessen the impact on the workforce because nurses will not have to take as much time off to travel to continuing education courses. In addition, the inclusion of National pharmaceutical organizations was questioned. The Board believes that RNs are aware of the potential interest that pharmaceutical organizations may have and can discern the objective information offered about pharmaceutical products. Although RNs do not prescribe drugs, RNs administer drugs and monitor patients receiving drug therapies. It is important for RNs to understand the pharmacological and pharmacotherapeutic characteristics of drugs. The Board disagrees that continuing education offered by national pharmaceutical organizations should not be creditable.

Geisinger Health System commented that editors and section editors for nursing journals should be able to acquire continuing education hours per credited publication. The Board declines to make this amendment, believing that serving as a journal editor does not have a close enough link to nursing practice or patient care to be creditable. Additionally, it is the job of a journal editor to edit journal articles and the Board believes that continuing education activities should be activities undertaken in addition to the individual's work assignments.

The Pennsylvania Health Care Association (PHCA) identified itself as a provider of continuing education for nursing home administrators and asked whether some of their programs, which would be appropriate for RNs, would be within the ambit of preapproved providers. The Board has amended the list of preapproved providers in accordance with a suggestion from the Hospital and Healthsystem Association of Pennsylvania (HAP) so that PHCA's courses with relevant nursing content would be preapproved under § 21.134(a)(6).

Time for Submission of Information to the Board.

Several commenters expressed concerns about the Board's 120-day submission requirements for waiver requests and for approval of continuing education activities under § 21.134(b). The Board has amended §§ 21.131(f) and 21.134(c) to reduce the time to 90 days. Because of the size of the Board's licensee population (approximately 225,000 RNs), the Board does not believe it is feasible to use the same time frames adopted by the State Board of Examiners of Nursing Home Administrators (licensee population of 1,919 NHAs).

Continuing Education Content.

The PSNA submitted comments, some of which have been addressed previously. In addition, the PSNA suggested that courses relating to self-improvement should be considered valid continuing education. The PSNA suggested that "courses on stress management, interpersonal relationships, humor in nursing, etc. provide health promotion strategies for nurses that lead to better care of the citizens of Pennsylvania and retaining nurses in the profession." Although the Board agrees that some courses related to self-improvement may lead to better care of the citizens of this Commonwealth, the Board believes that the intent of the General Assembly was to require continuing education more closely related to the provision of care to patients and therefore declines to amend its proposed rulemaking as suggested by the PSNA.

The PSEA noted that § 21.133(e) does not permit nurses to receive credit for courses that are designed for laypeople, and commented that this restriction is too severe. The PSEA gave as an example university biology and pharmaceutical courses. These courses would be considered approved under § 21.134(a)(5). The PSEA also commented that a foreign language course offered at a university would not count for credit. These courses would also be considered approved under § 21.134(a)(5). Finally, the PSEA commented that courses on "preventing professional burnout" should be allowed for continuing education credit because they should not be included in the statutory prohibition that does not permit nurses to obtain credit for courses in "office management." Further, the PSEA opined that the Board's regulation is neither "reasonable" nor "acceptable."

The Board respectfully disagrees and believes that the intent of the General Assembly in requiring continuing education for nurses is to improve nursing practice and ensure the competency of Pennsylvania's nursing workforce. While the Board agrees with the PSEA and other commentators that courses in self-improvement or preventing professional burnout may be beneficial to nurses and ultimately to patients, the Board is charged with effectuating the statute and believes that to be credited as continuing professional education, courses should have a close link to patient care. The Board does not believe that courses designed to "prevent professional burnout" have a close enough relation to the provision of quality patient care to be credited for biennial license renewal. Moreover, nothing in the statute or this rulemaking restricts a nurse from taking more than the minimum 30 hours of continuing education in a biennial period. If an individual nurse finds a course beneficial, the nurse may take the course in addition to the courses taken for license renewal.

Retired Nurses.

The PSNA asked whether retired nurses would need to attain 30 hours of biennial continuing education to retain an active license. The statute requires that all nurses

attain 30 hours of biennial continuing education to retain an active license; no exception is made for retired nurses. The Board is aware that many institutions invite retirees to attend continuing education at no cost. However, the Board does not have statutory authority to exempt retired nurses from the continuing education requirement. A nurse who is retired from practice may place a license on inactive status, obviating the need to complete biennial continuing education.

Miscellaneous comments.

PSNA noted that "the nurses of Pennsylvania are expressing frustration at having to maintain their personal records for 5 years, rather than for the license renewal period 2 years." The Board does not believe that any hardship is created by requiring that documentation of continuing education be retained for 5 years, and notes that much more extensive documentation is required to be retained for 7 years for Income Tax purposes. PSNA also requested that the Board offer an online continuing education tracking system. The Board does not have the funds to create an online continuing education tracking system.

The Pennsylvania Association of County Affiliated Homes (PACAH) objected to the requirement, in § 21.134(e), that a continuing education provider submit a separate application and fee whenever a change is made to any of the program content and speakers. First, the Board notes that its list of preapproved continuing education providers and accrediting bodies is vast and that very few applications from additional continuing education providers are anticipated. PACAH is a preapproved provider under § 21.134(a)(6). Preapproved continuing education providers will not be required to submit initial or amended programs to the Board. Second, the Board notes that the content of a continuing education program and the speakers providing information to program attendees are the most important items that the Board, or an accrediting body, approves when it reviews a continuing education program proposal. For these reasons, the Board declines to amend the rulemaking as proposed by PACAH.

The PSEA requested that the Board send notice of biennial renewal to nurses 120 days prior to the expiration date of the licensees' licenses so that nurses may "correct shortfalls in their continuing education." The Bureau of Professional and Occupational Affairs currently sends renewal notices to licensees across all licensing boards approximately 90 days in advance of the expiration date of the licensees' licenses. The Board does not believe that the responsibility to remind nurses of the expiration date of the nurses' licenses or to ensure that nurses have completed statutorily mandated continuing education rests with the Board. Nurses, like many other professional licensees under the Bureau, have 2 years to complete their continuing education requirement and should not be waiting until the last minute to comply. Moreover, it is unclear to the Board whether PSEA anticipates that nurses would be excused from statutorily mandated continuing education if the Board should fail to meet the 120-day deadline. Therefore, the Board declines to set a certain time that notices must be sent to licensees.

Comments from HAP.

HAP submitted extensive comments. In general, HAP found the Board's proposed rulemaking to be flexible and comprehensive and supported the overall direction taken by the Board. HAP suggested that the Board strike part

of § 21.131(b), so that any nurse applying for initial licensure by examination would be exempt from the continuing education requirement for the first biennial renewal period, regardless of when the nurses' education was completed. The Board has not amended its regulation as suggested. The Board believes that if a nurse's education was completed more than 2 years prior to initial licensure in this Commonwealth, the nurse should not be excluded from the continuing education requirement during the first biennial renewal period. HAP also suggested that the Board add an exception for nurses applying for licensure by endorsement. The Board believes that § 21.131(a) adequately specifies that continuing education need be completed only upon renewal of a nursing license, not for initial licensure. Therefore, the Board declines to add the suggested language.

HAP asked for clarification of § 21.131(g), regarding to disciplinary action for failure to complete mandatory continuing education. HAP asked if an RN would be subject to a civil penalty when the RN reported, on the renewal application, that the RN had not completed at least 30 hours of continuing education. The nurse would be subject to the schedule of civil penalties at the time the nurse reported that he did not complete the mandatory continuing education. This is reflected in § 21.131(g)(1), which states that "failure to complete a minimum of 30 hours of continuing education in a biennial period will subject the nurse to discipline under section 13(b) of the act . . . in accordance with the schedule of civil penalties." HAP also asked what the status of the nurse's license would be during the 6-month period that the nurse is given to make up the deficiency in continuing education hours. The nurse's license would remain on active status.

HAP also requested clarification of whether the nurse who failed to make up the deficiency during the 6-month period would be subject to additional disciplinary action. Section 21.131(g)(3) addresses this situation, stating that "notwithstanding any civil penalty assessed under paragraph (1), failure to provide the Board with documentation supporting completion of 30 hours of approved continuing education within 6 months after the end of the biennial period in which the professional nurse was deficient will subject the licensee to discipline under section 14(a)(3) of the act." This further violation of the act will subject the nurse to formal prosecution under section 14(a)(3) of the act and could result in additional civil penalties, reprimand or suspension of the nurse's license until the deficiency has been made up.

HAP also asked what action the Board would take if it learned that a nurse intentionally falsified a license renewal application. The intentional falsification of a renewal application has always subjected a nurse to disciplinary action under section 14(a)(4) of the act (63 P. S. § 224(a)(4)), which prohibits fraud or deceit in securing admission to practice. HAP asked if the action would be different from when a licensee honestly indicated that he failed to complete the requirement. A licensee who honestly reports the failure to complete the continuing education requirement is not subject to discipline under section 14(a)(4) of the act. HAP also asked how the Board plans to deal with honest discrepancies in the reporting of continuing education. A nurse charged with violating the continuing education provisions is afforded the opportunity to attend a hearing and explain the discrepancy to the Board. The Board always considers the nature of the offense and any evidence offered in mitigation when determining the appropriate sanction, if any, to impose in a disciplinary proceeding.

HAP suggested clarification to § 21.132(b) regarding the calculation of contact hours based on credit hours earned in an academic institution. The Board has amended the rulemaking for clarity and to provide for academic institutions that operate on the trimester system.

HAP suggested that the Board consider limiting continuing education activities to those that are at least 30 minutes in length. The Board agrees with this suggestion and has amended § 21.132(a) accordingly.

HAP suggested that the Board create a list of acceptable continuing education content, including risk management and legal issues, quality and performance improvement, patient safety, infection prevention and control, case management, utilization review, nursing/clinical informatics, customer relations, accreditation and regulatory compliance, finance and reimbursement, disruptive behavior, behavioral norms and codes of conduct, and health care ethics. The Board chose to define the content of continuing education broadly to encompass information "relevant to professional nursing in a general or specialty area," "course in areas related to nursing" and "courses in nursing administration, management, education and diagnostic and procedural coding." The Board believes that all of the topics listed by HAP are included within its general language. The Board does not wish to enumerate content topics, as this is limiting.

HAP suggested that the Board consider broadening activities for which continuing education contact hours could be awarded, including teaching, publication, development of patient and family education materials, research and clinical preceptorship. Section 21.133(d) already approves group or individual research for up to 15 hours of continuing education credit. The Board believes that continuing education should be something that requires the participants to go beyond what they already do as part of their jobs or for compensation. Therefore, the Board declines to award continuing education credit for teaching, developing educational materials and preceptorship.

HAP suggested that the Board more fully define the documentation that a nurse would have to submit, if audited. The Board had deleted the definition of certificate of attendance and has expanded § 21.131(c) to include the types of documentation that a nurse will be required to maintain as proof of continuing education credit.

HAP also recommended that the Board expand the list of activities that will not be credited for continuing education credit. The Board has added some of HAP's suggested exclusions to § 21.133(e), and finds that some of HAP's suggested exclusions are already covered in the rulemaking.

HAP recommended that the Board expand the eligible health care facilities that may offer approved continuing education in § 21.134(a)(3) and (4). The Board has adopted HAP's suggestion and amended these sections. HAP also suggested amendments to the list of preapproved providers that would allow nurses to obtain continuing education from National organizations in fields related to nursing, such as patient safety and quality; to include health care professionals organizations, such as the American Health Information Management Association, other state and regulatory agencies, and the like. The Board's goal was to make the list of preapproved providers as broad as possible while assuring a level of quality. The Board agrees with HAP's suggested language and has amended § 21.134(a) accordingly.

HAP noted that the fee schedule for approval of continuing education courses set by the Board was higher than the fee schedule for approval of continuing education courses set by the PSNA. The Board is not aware of the resources that PSNA has to devote to the approval of continuing education courses. The fee set by the Board is intended to cover the Board's cost in approving continuing education. If a provider or individual nurse prefers to have continuing education approved by the PSNA, the Board would accept PSNA's approval under its regulation because the PSNA is recognized as a pre-approved credentialing organization for continuing education.

Finally, HAP questioned the need for a certificate of attendance to include faculty and other information listed in § 21.123(b)(4) and (5) (relating to access and use of records). The Board agrees and has amended § 21.134(f) accordingly.

HPLC Comments

The HPLC met on June 6, 2007, and submitted seven comments for the Board's consideration. Some of the HPLC's comments, such as those related to provisions for school nurses and whether the \$75 fee per credit hour is applied to all nurses, have been addressed previously.

In addition, the HPLC asked for an explanation of "peer-reviewed journals" in § 21.1 (relating to definitions), which defines distance learning continuing education as continuing education in which the individual participates in the educational activity through peer-reviewed journals. A peer-reviewed journal is a professional nursing journal that has an editorial board of health care professionals, such as physicians and nurses, who review the articles submitted for publication and ensure that the articles are medically accurate and timely. For those articles, which include tests that are mailed back to the journal for continuing education credit, the professional editorial board also reviews the questions and answers provided by the author of the article. By limiting continuing education sources to peer-reviewed journals, the Board ensures the quality of the educational experience. The Board notes that its continuing education regulations for CRNPs refer to "refered" journals; therefore, the Board has amended § 21.1 for consistency with the CRNP regulatory provisions.

The HPLC sought clarification on whether the fee for approval of a continuing education course applied only to continuing education program providers. The fee applies only to those continuing education program providers who have not been granted preapproved status.

Regarding § 21.29(c)(1) (relating to expiration and renewal of licenses), the HPLC asked whether the licensure renewal application included a question regarding disclosure of whether the licensee was licensed to practice in any other state. The question is on the licensure renewal application. Additionally, the HPLC asked for clarification of the terminology in § 21.29(d), which requires a licensee to "retain" the wallet size licensure document. A licensee is not required to carry the license, but only to have access to it.

The HPLC noted that § 21.131(b) allows for an exemption for continuing education for the first 2 years of licensure for a licensee who has completed an approved nursing education program within 2 years of the date of the initial application. However, the HPLC stated that the exemption does not include nurses who are employed by school districts. The Board has addressed school nurses in §§ 21.29(c)(3) and 21.131(c)(5). The Board does not need to exempt school nurses from the continuing

education requirements in § 21.131 because school nurses are already exempt from the Board's continuing education requirements, as set forth in section 12.1(g)(2) of the act (63 P. S. § 222(g)(2)), so long as they are in compliance with the continuing education requirements of the Public School Code (24 P. S. §§ 1-101—27-2702).

The HPLC asked for additional clarification of the award of one continuing education credit for every 3 hours of academic course-related clinical practice. The Board had decided to remove this provision and provide credit only for didactic educational programs.

Finally, the HPLC requested the Board review its use of the terms "program," "sources" and "courses" in § 21.134. The Board has made appropriate amendments.

IRRC Comments

IRRC asked why, in § 21.134(b), the fee for approval of a continuing education activity is based on each hour of continuing education. The reason is that each hour segment of a continuing education program is usually taught by different faculty and on a different subject, requiring additional time for review. The Board does not have sufficient staff to review a large number of continuing education activities; however, there are several other state and national accrediting bodies that approve continuing education that are recognized by the Board (for example, PSNA and ANCC).

IRRC asked how a licensee verifies compliance with the continuing education requirement. A licensee verifies compliance by the licensee's signature on the renewal application under a statement that the licensee has complied with the requirement. If the licensee renews online, the online document provides a means for verification.

IRRC noted that school nurses were confused over the impact of the rulemaking. These concerns were addressed previously.

IRRC requested clarification regarding the basis for awarding continuing education credit for 3 hours of course-related clinical practice. The Board has omitted this provision.

IRRC asked for clarification of the term "institutional review board" and suggested that the term reference the sponsoring facility. An institutional review board is a group of professional and community individuals that approve research, and that are generally certified to review and approve research. The Board has made an amendment to § 21.133(d) to refer to the sponsoring facility.

IRRC noted that § 21.134(a) is confusing with references to providers, programs and credentialing organizations. The Board has amended the section for clarity. In addition, the Board has amended the list of approved providers as suggested by HAP.

IRRC requested that the Board add a provision to § 21.134(b) to provide that the Board would request additional information, if necessary, in writing. The Board has made this amendment.

IRRC asked how the Board would determine the number of continuing education hours awarded for an activity under § 21.134(d). The Board will make the determination based on the content of the proposed program and qualifications of the faculty. The Board has added a provision to notify applicants that the Board will award no more than the number of hours requested. Thus, if a provider presents a 4-hour continuing education proposal, the Board may approve only 3 hours for continuing

education credit. The Board will not refund the \$75 fee because the fee covers the Board's expense in reviewing the proposal for the hour that was ultimately denied.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The Board is self-supporting and the fee charged for approval of continuing education courses will satisfy the cost to the Board of reviewing applications for continuing education course approval. The final-form rulemaking will impose only minimal additional paperwork requirements upon the Board, and none upon any political subdivisions. The private sector, to the extent that it seeks to provide continuing education programs for professional nurses, will incur costs in submitting information to the Board or another credentialing organization for approval. The regulated community will incur costs associated with complying with the continuing education requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 18, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1980 (April 28, 2007) to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 14, 2008, the final-form rulemaking was approved by the HPLC. On June 4, 2008, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 5, 2008, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings of the Board

The Board finds that:

(1) Public notice of intention to adopt this final-form rulemaking was given under under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published at 37 Pa.B. 1980.

(4) The regulations of the Board are necessary and appropriate for the regulation of the practice of professional nurses in this Commonwealth.

Order

The Board therefore orders that:

(a) The regulations of the Board, 49 Pa. Code, Chapter 21, are amended by amending §§ 21.1, 21.5, 21.29 and by adding §§ 21.131—21.134 to read as set forth in Annex A.

(b) The Board shall submit a copy of this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

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

(d) The final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

MARY E. BOWEN, RN, DNS, CNAA,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16A-5130 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.1. Definitions.

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

Act—The Professional Nursing Law (63 P. S. §§ 211—225.5), which establishes standards for nursing schools and the conduct of nursing programs.

Approved—Approved by the Board.

Board—The State Board of Nursing of the Commonwealth.

Continuing education—An activity approved by the Board as a condition for renewal of licensure or certification for which proof of completion can be provided to the Board.

Diagnosing—Identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen.

Distance learning continuing education—Continuing education in which the individual participates in the educational activity by means of electronic media or through refereed journals, rather than in a classroom, laboratory or clinical setting where the faculty and participant are physically located in the same room.

Graduate registered nurse—An individual who has graduated from an approved program of professional nursing in this Commonwealth or a comparable program in another state.

Human responses—Those signs, symptoms and processes which denote the interaction of the individual with an actual or potential health problem.

Patient (includes residents and clients)—A person, other than a spouse or immediate family member, who receives professional services from a registered nurse, regardless of whether the nurse receives remuneration for the services.

Practice of professional nursing—

(i) Diagnosing and treating human responses to actual or potential health problems through such services as case findings, health teaching, health counseling, provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed physician or dentist.

(ii) The term does not include acts of medical diagnosis or prescription of medical therapeutic or corrective measures, except as may be authorized by rules and regulations jointly promulgated by the State Board of Medicine and the Board, which rules and regulations will be implemented by the Board.

Professional relationship—

(i) For a registered nurse not involved in providing mental health services, the relationship which shall be deemed to exist for a period of time beginning with the first professional contact or consultation between a registered nurse and a patient and ending with the patient's discharge from or discontinuance of services by the nurse or by the nurse's employer. The administration of emergency medical treatment or transitory trauma care will not be deemed to establish a professional relationship.

(ii) For a registered nurse involved in providing mental health services, the relationship which shall be deemed to exist for a period of time beginning with the first professional contact or consultation between the nurse and patient and ending 2 years after discharge from or discontinuance of services. For a patient who is a minor, a professional relationship shall be deemed to exist for 2 years or until 1 year after the age of majority, whichever is longer, after discharge from or discontinuance of services.

Registered nurse—A nurse licensed under this subchapter to practice in this Commonwealth.

Sexual impropriety—The term includes the following offenses:

(i) Making sexually demeaning or sexually suggestive comments about or to a patient, including comments about a patient's body or undergarments.

(ii) Unnecessarily exposing a patient's body or watching a patient dress or undress, unless for therapeutic purposes or the patient specifically requests assistance.

(iii) Examining or touching genitals without the use of gloves when performing an otherwise appropriate examination.

(iv) Discussing or commenting on a patient's potential sexual performance or requesting details of a patient's sexual history or preferences during an examination or consultation, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction or reproductive health care. Discussion of a patient's sexual practices and preferences shall be fully documented in the patient's chart.

(v) Soliciting a date from a patient.

(vi) Volunteering information to a patient about one's sexual problems, preferences or fantasies.

Sexual violation—The term includes the following offenses:

(i) Sexual intercourse between a registered nurse and a patient during the professional relationship.

(ii) Genital to genital contact between a nurse and a patient during the professional relationship.

(iii) Oral to genital contact between a nurse and a patient during the professional relationship.

(iv) Touching breasts, genitals, or any other body part for any purpose other than appropriate examination or treatment, or using prolonged or improper examination techniques, or after the patient has refused or withdrawn consent.

(v) Encouraging a patient to masturbate in the presence of the nurse or masturbating while a patient is present.

(vi) Providing or offering to provide drugs or treatment in exchange for sexual favors.

(vii) Using or causing the use of anesthesia or any other drug affecting consciousness for the purpose of engaging in conduct that would constitute a sexual impropriety or sexual violation.

Treating—Selection and performance of those therapeutic measures essential to the effective execution and management of the nursing regimen and execution of the prescribed medical regimen.

§ 21.5. Fees.

(a) The following fees are charged by the Board:

| | |
|---|-------|
| Examination and licensure | \$35 |
| Reexamination | \$30 |
| Licensure by endorsement | \$100 |
| Temporary permit | \$35 |
| Extension of temporary permit | \$60 |
| Application for approval of new nursing program .. | \$935 |
| Fee for review and challenge of RN exams | \$170 |
| Application fee for out-of-State graduates | \$100 |
| Biennial renewal of license | \$45 |
| Verification of licensure | \$15 |
| Reactivation of license (after 5 years or longer) | \$50 |
| Restoration after suspension or revocation | \$50 |
| Certification of scores | \$25 |
| Certification of license history | \$40 |
| Request under § 21.134(b) by a provider of a continuing education activity not listed in § 21.134(a) or an individual seeking credit for a continuing education activity not preapproved by the Board for approval of each hour of continuing education for which credit is requested | \$75 |

(b) In addition to the examination and licensure fee of \$35 prescribed in subsection (a), which is payable directly to the Board, a candidate for the registered nurse licensing examination shall also pay a fee of \$40 to the National Council of the State Boards of Nursing to cover costs associated with the preparation and administration of the registered nurse licensing examination. Effective April 1994, or upon implementation of the computer adaptive examination, the fee paid directly to the National Council of the State Boards of Nursing or its designated agent is \$88.

LICENSES

§ 21.29. Expiration and renewal of license.

(a) The Board will assign registered nurses to one of the following license expiration dates:

- (1) April 30 in the even-numbered years.
- (2) October 31 in the even-numbered years.

- (3) April 30 in the odd-numbered years.
- (4) October 31 in the odd-numbered years.
- (b) Notice of the renewal period of a license will be sent to each active licensee prior to the expiration date of the licensee's license.
- (c) The applicant for license renewal may complete and submit an application online or may mail a completed application form to the Board's administrative office. When applying for licensure renewal, a professional nurse shall:
 - (1) Complete and submit the renewal application form, including disclosing any license to practice nursing or any allied health profession in any other state, territory, possession or country.

(2) Pay the biennial renewal of licensure fee in § 21.5 (relating to fees).

(3) Beginning with the license period commencing on July 12, 2010, verify that the professional nurse has complied with the continuing education requirements mandated by section 12 of the act (63 P. S. § 222) during the biennial period immediately preceding the application for renewal in accordance with §§ 21.131—21.134 (relating to continuing education). School nurses, who as certified education specialists are required to obtain continuing professional education under the Public School Code of 1949 (24 P. S. §§ 1-100—27-2702), shall verify by signed statement that the school nurse has complied with the continuing education requirements for certification by the Department of Education.

(4) Disclose any discipline imposed by a state licensing board on any nursing or allied health profession license or certificate in the previous biennial period and any criminal charges pending or criminal conviction, plea of guilty or nolo contendere, or admission into a probation without verdict or accelerated rehabilitative disposition during the previous biennial period.

(d) When communicating with the Board, licensees shall identify themselves by full name, current address and license number.

CONTINUING EDUCATION

§ 21.131. Continuing education.

(a) *Requirement of continuing education.* Beginning with the license period commencing on July 12, 2010, an applicant for renewal of a professional nursing license shall complete 30 hours of continuing education approved by the Board during the biennial period immediately preceding the application for renewal in accordance with section 12 of the act (63 P. S. § 222) and this subchapter.

(b) *Exception.* An applicant applying for initial licensure by examination in this Commonwealth will not be required to meet the continuing education requirement on the first renewal immediately following licensure if the applicant completed an approved nursing education program within 2 years of the date of application for initial licensure by examination.

(c) *Board audits; proof of completion.* The Board may perform audits on professional nurses to determine compliance with the continuing education requirements. A professional nurse shall retain documentation of the nurse's completion of continuing education for at least 5 years. A professional nurse shall comply with a request for submission of documents verifying the nurse's completion of continuing education. The following documents shall be retained and submitted upon request:

(1) For attendance at continuing education programs or courses, the nurse shall retain the certificate of attendance provided by the program or course provider.

(2) For academic courses taken from an accredited college or university, the nurse shall retain the official transcript issued by the educational institution.

(3) For publication of a textbook or article, the nurse shall retain a copy of the published item, including the date of publication.

(4) For a research project, the nurse shall retain a copy of the research abstract, letter from the institutional review board granting approval for the research project and list of primary and co-investigators.

(5) For school nurses, evidence that the nurse's certification by the Department of Education is current.

(d) *Reinstatement of lapsed license or reactivation of inactive license.* A licensee seeking to reinstate a lapsed license or reactivate an inactive license shall submit documentation to demonstrate that the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement. A refresher or reactivation course at an accredited school of nursing will be credited toward the 30-hour continuing education requirement as set forth in § 21.132 (relating to continuing education hours).

(e) *Reinstatement of suspended license.* A licensee seeking to reinstate a suspended license shall submit documentation to demonstrate that the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement.

(f) *Waiver.* A licensee may request a waiver of the continuing education requirement because of serious illness, military service or other demonstrated hardship. The licensee shall submit the request and any supporting documentation to the Board in writing at least 90 days prior to the licensee's license expiration date. The Board will grant, deny or grant in part the request for waiver.

(g) *Disciplinary action authorized.*

(1) Failure to complete a minimum of 30 hours of continuing education in a biennial period will subject the professional nurse to discipline under section 13(b) of the act (63 P. S. § 223(b)) in accordance with the schedule of civil penalties in § 43b.18 (relating to schedule of civil penalties—nurses). A second or subsequent violation will subject the professional nurse to discipline under section 14(a)(3) of the act (63 P. S. § 224(a)(3)).

(2) A professional nurse who has not completed a minimum of 30 hours of continuing education shall report the number of continuing education hours completed on the biennial renewal application and shall make up the deficiency within 6 months of the expiration date of the nurse's license. The licensee shall provide documentation demonstrating the completion of the entire 30-hour requirement to the Board immediately upon completion, but no later than 6 months after the end of the biennial renewal period.

(3) Notwithstanding any civil penalty assessed under paragraph (1), failure to provide the Board with documentation demonstrating the completion of 30 hours of approved continuing education within 6 months after the end of the biennial period in which the professional nurse was deficient will subject the licensee to discipline under section 14(a)(3) of the act.

§ 21.132. Continuing education hours.

(a) The Board will accept hours of continuing education as designated by an approved provider, so long as each

hour is at least 50 minutes of activity and each 1/2 hour is at least 30 minutes of activity.

(b) For purposes of determining acceptable hours of continuing education for academic coursework, the following apply:

- (1) One academic trimester unit is equivalent to 12 continuing education hours.
- (2) One academic quarter unit is equivalent to 10 continuing education hours.
- (3) One academic semester unit is equivalent to 15 continuing education hours.

§ 21.133. Continuing education content.

(a) Continuing education must be relevant to patient care or professional nursing in a general or specialty area and enhance the knowledge and application of the physical, social, biological and behavioral sciences.

(b) Courses in areas related to nursing such as the following are acceptable:

- (1) Human sexuality.
- (2) Death, dying and grief.
- (3) Foreign language relevant to health care.
- (4) Therapeutic interpersonal relationship skills.
- (5) Patient rights.
- (6) Pharmacology.

(c) Courses in areas impacting nursing practice, such as nursing administration, management, education and diagnostic and procedural coding are acceptable.

(d) Group or individual research, as the principal or co-principal investigator, if approved by the institutional review board of the sponsoring institution, is acceptable and will be credited as 15 hours of continuing education.

(e) Nonprofessional course content not directly related to patient care, such as courses in self-improvement, changes in attitude, financial gain, courses designed for lay people, basic life support or cardiopulmonary resuscitation, mandatory annual education on facility specific policies unrelated to nursing practice (such as facility leave policies) and employment orientation programs are not acceptable for meeting requirements for license renewal.

§ 21.134. Continuing education sources.

(a) The following continuing education activities that meet the requirements of § 21.133 (relating to continuing education content) for professional nurses are approved:

- (1) Activities sponsored by a Board-approved professional nursing or CRNP education program.
- (2) Activities sponsored by an accredited professional nursing, CRNP, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist or Nurse Midwifery education program.
- (3) Activities sponsored by accredited hospitals and health care facilities.
- (4) Activities sponsored by hospitals and health care facilities licensed by the Department of Health or the Department of Public Welfare.
- (5) Activities sponsored by regionally-accredited institutions of higher education.
- (6) Activities sponsored by National nursing, medical, osteopathic and other health care professional organizations and their state and regional affiliates.

(7) Activities sponsored by National trade organizations, associations and their affiliated groups and state and regional affiliates.

(8) Activities approved by National nursing, risk management, health care quality and patient safety organizations.

(9) Activities sponsored by Federal and state agencies.

(10) Activities approved by a Board in another jurisdiction.

(b) The Board may approve other sources of continuing education on a case-by-case basis after the provider or professional nurse seeking approval submits the following:

- (1) Full name and address of the provider.
- (2) Title of the activity.
- (3) Date and location of the activity.
- (4) Faculty qualifications.
- (5) Schedule of the activity, including, for activities with multiple presenters, the title of each subject, lecturer and time allotted.
- (6) Hours of continuing education.
- (7) Method of certifying and assuring attendance, and draft of certificate of attendance to be provided to course participants, as applicable.
- (8) Course objectives.
- (9) Curriculum.
- (10) Target audience.
- (11) Program coordinator.
- (12) Instruction methods.
- (13) Evaluation methods, including participant evaluation and activity evaluation.
- (14) Other information requested in writing by the Board.

(c) Requests for approval of a continuing education activity under subsection (b) shall be submitted at least 90 days prior to commencement of the activity and shall be accompanied by the fee in § 21.5 (relating to fees).

(d) Upon approval of a continuing education activity under subsection (b), the Board will determine the number of continuing education hours awarded for the activity.

(e) A separate application and fee, as set forth in § 21.5, shall be submitted whenever a change is made to information submitted under subsection (b), except for information related to a change in date or location, or both, of the activity under subsection (b)(3).

(f) A continuing education provider shall award a certificate of attendance to professional nurses who complete the continuing education activity. The certificate must contain the information listed in subsection (b)(1)—(3) and (6) and the name of the individual to whom the certificate is awarded.

(g) Distance learning continuing education is acceptable for completion of all 30 continuing education hours required for license renewal.

[Pa.B. Doc. No. 08-1289. Filed for public inspection July 11, 2008, 9:00 a.m.]

**STATE BOARD OF NURSING
[49 PA. CODE CH. 21]**

Faculty Requirements for Nursing Education Programs

The State Board of Nursing (Board) amends §§ 21.1, 21.71, 21.72, 21.75 and 21.124 and rescinds § 21.74 (relating to faculty and staff requirements for diploma programs) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 37 Pa.B. 4649 (August 25, 2007). The publication was followed by a 30-day public comment period during which the Board received comments from the public and stakeholders, including the Pennsylvania State Nurses Association, the Hospital and Healthsystem Association of Pennsylvania, various nursing education programs and individual licensees. On September 26, 2007, the House Professional Licensure Committee (HPLC) submitted its comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on October 24, 2007.

Summary of Comments and Responses to Proposed Rulemaking

Public/Stakeholder Comments

Harrisburg Area Community College (HACC) expressed concerns that the requirement that faculty assistants teach for a cumulative maximum period of 5 years without completing a graduate degree in nursing would exacerbate the nursing faculty shortage. HACC also expressed concern about what it perceived as "the large gap in minimum qualifications between the faculty assistant and the clinical preceptor." HACC commented that these amendments will favor programs relying more on preceptor supervised experiences and will encourage programs to decrease instructor supervised clinical experiences in favor of clinical experiences supervised by preceptors.

Alvernia College (Alvernia) also expressed concern about what it perceived to be "the expanded enforcement of the 5 year timeline on faculty assistants." Alvernia noted that bachelor's prepared faculty assistants are typically highly competent and suggested that enforcement of the existing regulation would exacerbate faculty shortages. Alvernia suggested that the Board distinguish between faculty who teach didactic courses and faculty who teach clinical courses, noting that it is more difficult for programs to find part-time clinical instructors and that clinical instructors will be most affected by the 5-year deadline.

The 5-year limitation was adopted 32 years ago (See 6 Pa.B. 2677 (October 22, 1976) at 2682)). The Board has enforced this regulation throughout its existence. The Board does not know of any evidence compiled over this 32-year history that supports a conclusion that the regulation has caused or exacerbated the current nursing faculty shortage. Nevertheless, under 1 Pa. Code § 35.18 (relating to petitions for issuance, amendment, waiver or deletion of regulations), the Board has entertained requests for waiver of the regulations to grant additional time to a faculty assistant who has been unable to complete master's preparation in 5 years. The amendments will not affect the ability of individuals to request a waiver from the Board under 1 Pa. Code § 35.18.

Alvernia did not dispute that the master's degree in nursing is the optimal preparation for nursing faculty, but

suggested that the Board provide incentives for nurses to try teaching and persist in Master's education. The Board must operate within its statutorily defined duties. The Board is not aware of any incentive that it could provide to its licensees to try teaching. Alvernia could pursue legislative incentives to encourage individuals to pursue teaching while attaining a Master's degree in nursing similar to existing legislative incentives for individuals pursuing education for entry into the practice of nursing.

The director of the St. Luke's School of Nursing (St. Luke's), a diploma nursing education program, expressed concerns about the elimination of § 21.74 (relating to faculty and staff requirements for diploma programs). The Board is eliminating § 21.74 because with the amendments to § 21.71 (relating to nurse administrator, faculty and staff requirements), § 21.71 now applies to all nursing education programs, including diploma programs. As amended, § 21.71 sets the same standards for faculty and staff in diploma, baccalaureate degree and associate degree programs. Therefore, § 21.74 is no longer necessary.

St. Luke's also commented that the amended § 21.71(5) is vague, and suggested that the Board should require "no less than one full-time secretary and a full-time librarian." The Board is amending § 21.71(5) to reference a wider range of student support services that should be in place in all schools of nursing. The Board declines to provide the specific support personnel requirements as suggested by the commentator in favor of leaving the details of the administrative decisions to the educational program and sponsoring institution. The Board's approach provides needed flexibility should, for example, one or more full-time librarians staff a hospital library with adequate time to assist nursing students using the library, or when a program's students may use the financial aid office of the controlling institution.

The Pennsylvania State Nurses Association (PSNA) noted its overall support of the proposed amendments, and specifically approved of the Board's retention of the requirement that faculty assistants obtain a graduate degree in nursing within 5 years.

The PSNA noted three areas of concern. First, PSNA proposed that the Board add educational requirements for clinical preceptors, requiring that they have the same educational background as the nursing faculty. There are currently no educational or experiential requirements for clinical preceptors. For many years, nursing education programs have been enhancing student learning experiences with clinical preceptors who do not hold a Master's degree in nursing; there is no evidence to suggest that clinical preceptors should now be required to hold a Master's degree in nursing. Section 21.71(c)(5) requires that the nursing faculty have involvement in the selection of preceptors and retain responsibility for planning and evaluating student learning experiences. This section has been reorganized for clarity. The selection and employment of clinical preceptors is left to the sound judgment of the nursing education program. The Board declines to set minimum educational requirements for clinical preceptors.

Second, PSNA suggested that the Board provide a specific number of students who could be supervised by a clinical preceptor. Clinical preceptors have been used for many years without problems arising from preceptor-student ratios. The ratio may be set by the nursing education program, the preceptors (through their contract with the program) or the facility or agency when the clinical experience takes place. The Board does not find it

necessary or advisable to set a specific ratio to govern the wide variety of settings where a student would work with a preceptor.

Third, PSNA requested clarification on the difference between a clinical preceptor and a faculty assistant. Section 21.71(c)(2) provides that a faculty assistant may teach nursing education courses, which would include both didactic and clinical courses, under the direct guidance of a faculty member when fully qualified faculty are not available. Section 21.71(c)(5) provides that a clinical preceptor may be used to enhance faculty-directed clinical learning experiences by guiding selected clinical activities. Therefore, clinical preceptors differ from faculty assistants in that clinical preceptors do not teach courses; clinical preceptors supervise nursing students in selected clinical learning experiences. Full-time faculty remains responsible for planning and evaluating the learning experiences.

A licensee commented that the Board should set forth guidelines regarding faculty responsibility for planning and evaluating student learning experiences when the student is with a clinical preceptor, and should require that nursing faculty be available by page. For many years, nursing education programs have utilized clinical preceptors to enhance the clinical learning experiences of nursing students. The Board has never set forth specific guidelines regarding faculty responsibility; the faculty is responsible for the student and this has been sufficient to ensure proper utilization of clinical preceptor experiences. The Board declines to set forth guidelines directing faculty how to plan and evaluate the wide variety of student learning experiences that occur when a student is with a clinical preceptor.

Regarding the availability of nursing faculty during a clinical preceptor experience, the Board has always required, when it approves a proposed clinical agency for use by a nursing education program, that whenever a faculty member is not physically present in the area in which students are practicing, that the faculty member be immediately available by telephone or some other means of telecommunication. The Board has added this requirement to § 21.71(c)(5).

The licensee also suggested that the Board require nursing education programs to employ a financial aid counselor. The Board declines to adopt this suggestion because some nursing education programs may have no need to employ a financial aid counselor as this service may be provided to all students through the controlling institution (university or college).

Finally, the licensee expressed concern that the Board's regulation would allow governing hospitals to require faculty to carry out duties unrelated to student experiences, nursing education or research for the benefit of furthering nursing education and noted that the National League for Nursing Accrediting Commission (NLNAC), a Nationally recognized specialized accrediting agency for all types of nursing education programs, limits other duties to 10% of job requirements. The Board has not made any amendment to its regulations that would have the effect suggested by the licensee. The Board believes that the nursing faculty is capable of negotiating, through the employment contract, their duties and job requirements and declines to set a specific limitation. The Board is confident that additional duties will be limited to meet the goals of the program.

Another licensee raised questions about the educational/experiential requirements for being a clinical

preceptor and whether a clinical preceptor could have a lower degree than the students to whom the preceptor is assigned. The licensee suggested that clinical preceptors be required to hold at least a bachelor's degree in nursing and have at least 2 years of clinical experience in the area they will be supervising. Section 21.71(c)(5) requires that nursing faculty have input into the selection of preceptors. No other educational/experiential requirements are set; therefore, it is possible that a nurse with an associate's degree in nursing might act as a preceptor for a student in a baccalaureate degree program. In that case, it would be expected that the preceptor have significant experience in preceptor's clinical area to merit appointment as a preceptor. The Board declines to set specific educational/experiential requirements for clinical preceptors.

The licensee asked whether there would be continuing education required for clinical preceptors. All RNs are required to complete a minimum of 30 hours of continuing education biennially. No additional continuing education is required for clinical preceptors.

The Hospital and Healthsystem Association of Pennsylvania (HAP) provided extensive comments and noted its appreciation of the Board's efforts to develop the most flexible and comprehensive regulations in response to the need for additional nurse educators. HAP commented that the Board should flesh out the responsibilities of the nurse administrator and require that the nurse administrator have sufficient time to devote to the operations of the nursing program. Each controlling institution and program defines the role of the nurse administrator to meet the needs of the specific institution and program; the duties of the nurse administrator are defined by the employment contract. The Board prefers to leave the specifics of the nurse administrator's duties to each individual program and administrator, which provides needed flexibility in meeting the broad goals defined by the Board.

HAP recommended additional detail be added to § 21.71(a)(5), related to support services in a nursing education program. The Board has adopted this suggestion, which was made in several of the comments received.

Regarding faculty qualifications, HAP commented that the reference to "clinical nursing education courses" in § 21.71(c)(1) and (2) was confusing and suggested dropping the word "clinical." The Board agrees that this terminology was confusing and that the intent was to reference both didactic and clinical content. The Board has deleted the word "clinical."

HAP asked for clarification on when there might be a person other than a nurse with a graduate degree in nursing teaching a specialized area of nursing practice. The primary purpose of the Board's rulemaking is to allow nursing education programs to expand their faculty complement to meet the demand for nursing education and produce more qualified nurses. To this end, the Board will allow nursing education programs, at their discretion, to employ persons other than a nurse with a graduate degree in nursing to teach a specialized area of health care practice. Some examples of subjects that might be taught by a person with a graduate degree in a major area other than nursing include pharmacology, genetics, informatics, clinical psychology, genomics, biotechnology, epidemiology and disaster planning.

HAP questioned to what extent a nursing education program that does not employ allied faculty would be

accountable for ensuring that allied faculty members used to teach nutrition meet the education and licensure requirements in the regulations. For those programs that send students to another institution for some courses, the review process of the Board includes review of the agreements between a nursing education program and other institutions where students take courses. The agreement should include a clause specifying that instructors who meet the Board's qualifications teach these courses.

HAP commented that it appreciated the Board's restraint in not developing overly prescriptive regulations regarding how preceptor programs are implemented, but expressed concern over the inappropriate overuse of preceptor experiences, including the substitution of these experiences because of the lack of sufficient numbers of nurse faculty. HAP recommended that the Board engage in dialogue with the field to develop more specific guidance with respect to the use of preceptor programs. The Board intends to conduct an informational meeting related to preceptor programs and develop guidelines, which will be promulgated in a future rulemaking, related to preceptor programs in nursing education.

HPLC Comments

The HPLC met on September 26, 2007, and submitted comments for the Board's consideration. The HPLC asked if the term "director of the program" had a different meaning than the term "nurse administrator." The term does not have a different meaning; the regulations are being modified to conform to current terminology in nursing education. The HPLC questioned the use of the term "sufficient number" in § 21.71(a) and asked how this would be quantified. The Board has amended the section to refer to the objectives of the nursing education program's curriculum and systematic evaluation plan. These are terms used in nursing education by, for example, the National League of Nursing. The term "systematic evaluation plan" is now defined in § 21.1 (relating to definitions) as an "organized, continuous analysis of all nursing education program components, such as curriculum, faculty, facilities, policies and outcome measures. Education programs use systematic evaluation plans to address standards or benchmarks to be achieved and to establish an action plan if those standards or benchmarks are not achieved." The Board's addition of these terms clarifies its intent. Additionally, the use of broad terminology is supported by the model practice act of the National Council of State Boards of Nursing for use by all State nursing boards.

The HPLC suggested that § 21.71(a)(5) be amended to refer to persons to make it consistent with the other subsections. The Board has made this amendment, and expanded the list of support services covered by the section to include financial aid personnel, as suggested by another commentator.

The HPLC suggested that the Board provide specific experiential requirements for the nurse administrator. The Board believes that each nursing education program should be permitted to hire a nurse administrator, within the general guidelines set forth by the Board, who has the experience the program seeks to implement the program's educational objectives. Because the Board's regulations apply to a variety of types of nursing education programs with different administrative needs, the Board does not believe it would be advantageous to substitute its judgment as to the particular experiential background of a potential administrator for that of the

institution conducting the program. Therefore, the Board declines to provide specific experiential requirements for the nurse administrator.

The HPLC questioned the adequacy of the 5-year time limit for a faculty assistant to teach, set forth in § 21.71(c)(2), and further suggested a mechanism whereby a faculty assistant could suspend the calculation of the 5-year period if the faculty assistant is no longer teaching for a period of time. The Board's use of the word "cumulative" is intended to indicate that the calculation is based on the periods that the faculty assistant is teaching and does not include a sabbatical or leave of absence.

Finally, the HPLC stated the following: "The Committee also notes the overall lowering of standards for a nursing teacher and questions if the result of the change in regulations would create substandard nurses." The Board strongly disagrees that its regulation lowers the standards for nursing educators in this Commonwealth. As to full-time faculty, the Board sees no lowering of standards by permitting an individual who holds an earned doctorate degree in nursing to teach in a nursing education program as opposed to the current regulation which only permits an individual who holds a master's degree in nursing to teach in a nursing education program. As to faculty assistants, the 5-year limitation on individuals who do not hold at least a master's degree in nursing has been in place for 32 years; the Board's regulation does not change this limitation. Quality would be compromised if the Board were to abandon the 5-year limitation as suggested by some commentators. As to allied faculty members, for those teaching basic sciences, the Board does not see it as a lowering of standards for an individual with a master's or doctoral degree in chemistry to teach basic chemistry to nursing students rather than having the basic chemistry course taught by an individual with a master's degree in nursing; and for individuals teaching specialized areas of nursing practice, the Board does not see it as a lowering of standards for an individual with a doctoral degree in genetics to teach genetics, a doctoral degree in pharmacy to teach pharmacology, or a master's degree in clinical psychology to teach that subject in place of individual with a master's degree in nursing. As to clinical preceptors, nursing education programs have utilized clinical preceptors to enhance faculty-directed clinical learning experiences since the beginning of nursing education. There is no change made by this regulation that lowers the standards for nursing education.

IRRC Comments

In addition to questions raised by the HPLC, IRRC asked "if the nursing program is a school or college, . . . is the nurse administrator also the head of the school or college?" Under § 21.51 (relating to establishment), a nursing education program may be developed under the authority of a regionally accredited university or college or under the authority of a hospital. Because the nursing education program is developed under the authority of an accredited university or college, it is unlikely that the nurse administrator will also be the head of the school or college.

IRRC questioned the amendment to § 21.71(a)(3), specifically the deletion of the reference to additional faculty members being employed as needed "to insure an educationally effective student-faculty ratio." The Board believes the amendment to § 21.71(a), which requires the nursing education program to employ sufficient personnel to accomplish the objectives of the curriculum and systematic evaluation plan, addresses this concern.

IRRC also requested that the final-form rulemaking address student-faculty ratios and, if the Board does not wish to set a minimum ratio, that the Board should require programs to document their rationale for, and effectiveness of, their student-faculty ratio. This information is already required to be submitted to the Board by any school whose NCLEX performance approaches the minimum standard in § 21.26 (relating to failing rate of a school in examination). The Board does not believe it is effective to manage schools at the level of a required student-faculty ratio. The Board has always taken an outcome-based approach with minimal intervention by the Board so long as the school's graduates are performing at acceptable levels on the NCLEX examination. In addition, the optimum student-faculty ratio will vary depending on the course content, format and presentation strategy.

IRRC commented that the Board should specify that allied faculty members are not required to hold a degree in nursing or a professional nursing license. The Board finds that the statement in § 21.71(c)(3), that allied faculty members must hold at least one graduate degree in a subject pertinent to their area of teaching sufficiently explains that allied faculty members are not required to hold a degree in nursing. In addition, the statement in § 21.71(c)(1), that faculty members teaching required nursing education courses shall be currently licensed, and in § 21.71(c)(2), that faculty assistants must be currently licensed, is sufficiently clear to indicate that allied faculty members are not required to hold a professional nursing license. Also regarding allied faculty members, IRRC questioned what was meant by "as needed." As with all faculty, the number of faculty and their qualifications must be sufficient to meet the objectives of the curriculum and the systematic evaluation plan, as set forth in § 21.71(a).

IRRC also suggested that the Board specify which areas of the curriculum must be taught by faculty with RN licenses and which areas may be taught by others. The Board has already indicated, in § 21.71(c)(3), that allied faculty may teach basic sciences or specialized areas of nursing practice and that faculty members and faculty assistants may teach required nursing education courses. The Board finds that no additional clarification is needed.

IRRC noted that two commentators from nursing education programs "expressed grave concern and warn that strict enforcement of the '5-year rule' will only exacerbate the shortages in faculty and new licensees." IRRC asked why, if a person was content as a faculty assistant, he or she should be "forced to enroll for additional degrees?" The Board is not aware of any other academic discipline where the faculty is not required to hold at least a master's degree in the area in which they teach. At both the associate's degree level and baccalaureate degree levels, a review of college and university catalogs demonstrates that faculty across disciplines hold at least a master's degree. Nursing is no different. The Board is not alone in its thinking: the National Council of State Boards of Nursing Model Practice Act requires nursing faculty to hold a minimum of a master's degree in nursing and the NLNAC requires nursing faculty to hold a minimum of a master's degree in nursing for national accreditation of the nursing education program.

IRRC next questioned the use of the term preceptor. The term preceptor is well-established in nursing education and, as set forth in § 21.71(c)(5), is an individual who is utilized by a nursing education program to enhance the clinical experiences of nursing students. A

clinical preceptor is directly responsible for patient care in a setting; the nursing education program is directly responsible for the nursing student; and nursing faculty must be available to the student during the experience. Nursing faculty is involved in the selection of preceptors and sets the overall goals for the experience. Faculty is also responsible for the evaluation of the student. As noted, the Board will meet with interested parties to determine whether further amendments more fully delineating the use of preceptors in nursing education are needed.

IRRC also asked about the reference to out-of-State preceptor experiences, and wondered if programs could hire out-of-State nurses to be preceptors. For many, many years, nursing education programs have utilized both in-State and out-of-State sites to provide clinical experiences for nursing students. For example, nursing students enrolled in a program in this Commonwealth may participate in a clinical experience with a preceptor in another state. The Board's regulation requires that the clinical preceptor be licensed to practice nursing in the state where the clinical practice occurs. These individuals do not need temporary practice permits in this Commonwealth because they are not practicing nursing in this Commonwealth.

Finally, IRRC noted that the Board had failed to update other sections that refer to the director of the school with the new term "nurse administrator," specifically §§ 21.75(e) and 21.124(b) (relating to faculty policies; and custody of records). The Board made the change to § 21.124(b) as suggested. The Board did not make the suggested change to § 21.75(e) because this section should have been removed. This rulemaking standardizes the faculty and staff requirements for diploma, baccalaureate and associate degree programs in nursing. Section 21.72 (relating to faculty policies; additional responsibilities of faculty and faculty assistants) was the section that set forth faculty policies for baccalaureate and associate degree programs; § 21.75 was the section that set forth faculty policies for diploma programs. Because the regulation standardizes faculty and staff requirements across programs by renaming § 21.71 to apply to all programs and deleting § 21.74, which had applied to diploma programs, § 21.75 is now duplicative. The Board has removed § 21.75 in final rulemaking.

Amendments by the Board

In addition to the amendments discussed previously, the Board made formatting amendments to § 21.71(c)(3) and (5) to make these paragraphs consistent with the formatting of §§ 21.71(c)(1) and (2). The Board added subparagraphs (i)—(iii) to § 21.71(c)(5) for added clarity. The Board also added a new subsection (d) to § 21.71 to address qualifications of support personnel. Finally, the Board amended § 21.72(g) to loosen the requirement set forth in the proposed rulemaking for faculty assistants to provide documentation of their activities leading to the completion of a graduate degree in nursing. The Board currently requires that all nursing education programs submit this information with the compliance review, which occurs every 3 years. The Board will inquire of only those individuals who have not demonstrated any progress toward completing the requirement, rather than require all individuals to submit documentation of their progress toward the degree.

Statutory Authority

Section 6.1 of the act (63 P. S. § 216.1) authorizes the Board to establish standards for the operation and approval of nursing education programs. Section 2.1(k) of

the act (63 P.S. § 212.1(k)) authorizes the Board to establish regulations to implement the standards established by the Board.

Fiscal Impact and Paperwork Requirements

The rulemaking will not have an adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 15, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 4649, to IRRC and the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on May 14, 2008, the final-form rulemaking was approved by the HPLC. On June 4, 2008, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 5, 2008, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of intention to adopt the amendment in 49 Pa. Code Chapter 21, was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated under at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published under section 201 of the act of July 31, 1968.

(4) These amendments to the regulations of the Board are necessary and appropriate for the regulation of the practice of professional nurses in this Commonwealth.

Order

The Board therefore orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.1, 21.71, 21.72 and 21.124 and by deleting §§ 21.74 and 21.75 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Board shall submit a copy of Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

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

(d) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

MARY E. BOWEN, RN, CRNP, DNP,
Chairperson

(Editor's Note: The amendment of §§ 21.1 and 21.124 and the rescission of § 21.75 were not included in the proposed rulemaking at 37 Pa.B. 4649.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16A-5131 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 49. PROFESSIONAL
AND VOCATIONAL STANDARDS**

PART I. DEPARTMENT OF STATE

**Subpart A. PROFESSIONAL
AND OCCUPATIONAL AFFAIRS**

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.1. Definitions.

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

* * * * *

Systematic evaluation plan—An organized, continuous analysis of all nursing education program components, such as curriculum, faculty, facilities, policies and outcome measures, that addresses standards or benchmarks to be achieved and establishes an action plan if those standards or benchmarks are not achieved.

* * * * *

**ADMINISTRATIVE AND INSTRUCTIONAL
PERSONNEL**

§ 21.71. Nurse administrator, faculty and staff requirements.

(a) A nursing education program shall employ a sufficient number of qualified faculty, faculty assistants, allied faculty and staff to accomplish the objectives of the curriculum and the systematic evaluation plan. The minimum faculty and staff requirements are as follows:

- (1) Full-time nurse administrator.
- (2) Full-time faculty members in the areas of practice encompassed within the curriculum.
- (3) Additional faculty members as needed.
- (4) Allied faculty members as needed.
- (5) Adequate personnel to provide program support services, including administrative, clerical, library, admissions, financial aid and student services.

(b) The nurse administrator's credentials shall be submitted to the Board for approval. The nurse administrator's qualifications are as follows:

- (1) The nurse administrator of a baccalaureate degree nursing education program shall hold at least one graduate degree in nursing. The nurse administrator shall hold

an earned doctoral degree or have a specific plan for completing doctoral preparation within 5 years of appointment. The nurse administrator shall have experience in nursing practice, nursing education and administration. A professional nurse who does not hold at least one graduate degree in nursing, but who has experience in nursing practice, nursing education and administration may be considered on an individual basis.

(2) The nurse administrator of an associate degree or diploma program shall hold at least one graduate degree in nursing. The nurse administrator shall have experience in nursing practice, nursing education and administration. A professional nurse who does not hold at least one graduate degree in nursing, but who has experience in nursing practice, nursing education and administration may be considered on an individual basis.

(3) The length of appointment of an interim or acting nurse administrator of a nursing education program may not exceed 1 year.

(4) The nurse administrator shall hold either a temporary practice permit to practice professional nursing or be currently licensed as a professional nurse in this Commonwealth.

(c) Faculty qualifications are as follows:

(1) Faculty members teaching required nursing education courses shall hold at least one graduate degree in nursing, shall be currently licensed as professional nurses in this Commonwealth, and shall have expertise in their areas of instruction.

(2) Faculty members without a graduate degree in nursing shall be designated faculty assistants. Faculty assistants shall be currently licensed as professional nurses in this Commonwealth. Faculty assistants may teach required nursing education courses only when fully qualified faculty are not available and shall teach under the direct guidance of a faculty member qualified as set forth in paragraph (1). Faculty assistants shall have a baccalaureate degree in nursing and shall give evidence of a plan for obtaining a graduate degree in nursing. A person may teach as a faculty assistant in a nursing education program in this Commonwealth for a maximum cumulative period of 5 years.

(3) Faculty members without a degree in nursing, but who hold at least one graduate degree in a subject area pertinent to their area of teaching, shall be designated as allied faculty members. Allied faculty members may teach basic sciences or specialized areas of health care practice.

(4) Faculty employed to teach dietetics-nutrition shall be currently licensed to practice dietetics-nutrition in this Commonwealth.

(5) An individual who enhances faculty-directed clinical learning experiences by guiding selected clinical activities shall be designated as a clinical preceptor. A clinical preceptor shall hold a current license to practice professional nursing in the state of the clinical experience.

(i) Faculty shall have input into the selection of preceptors.

(ii) Faculty shall retain responsibility for planning and evaluating student learning experiences when students are engaged in clinical activities with a preceptor.

(iii) If a faculty member is not physically present in the area in which students are practicing, a faculty member shall be immediately available by telephone or other means of telecommunication when students are engaged in clinical activities with a preceptor.

(d) Program support personnel shall be qualified by education and experience to serve in the capacity in which they are employed.

§ 21.72. Faculty policies; additional responsibilities of faculty and faculty assistants.

(a) The faculty shall be employed by and responsible to the controlling institution.

(b) Policies, including personnel policies in effect for nursing faculty, must be those in effect for faculty members throughout the controlling institution except where specified otherwise in this chapter.

(c) Functions and responsibilities of each faculty member must be defined in writing.

(d) Teaching hours and additional duties of nurse faculty must be consistent with the policies of the controlling institution.

(e) The nurse administrator and nursing faculty shall be afforded the time and opportunity to engage in leadership activities within their profession commensurate with their responsibilities.

(f) There shall be a planned and active faculty development program designed to meet the needs of the faculty. Faculty members shall maintain a record of participation in continuing education, professional self-development and other activities that promote the maintenance of expertise in their respective areas of teaching.

(g) Faculty assistants shall maintain a record of their activities leading to the completion of a graduate degree in nursing which shall be submitted to the Board upon request.

§ 21.74. (Reserved).

§ 21.75. (Reserved).

RECORDS

§ 21.124. Records to be filed with Board.

(a) An annual report of the school of nursing shall be sent to the Board using the form supplied by the Board.

(b) Upon completion of the entire program, a transcript or photocopy of the final record of the student shall be submitted along with the application for admission to the licensing examination. The transcript must bear the impression of the school seal and signature of the nurse administrator or authorized representative.

[Pa.B. Doc. No. 08-1290. Filed for public inspection July 11, 2008, 9:00 a.m.]

**STATE BOARD OF EXAMINERS OF NURSING
HOME ADMINISTRATORS**

[49 PA. CODE CH. 39]

Administrator-in-Training Program

The State Board of Examiners of Nursing Home Administrators (Board) hereby amends §§ 39.1, 39.5, 39.61 and 39.72 and adds §§ 39.101—39.103 (relating to AIT Program), to read as set forth in Annex A.

Effective Date

The final-form rulemaking will be effective on publication in the *Pennsylvania Bulletin*.

Statutory Authority

Under section 4(c) of the Nursing Home Administrators Licensing Act (act) (63 P.S. § 1104(c)), the Board is authorized to make rules and regulations as may be necessary for the proper performance of its duties. Under section 4(a)(1) of the act, the Board is authorized to develop, impose and enforce standards that must be met by individuals to receive a license as a nursing home administrator (NHA). These standards must be designed to ensure that NHAs will be individuals who are of good character and are otherwise suitable and qualified by training or experience in the field of institutional administration to serve as NHAs. Section 4(a)(1) further provides that these standards “may include a requirement for supervised experience prior to licensure.” This rule-making creates an alternate method by which individuals may receive that supervised experience.

Background and Purpose

In a profession that has seen a significant decline of licensees over the past 5 years, the institution of an administrator-in-training program (AIT), as adopted by this rulemaking, will give candidates who do not meet the experience requirements of existing § 39.5(b) (relating to requirements for admission to licensing examination; examination procedures) an incentive and an alternative option to become licensed NHAs. The Board believes that, by offering candidates who meet the rigid standards of higher education an additional means of gaining supervised experience to qualify to sit for the examination, more candidates would be encouraged to enter the field of nursing home administration.

Description of the Amendments

The final-form rulemaking amends § 39.1 (relating to definitions) to define AIT and the AIT program. It further amends § 39.5 to establish the AIT program as an alternative method of obtaining required supervised experience for admission to the licensing examination.

The final-form rulemaking amends § 39.61(b)(5) (relating to requirements) pertaining to continuing education clock hour requirements to allow a supervisor for the AIT program to receive credits for continuing education, and amends § 39.72 (relating to fees) to establish a \$50 fee for an AIT application. Finally, the amendments adopt §§ 39.101—39.103 to implement the AIT program.

Response to Public Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking at 37 Pa.B. 1494 (April 7, 2007) was followed by a 30-day public comment period during which the Board received favorable comments from the Pennsylvania Association of County Affiliated Homes (PACAH) and the Pennsylvania Health Care Association (PHCA). The PACAH indicated its support of the rulemaking, stating, “As the shortage of qualified Nursing Home Administrators continues to worsen, the AIT program offers a practical approach to address the issue, and PACAH encourages the adoption of these rules as final.” PHCA congratulated the Board on proposing the AIT program and asked the Board to seek to finalize the regulations as quickly as possible, noting that “the current fiscal constraints in many cases make it nearly impossible to afford the salaries of assistant administrators thus making it difficult for interested individuals to obtain the required experience to become nursing home administrators. This is precisely the wrong time, with the growing demographics of older Pennsylvanians who will require care and services in our nursing homes, to have

regulatory roadblocks in the way of fine individuals who have a desire to become nursing home administrators.”

Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The following represents a summary of the comments received from the HPLC and IRRC, and the Board’s response.

General Comments

The HPLC questioned the Board’s authority to promulgate regulations to create an AIT program and requested further explanation. As noted previously, under section 4(a)(1) of the act, the Board is authorized to develop, impose and enforce standards that must be met by individuals to receive a license as an NHA. These standards must be designed to ensure that NHAs will be individuals who are of good character and are otherwise suitable and qualified by training or experience in the field of institutional administration to serve as NHAs. Section 4(a)(1) of the act also provides that these standards “may include a requirement for supervised experience prior to licensure.” Under that authority, the Board had previously adopted the supervised experience requirements in § 39.5, which require candidates for licensure to gain experience by serving as a full-time assistant administrator, or by serving as a full-time supervisor in a nursing home or related health facility. In recent years, the profession has seen a significant decline in the number of NHAs. Additionally, many nursing homes cannot afford to employ full-time assistant administrators or supervisors. Therefore, under the authority granted in section 4(a)(1) of the act, the Board is recognizing an additional way for individuals, who cannot find employment either as an assistant administrator or supervisor in a nursing home, to gain the experience needed to qualify for licensure.

The HPLC also noted the requirement for criminal background checks to be completed upon employees of a nursing home under the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.708). The HPLC also noted the absence of any provision which would apply this same standard to an AIT. The HPLC, therefore, requests that the AIT be required to also have a criminal background check.

While the act does not explicitly require applicants to obtain a criminal background check, the act does require an applicant to submit “evidence of good character and suitability prescribed by the board . . .” (63 P.S. § 1106(a)). In addition, the Criminal History Record Information Act gives all boards and commissions the authority to deny a license if an applicant has been convicted of any felony or a misdemeanor related to the profession. 18 Pa.C.S.A. § 9124 (relating to use of records by licensing agencies). The HPLC pointed out, all employees of nursing homes are already subject to criminal background checks under the Older Adults Protective Services Act. Currently, all applicants for licensure are required to submit criminal background checks to the Board. Therefore, the Board has sufficient implicit authority to require criminal background checks of AITs and the AIT application will also require criminal background checks of all AIT program applicants.

§ 39.5. Requirements for admission to licensing examination; examination procedures.

The HPLC noted that under the proposed amendments in § 39.5(b)(3)(ii), the burden is on the candidate to

demonstrate that the candidate's degree is equivalent to one in nursing home administration and suggested that the Board provide minimum criteria for the candidate to do so. In determining equivalence, the Board will review the transcripts and course descriptions submitted by the candidate in comparison to the educational criteria in § 39.14(a)(2)(i)—(xvi) (relating to approval of programs of study) to make that determination. Similarly, IRRC questioned the criteria the Board will use under subsection (b)(3)(ii), which requires the Board to evaluate the transcripts and course descriptions of the candidate to determine if the 120-hour program was successfully completed as part of the baccalaureate curriculum. In general, the Board will use the breakdown of subjects required in § 39.14(a)(2) to determine if a candidate has successfully completed the requirements of the 120-hour program. If a candidate is deficient in subject areas, the candidate will be permitted to complete the remaining hours/courses through a 120-hour program. The candidate will not be required to complete the full 120-hour program. In the final-form rulemaking, the Board has complied with IRRC's suggestion that § 39.14(a)(2) be cross-referenced.

IRRC also noted that subsection (b)(3)(iii)(C) adds language that the candidate have 1,000 hours of experience working with an NHA licensed in this Commonwealth "or in another state whose licensing standards are equal to those of the Commonwealth." IRRC noted a similar concern applies to subsection (b)(4)(ii)(B), and asked if the Board will publish a list of states whose licensing standards are "equal" to the Commonwealth's or if the information would be made available on the Board's web site. Currently, almost every state has licensing standards that are equal to or greater than the Pennsylvania requirements. In fact, the Commonwealth is one of the few states that will license a NHA without a college degree. The Board would encourage the General Assembly to amend the licensing statute to require a minimum of a baccalaureate degree. However, for purposes of determining whether the AIT supervisor qualifies under these regulations, the Board will be able to look at the other states' current licensing standards to determine whether those standards are equal to the standards of the Commonwealth. As licensing standards change periodically, the Board does not intend to publish or make available on its web site a list of the states whose licensing standards are "equal" to the Commonwealth.

§ 39.101. AIT.

The HPLC noted that, under § 39.101(b)(1) (relating to AIT), an AIT applicant may be enrolled in the final year of a baccalaureate or master's degree program at an accredited college or university. The HPLC requested further information on whether the Board plans to coordinate the efforts of this program with colleges and universities and how the Board would facilitate this. The Board will encourage colleges and universities to establish relationships with local nursing homes to provide students who are in their final year of school opportunities to work as AITs at the local facilities. Provided the 120-hour program is included in the 4-year baccalaureate curriculum, the graduating individual who served as an AIT during the individual's final year of school would be able to sit for the nursing home examination immediately after graduation.

§ 39.102. AIT program.

IRRC noted that § 39.102(a)(1) (relating to AIT program) requires the AIT and the AIT supervisor to jointly make a "pretraining assessment" of certain aspects of the AIT's background and training and asked what criteria

will be required to be used to ensure that uniform assessments are made. As noted in § 39.102(a)(1), the assessments will be based on the AIT's educational level, experience, motivation and initiative. The AIT and AIT supervisor will then develop a training plan, under § 39.102(a)(2), the training plan will include educational objectives, subject areas, training sites, estimated number of hours needed for mastering each objective and the total number of hours in the training plan. Each training plan will be submitted to the Board for approval as required under § 39.102(a)(4). Each training plan will be individualized, according to the AIT's background. However, the Board will be able to determine, according to each individualized assessment, whether the proposed training program will enable the AIT to gain sufficient experience to become a licensed NHA.

IRRC and the HPLC questioned what kind of "agencies" the Board is referring to in § 39.102(a)(2)(iii), which requires that the training plan include "training sites or agencies involved." Because the required experience must be attained by working in nursing homes under the supervision of a NHAs, the Board has deleted the reference to "agencies" in the final-form rulemaking.

Both the HPLC and IRRC questioned § 39.102(d)(4), which provides that only one discontinuance of an AIT program will be permitted. The HPLC asked for clarification. IRRC asked if this provision was intended to apply to those individuals who may have two or more discontinuances of their program due to involuntary military service. As a result of the comments, the Board has reconsidered this provision and has deleted subsection (d)(4) from the final-form rulemaking.

The HPLC requested information regarding an AIT's remedy for discontinuance by a supervisor or inadequate supervision, under § 39.102(d)(3). The AIT should inform the Board that the supervisor has discontinued supervision of the AIT or that the supervision is inadequate. Depending on the individual circumstances, the Board may permit the AIT to obtain a new supervisor and receive credits for the amount of training the AIT already received.

The HPLC also requested information regarding how the Board will monitor a supervisor or an AIT. Section 39.102(b) gives the Board "the right to monitor and call for conference any AIT or AIT supervisor during the course of the AIT program." This will be determined by individual circumstances that require more direct Board involvement. For example, if the Board receives information pertaining to inadequate supervision by an AIT supervisor or an AIT who is not abiding by the training plan, the Board has the authority to schedule a conference with the parties involved.

§ 39.103. AIT program reports.

Relating to program reports required at the completion of the AIT program, IRRC pointed out that § 39.103(2) and (3) (relating to AIT program reports), regarding training site and subjects covered during the training is redundant because this information is required in the pretraining assessment required by § 39.102(a)(2) and (3). The Board agrees and has deleted paragraphs (2) and (3) in the final-form rulemaking and renumbered the remaining items accordingly.

IRRC also questioned how the AIT and supervisor will know if the Board requests other information under § 39.103(8) after the conclusion of the AIT program. IRRC also asked what type of "other information" would be included. Section 39.103 has been amended in the

final-form rulemaking by breaking it down into two subsections. Subsection (a) lists all the information required in the report at the conclusion of the training program. Subsection (b) will be added, which will give the Board the option to request additional information after the report is submitted. Other information could include clarification of training the AIT received during the program.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have a limited fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking establishes a new fee associated with the AIT program application. However, this fee is intended to defray a portion of the Board's operational costs. There are no other costs or savings to the State government associated with implementation of the rulemaking.

The final-form rulemaking will require the Board to alter some of its forms to reflect the new fee and to create applications for AITs. The Board will further provide a detailed training plan to NHAs who supervise AITs. Further, the rulemaking will create additional paperwork for AITs and supervisors, who will be responsible for submitting a detailed, individualized AIT framework for each AIT and documentation of progress and completion of the AIT program.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 28, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1494, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 14, 2008, the final-form rulemaking was approved by the HPLC. On June 4, 2008, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 5, 2008, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Christina Stuckey, Administrator, State Board of Examiners of Nursing Home Administrators, P. O. Box 2649, Harrisburg, PA 17105-2649, cstuckey@state.pa.us.

Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 37 Pa.B. 1494.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 39, are amended by amending §§ 39.1, 39.5, 39.61 and 39.72; and by adding §§ 39.101—39.103 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

BARRY S. RAMPER, II,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 3461 (June 21, 2008).)

Fiscal Note: Fiscal Note 16A-627 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

GENERAL

§ 39.1. Definitions.

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

AIT—Administrator-in-training—An individual registered with the Board under § 39.101 (relating to AIT) to serve a period of practical training and experience under the supervision of a licensed nursing home administrator.

AIT program—A program established by the Board as a means for an applicant for licensure as a nursing home administrator to obtain practical training and experience under the supervision of a licensed nursing home administrator.

* * * * *

§ 39.5. Requirements for admission to licensing examination; examination procedures.

(a) A candidate who seeks admission to the licensing examination shall meet the following requirements. The candidate shall:

(1) Be at least 21 years of age.

(2) Submit evidence of good moral character and suitability as prescribed by the Board in the examination application.

(3) Pay the required fee for examination and licensure.

(b) A candidate who seeks admission to the licensing examination shall also meet one of the following sets of education and experience requirements. The candidate shall:

(1) Have:

(i) Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2) (relating to approval of programs of study).

(ii) Successfully completed 2 academic years of college-level study, 30 semester hours each year, in an accredited institution of higher learning.

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 3 of the 5 years immediately preceding the date of application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(2) Have:

(i) Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2).

(ii) Been issued a registered nurse license in this Commonwealth which is currently renewed.

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of the application, served satisfactorily as a full-time director of nursing for 6 months and, during the 12 months immediately preceding the date of application, but not concurrent with the service as a director of nursing, acquired experience in the practice of nursing home administration by having served satisfactorily as a full-time assistant administrator in a nursing home or related health facility under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 2 of the 5 years immediately preceding the date of application, served satisfactorily as a full-time director of nursing in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(3) Have:

(i) Been awarded a baccalaureate degree from an accredited college or university.

(ii) Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2), unless the candidate has a baccalaureate degree in nursing home administration or a baccalaureate degree in a program equivalent to nursing home administration. The burden is on the candidate to demonstrate that the baccalaureate degree that the candidate has earned is equivalent to a baccalaureate degree in nursing home administration. Baccalaureate degree equivalency will be determined by the Board based upon the applicant's transcripts and course descriptions. Candidates who have successfully completed a baccalaureate curriculum which is not in nursing home administration or equivalent to nursing home administration, but incorporates the 120-hour program as part of the curriculum, are not required to complete the 120-hour program separately. The burden is on the candidate to demonstrate that the 120-hour program is incorporated in the baccalaureate curriculum. The Board will evaluate the transcripts and course descriptions of the candidate and compare them to the requirements of § 39.14(a)(2) to determine if the 120-hour program was successfully completed as part of the baccalaureate curriculum.

(iii) Done one of the following:

(A) During the 9 months immediately preceding the date of application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 18 months of the 5 years immediately preceding the date of application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(C) During the 2 years immediately preceding the date of application, acquired 1,000 hours of experience in the practice of nursing home administration by having served satisfactorily as an AIT in a nursing home under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, in accordance with §§ 39.101—39.103 (relating to AIT Program).

(4) Have:

(i) Been awarded, from an accredited college or university, a master's degree in nursing home administration, in hospital administration, in public health administration or in another academic area, including social gerontology, in which there is an emphasis in related health facility administration.

(ii) Done one of the following:

(A) During the 5 years immediately preceding the date of application, either acquired 6 months of satisfactory full-time supervisory experience in the administration of a nursing home under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth or acquired 6 months of satisfactory full-time experience in the administration of a related health facility under the supervision

of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During the 2 years immediately preceding the date of application, acquired 800 hours of experience in the practice of nursing home administration by having served satisfactorily as an AIT in a nursing home under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, in accordance with §§ 39.101—39.103.

(5) Have:

(i) Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2).

(ii) Acquired 2 years of satisfactory practical experience in the administration of a nursing home or related health facility, 1,000 hours of which practical experience shall have been under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth. A candidate will be required to appear personally before the Board to present documentation of the satisfactory practical experience claimed which includes a general knowledge of each of the following areas that are generally dealt with by a nursing home administrator: budget, hiring and firing, planning, personnel, supervision of staff, psychology of patients, medical and legal terminology, Federal and State rules and regulations governing nursing homes, rights of patients, basic principles of contract and tort law, principles of safety, purchasing, dietetic requirements and patient care.

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 3 of the last 5 years immediately preceding the date of application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(c) The hours of experience in the practice of nursing home administration required of a candidate qualifying under subsection (b)(1)(iii)(B), (2)(iii)(B), (3)(iii)(B) or (C), (4)(ii)(B) or (5)(iii)(B) is designed to insure that the candidate has been exposed to hands-on practical application of the areas of educational training required in § 39.14(a)(2). The hours of experience must include a minimum of 300 hours in general administration, a minimum of 250 hours in patient services and care and a minimum of 250 hours in health and social service delivery systems. Any remaining hours may be distributed as needed to obtain the best results for each individual candidate. The nursing home administrator who supervised the candidate shall certify that the candidate has acquired the minimum number of hours for each area.

(d) A candidate shall pass a written examination that comprises two parts. Both parts of the examination are administered by a professional testing organization.

(1) An examination on the general principles of nursing home administration that are common to all jurisdictions that license nursing home administrators, known as the "uniform part."

(2) An examination on the regulations of the Department of Health in 28 Pa. Code Part IV Subpart C (relating to long term care facilities), known as the "State part."

(e) To pass the examination, a candidate shall achieve a passing score on both the uniform and State parts as set by the Board.

(f) Upon a timely request, the Board may allow a candidate to take the examination with the aid of a proctor, if the candidate is unable, because of physical problems, to take the examination under ordinary circumstances.

(g) A candidate who passes one part of the examination and fails the other is required to retake only the part failed. A candidate for reexamination on one or both parts of the examination shall submit an application to the Board and pay the required examination fee. As a condition precedent to reexamination after four failures, the Board may require the candidate to attend Board-approved courses of study in subjects prescribed by the Board.

(h) A special examination will not be given to a candidate except as provided in subsection (f).

CLOCK HOURS REQUIREMENT

§ 39.61. Requirements.

(a) A licensee shall complete at least 48 clock hours during the preceding biennial period.

(b) Of the 48 hours required, the following apply:

(1) At least 24 hours shall be taken in lecture or computer interactive courses approved by NAB or the Board.

(2) Up to 24 clock hours may be taken through college or university courses, including distance learning, approved by NAB or the Board.

(3) A maximum of 12 clock hours may be taken in the following categories:

(i) Individual study using NAB or Board-approved correspondence courses.

(ii) Serving as an instructor of a NAB or Board-approved continuing education program or a college or university course. Instructors may earn 1 clock hour for each hour of instruction up to 12 clock hours.

(4) Authoring an article on long-term care. Authors whose articles relating to long-term care are published in professional journals may earn 3 clock hours per article, up to a maximum of 12 clock hours per biennium. Additional credit per article, up to 12 of the required clock hours, may be awarded based on the complexity of the subject matter or work. In exceptional circumstances, when the article is published in a refereed journal, and the subject matter or work is complex, a licensee may be awarded up to 24 clock hours. Published articles used for continuing education credit shall be submitted to the Board within 30 days of publication. Upon review of the published article, the Board will determine the appropri-

ate number of clock hours to be awarded based upon the complexity of the subject matter or work.

(5) Up to 24 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(6) A maximum of 6 clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within 30 days of attending the program and document attendance. The attendee shall demonstrate to the Board's satisfaction that the programs meet the requirements of §§ 39.14(a)(2) and 39.51 (relating to approval of programs of study; and standards for continuing education programs).

(c) A licensee who obtains a license after the biennial period begins shall complete a prorated amount of clock hours equal to 2 clock hours per month through the end of the biennial period. For the purpose of calculating the number of clock hours required, partial months shall count as whole months.

(d) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(e) A licensee who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver. The request must explain why compliance is impossible, and include appropriate documentation. Waiver requests will be evaluated by the Board on a case-by-case basis.

(f) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

RENEWAL

§ 39.72. Fees.

The following is the schedule of fees charged by the Board:

| | |
|---|-------|
| Biennial renewal of nursing home administrators license | \$297 |
| License application fee | \$40 |
| Temporary permit fee | \$145 |
| Certification of examination scores | \$25 |
| Verification of licensure or temporary permit | \$15 |
| Continuing education provider application fee ... | \$40 |
| Continuing education program application fee per clock hour | \$15 |
| Continuing education individual program application fee | \$20 |
| AIT application fee | \$50 |

AIT PROGRAM

§ 39.101. AIT.

(a) An applicant seeking to become an AIT shall file an application for approval on a form prescribed by the Board.

(b) To be approved as an AIT, the applicant shall:

(1) Have attained the general education requirements in § 39.5(b)(3)(i) or (b)(4)(i) (relating to requirements for admission to licensing examination; examination proce-

dures) or be enrolled in the final year of a baccalaureate or master's degree program at an accredited college or university.

(2) Verify that if the AIT is employed at the nursing home in any capacity other than that of AIT during the period of practical training and experience, that employment is in addition to the hours required for the AIT program.

§ 39.102. AIT program.

(a) The AIT program must provide documentation that the following requirements have been met:

(1) The AIT and the AIT's supervisor have jointly made a pretraining assessment of the AIT's background in terms of educational level, pertinent experience, maturity, motivation and initiative.

(2) Based on the pretraining assessment, the AIT and the AIT's supervisor jointly have developed a detailed, goal-oriented training plan with supporting documentation which includes:

(i) Educational objectives.

(ii) Subject areas of the core of knowledge as required by §§ 39.5(c) and 39.7 (relating to requirements for admission to licensing examination; examination procedures; and subject matter for examinations).

(iii) Training sites involved.

(iv) Estimated number of hours needed for mastering each objective.

(v) Total of hours in the training plan.

(3) Prior to its implementation, the training plan shall be submitted for approval by the Board on forms provided by the Board. The training plan must include supporting documentation for the training plan, including the allocation of hours to the subject areas required by §§ 39.5(c) and 39.7.

(4) A minimum of 80% of the training must occur from Monday through Friday between 7 a.m. and 7 p.m. An AIT program may not consist of more than 60 hours per week nor less than 20 hours per week.

(b) The Board has the right to monitor and call for conference any AIT or AIT supervisor during the course of the AIT program.

(c) Following the completion of the AIT program and prior to admission to the examination for licensure, the Board will review the report required by § 39.103 (relating to AIT program reports) to determine if the applicant has received training consistent with this section.

(d) If the AIT program is discontinued prior to completion, the following apply:

(1) An AIT program which has been discontinued by a period of full-time military service may be completed within a year after that military service.

(2) An AIT program which has been discontinued for any reason other than military service may not be completed if the absence exceeds 1 year from the date of discontinuance.

(3) If an AIT program has been discontinued before completion for any reason beyond AIT or supervisor control, the AIT and supervisor may apply to the Board for consideration of credit for the period of time completed.

(i) The AIT requesting consideration shall explain why the AIT program was discontinued, how the AIT intends to complete the training and document his progress in the manner required by § 39.103.

(ii) The supervisor requesting consideration shall explain why the AIT program was discontinued and document the hours that the supervisor spent on the training program.

§ 39.103. AIT program reports.

(a) Within 30 days of the completion of the AIT program, the AIT and supervisor shall submit to the Board a report on the AIT's progress on forms provided by the Board. The AIT and supervisor shall sign the report, verifying the accuracy of the information. The report must include, at a minimum:

- (1) The names of the AIT and supervisor.
 - (2) A list of the departments in which the AIT trained, as well as initials of department managers to verify that the AIT trained in those departments.
 - (3) The number of hours the AIT has completed during the program in each subject area.
 - (4) A description of the administrative activities in which the AIT has participated.
 - (5) Suggestions for improvement in the program.
- (b) The Board reserves the right to request additional information from the AIT and the AIT's supervisor on a case-by-case basis.

[Pa.B. Doc. No. 08-1291. Filed for public inspection July 11, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

MILK MARKETING BOARD

[7 PA. CODE CH. 143]

Producer Receipt for Farm Bulk Tank Milk

The Milk Marketing Board (Board) proposes to amend § 143.46 (relating to producer receipt for farm bulk tank milk) to read as set forth in Annex A.

Purpose of Proposed Amendment

Currently § 143.46 requires persons who pick up bulk milk from farms to prepare a bill of lading or a similar document in triplicate, with one copy to be left at the farm at the time of pick-up, another to be retained by the milk hauler and the original to be retained by the purchasing milk dealer or cooperative. The Board has interpreted this regulation to require the use of carbon paper or similar carbonless forms which make three exact copies of the bill of lading at the time it is created. Milk dealers, cooperatives and milk haulers have asked the Board to relax this requirement to allow the use of new technology that will allow them to more efficiently record and retain the required information. The purpose of this amendment is to allow for use of other, more efficient means of preparing the bill of lading for bulk milk picked up from farms, as long as certain information, in a form approved by the Board, is left with the producer at the time the milk is picked up and also retained by the hauler and purchaser.

Summary of Proposed Amendment

The word "tank" has been removed from both the heading of the section and subsection (a) because on some large farms, the milk is cooled and loaded directly onto tanker trailers during milking, rather than being stored in bulk tanks on the farm for later pick-up. This change makes it clear that this regulation applies to all bulk milk picked up from farms, not just milk in bulk tanks.

The amendment eliminates the need for hard copies to be made out in triplicate, as long as the required information is in a form approved by the Board and the same information is left with the producer and retained by the hauler and purchaser. The amendment also allows the milk volume to be measured in metric units rather than only pounds or gallons (see subsection (a)(3)); allows for an electronic or equivalent signature of the weigher/sampler picking up the milk (see subsection (a)(5)); and adds the "Temperature of the milk at the time of pick-up" as part of the required information (new subsection (a)(6)).

The amendment also adds the words "or cooperatives" to the regulation in recognition of the fact that much of the milk is picked up from farms by trucks either owned or hired by cooperatives. Finally, the amendment adds a provision to protect the dairy producer in the event of a discrepancy between the quantity of milk recorded for the producer's records and that recorded for retention by the hauler or purchaser, in which case the producer is to be paid based upon the highest quantity of milk recorded that can be correlated back to the calibration chart.

Statutory Authority

Section 307 of the Milk Marketing Law (law) (31 P. S. § 700j-307) provides the Board with the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the law.

Meeting with Interested Parties

On November 20, 2007, the Board, at the request of interested parties, held a meeting to receive comments and suggestions as to how this regulation could be changed to better serve the industry. Among the attendees were representatives of Land O'Lakes, Inc., Maryland and Virginia Milk Producers Cooperative, Dairy Marketing Services, LLC, Dairylea Cooperative, Pennsylvania Association of Milk Dealers, Pennsylvania Farm Bureau, Barefoot Trucking, Inc., and Board's field staff. Based upon the suggestions of participants at this meeting, Board staff drafted a proposed amendment which was circulated by means of e-mail to the interested parties. One of the parties suggested a minor change, which was agreed to by the other parties, and which has been incorporated into the proposed amendment.

Fiscal Impact

The Board believes that adoption of this amendment will save time and eliminate the need for unnecessary paperwork for milk haulers, milk cooperatives and milk dealers, and thus will have a positive fiscal impact on these businesses.

Paperwork Requirements

There are no paperwork requirements.

Effective Date; Sunset Date

The proposed amendment will become effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking. There is no sunset date.

Regulatory review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), a copy of this proposal was submitted on July 1, 2008, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Agriculture and Rural Affairs. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it will notify the Board within 30 days of the close of the public comment period. The notification shall specify the Regulatory Review criteria which have not been met by that portion. The Regulatory Review Act (71 P. S. §§ 745.1—745.12a) specifies detailed procedures for review by the Board, the General Assembly and the Governor of objections raised before final publication of the regulation.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections concerning the proposed amendment to Chief Counsel, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, within 30 days following publication in the *Pennsylvania Bulletin*.

RICHARD KRIEBEL,
Chairperson

Fiscal Note: 47-13. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART VI. MILK MARKETING BOARD

CHAPTER 143. TRANSACTIONS BETWEEN DEALERS AND PROCEDURES

MISCELLANEOUS PROVISIONS

§ 143.46. Producer receipt for farm bulk [tank] milk.

(a) Pick-up of farm bulk [tank] milk shall be supported by a bill of lading or similar document [made out in triplicate] either by Board-approved electronic media or paper document and containing the following information:

* * * * *

(3) Pounds or gallons or similar metric equivalent of milk.

* * * * *

(5) Signature [of the person picking up the milk], or electronic equivalent, together with the certificate number of the weigher/sampler picking up the milk.

(6) Temperature of the milk at the time of pick-up.

(b) [One copy of the document] The information required by subsection (a) shall be left with each producer [; one copy] at the time of pick-up. The same information shall be retained by the milk hauler for [a period of] 90 days; and the [original] same information shall be retained by the purchasing milk dealer or cooperative for [a period of] 90 days. In the event that the quantity of milk recorded and left with the producer at the time of pick-up differs from either the hauler information or the information retained by the dealer or cooperative, the producer shall be paid based on the highest quantity of milk recorded that can be correlated back to the calibration chart.

[Pa.B. Doc. No. 08-1292. Filed for public inspection July 11, 2008, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 443a] Trusteeship

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and specific authority contained in 4 Pa.C.S. § 1102(1), (3), (5), (8) and (11) (relating to legislative intent) and § 1202(a)(1) and (b)(12), (14) and (15) proposes to adopt Chapter 443a (relating to trusteehip) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking adds a new chapter outlining the circumstances under which the Board may appoint a trustee and the obligations, powers and duties of the trustee.

Explanation of Chapter 443a

Section 443a.1 (relating to definitions) defines the terms "trustee" and "trusteeship action" which are used in this chapter.

Section 443a.2 (relating to appointment of trustees) provides that the Board may appoint a trustee in the event of the expiration, revocation or suspension of a slot machine licensee's license or a principal's license when the principal controls the slot machine licensee. It also gives the Board the discretion to appoint one or multiple trustees.

Section 443a.3 (relating to qualifications of trustees) requires trustees to obtain a principal license and authorizes the Board to issue a trustee a temporary principal license under § 435a.8 (relating to temporary credentials for principals and key employees).

Section 443a.4 (relating to bonding of trustees) requires a trustee to obtain a performance bond payable to the Board. The cost of that bond is to be paid by the former or suspended licensee.

Section 443a.5 (relating to effect of the trusteehip on slot machine and principal licensees) bars the former or suspended licensee from exercising any control over the licensed facility or being involved in the financial matters of the licensed facility without prior approval of the trustee and the Board during the period of the trustee-ship.

Section 443a.6 (relating to powers and duties of trustees) sets forth the powers and duties of a trustee that the Board may include in the order appointing the trustee. These powers and duties are typical of what would be necessary to allow a trustee to continue the operation of a licensed facility and allow the Board to maintain effective oversight of the trustee. While the Board anticipates that most or all of these powers and duties will be included in an order appointing a trustee, the Board also recognizes that each trusteehip action will be unique. Therefore, the powers and duties of any trustee will be tailored by the Board order to fit the particular circumstances of the specific proceeding.

Section 443a.7 (relating to compensation of trustees and payment of costs associated with the trusteehip) establishes that the compensation of a trustee will be set by the Board and that all expenses related to the trusteehip will be reviewed and approved by the Board. Payment of all costs approved by the Board will be the responsibility of the former or suspended licensee.

Section 443a.8 (relating to required reports of the trustees) requires a trustee to file periodic reports with the Board as required by the Board's order. While these reports may contain confidential or proprietary information, this section also provides that copies or portions of these reports may be sent to creditors and that the Board may make summaries of these reports available to the public and post them on the Board's web site.

Section 443a.9 (relating to review of actions of the trustees) allows creditors or parties in interest to file a petition with the Board using the procedures established in § 493a.4 (relating to petitions generally) if they are aggrieved by an alleged breach of a delegated power or duty by the trustee. The petition must provide the relevant facts and the reason why the trustee's actions constitute a breach of the trustee's duties. The Board will review these petitions and take whatever action is determined to be appropriate.

Section 443a.10 (relating to disposition of net earnings during the period of trusteeship) requires that the trustee establish an account into which all net earnings will be deposited during the trusteeship. No payments may be made from this account without prior approval of the Board. This section also allows the former or suspended licensee to petition the Board for payment of all or a portion of the net earnings.

Section 443a.11 (relating to payments following a bulk sale) mandates that in the event of the sale or other disposition of all of the property subject to the trusteeship, the Board will conduct a hearing to determine the distribution of the assets remaining after all obligations to this Commonwealth, political subdivisions, and other funds set forth in the Act have been satisfied.

Section 443a.12 (relating to discontinuation of trusteeship) specifies the circumstances under which a trusteeship may be discontinued.

Affected Parties

This proposed rulemaking will affect any slot machine licensee or principal that controls a slot machine licensee whose license has expired or has been suspended or revoked.

Fiscal Impact

Commonwealth

There will be no new costs or savings to the Board or other Commonwealth agencies as a result of this proposed rulemaking.

Political Subdivisions

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

Private Sector

Affected slot machine or principal licensees will be responsible for paying all of the costs associated with the trusteeship. The amount of these costs will vary depending on the size of the licensed facility and the length of the trusteeship.

General Public

This proposed rulemaking will have no fiscal impact on the general public.

Paperwork Requirements

The trustees will have to complete applications for a principal license, will have to apply for and obtain a performance bond and will have to submit periodic reports to the Board as ordered by the Board.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-87.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 25, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

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 Board, the General Assembly and the Governor of comments, recommendations or objections raised.

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-87. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart C. SLOT MACHINE LICENSING

CHAPTER 443a. TRUSTEESHIP

- Sec.
- 443a.1. Definitions.
- 443a.2. Appointment of trustees.
- 443a.3. Qualifications of trustees.
- 443a.4. Bonding of trustees.
- 443a.5. Effect of the trusteeship on slot machine and principal licensees.
- 443a.6. Powers and duties of trustees.
- 443a.7. Compensation of trustees and payment of costs associated with the trusteeship.
- 443a.8. Required reports of the trustees.
- 443a.9. Review of actions of the trustees.
- 443a.10. Disposition of net earnings during the period of trusteeship.
- 443a.11. Payments following a bulk sale.
- 443a.12. Discontinuation of trusteeship.

§ 443a.1. Definitions.

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

Trustee—A fiduciary appointed by the Board for the purpose of preserving the viability of a licensed gaming entity, and the integrity of gaming in this Commonwealth.

Trusteeship action—An action brought before the Board for the appointment of a trustee.

§ 443a.2. Appointment of trustees.

(a) Upon the revocation or suspension of a slot machine license or a principal license of an individual who the Board has determined controls a slot machine licensee, the Board may appoint trustees to act on behalf of the interests of the Commonwealth and the Board to assure compliance with the act, this part and any conditions imposed upon the slot machine license under § 423a.6 (relating to license, permit, registration and certification issuance and statement of conditions).

(b) Upon the expiration of a slot machine license or a principal license of an individual who the Board has determined controls a slot machine licensee, the Board

may appoint a trustee who shall have all of the power and duties granted by the Board until the slot machine or principal license is renewed or until the Board approves a change in ownership of the slot machine license.

(c) The Board will have the power to appoint and remove one or more trustees as necessary.

§ 443a.3. Qualifications of trustees.

(a) Trustees shall be required to file an application for and obtain a principal license.

(b) The Board may appoint a trustee and award the trustee a temporary principal credential under § 435a.8 (relating to temporary credentials for principals and key employees) when necessary.

§ 443a.4. Bonding of trustees.

(a) Before assuming duties, a trustee shall execute and file a bond for the faithful performance of the trustee's duties.

(b) The bond required under subsection (a) must be payable to the Board with sureties and in the amount and form required by Board order.

(c) The cost of the bond required under subsection (a) shall be paid by the former or suspended licensee.

§ 443a.5. Effect of the trusteeship on slot machine and principal licensees.

After the adoption of a trusteeship action, the former or suspended slot machine or principal licensee may not exercise any of its privileges, collect or receive any debts and pay out, sell, assign or transfer any of its property to anyone without prior approval of the appointed trustee and the Board.

§ 443a.6. Powers and duties of trustees.

(a) The Board's order appointing trustees will set forth the powers, duties and responsibilities of the trustees which may include:

(1) Maintaining and operating the licensed facility in a manner that complies with the act, this part, the slot machine licensee's statement of conditions and the Board's order appointing the trustees.

(2) Maintaining and operating the licensed facility consistent with the measures generally taken in the ordinary course of business including:

(i) Entering into contracts.

(ii) Borrowing money.

(iii) Pledging, mortgaging or otherwise encumbering the property as security for the repayment of the trustee's loans; provided, however, that power shall be subject to any provisions and restrictions in any existing credit documents.

(iv) Hiring, firing and disciplining employees.

(3) Exercising the rights and obligations of the former or suspended licensee.

(4) Taking possession of all of the property of the former or suspended licensee, including its books, records and papers.

(5) Establishing accounts with financial institutions, which are not affiliated, owned, or otherwise influenced by the former or suspended licensee, to carry out the business of the former or suspended licensee.

(6) Meeting with the former or suspended licensee.

(7) Meeting with principals and key employees at the licensed facility.

(8) Meeting with the independent audit committee, if there is one.

(9) Meeting with the Board's Executive Director and keeping the Board's Executive Director apprised of actions taken and the trustee's plans and goals for the future.

(10) Hiring legal counsel, accountants, or other consultants or assistants, with approval of the Board, as necessary to carry out the trustee's duties and responsibilities.

(11) Settling or compromising with any debtor or creditor of the former or suspended licensee, including any taxing authority.

(12) Reviewing outstanding agreements to which the former or suspended licensee is a party and advising the Board as to which, if any, of the agreements should be the subject of scrutiny, examination or investigation by the Board.

(13) Obtaining Board approval prior to any sale, change of ownership, change of control, financial status, restructuring, transfer of assets, or execution of contract outside of the ordinary course of business.

(14) Obtaining Board approval for any payments outside of those in the ordinary course of business.

§ 443a.7. Compensation of trustees and payment of costs associated with the trusteeship.

(a) The Board will establish the compensation of the trustees.

(b) The Board will review and approve reasonable costs and expenses of trustees, the legal counsel, accountants, or other consultants or assistants hired by the trustees under § 443a.6(a)(9) (relating to powers and duties of trustees) and other persons the Board may appoint in connection with the trusteeship action.

(c) The costs in subsections (a) and (b) shall be paid by the former or suspended licensee.

§ 443a.8. Required reports of the trustees.

(a) Trustees shall file reports with regard to the administration of the trusteeship with the Board in the form and at intervals as the Board orders.

(b) The Board may direct that copies or portions of the trustees' reports be mailed to creditors or other parties in interest and make summaries of the reports available to the public and post them on the Board's web site (www.pgcb.state.pa.us).

§ 443a.9. Review of actions of the trustees.

(a) A creditor or party in interest aggrieved by any alleged breach of a delegated power or duty of a trustee in the discharge of the trustee's duties may request a review of the trustee's action or inaction by filing a petition in accordance with § 493a.4 (relating to petitions generally).

(b) The petition must set forth in detail the pertinent facts and the reasons why the facts constitute the alleged breach.

(c) The Board will review any petition filed under this section and take whatever action, if any, it deems appropriate.

§ 443a.10. Disposition of net earnings during the period of trusteeship.

(a) During the period of trusteeship, net earnings shall be deposited in an account maintained for that purpose.

(b) Payment of net earnings during the period of trusteeship may not be made by the trustees without the prior approval of the Board.

(c) A suspended or former principal or slot machine licensee may request payment of all or a portion of the net earnings during the period of trusteeship by filing a petition in accordance with § 493a.4 (relating to petitions generally). The suspended or former principal or slot machine licensee shall have the burden of demonstrating good cause for the payment of the net earnings requested.

§ 443a.11. Payments following a bulk sale.

Following the sale, assignment, conveyance or other disposition in bulk of all the property subject to a trusteeship and the payment of all obligations to the Commonwealth and political subdivisions and other funds set forth in the act, the Board will conduct a hearing to determine the distribution of the remaining assets.

§ 443a.12. Discontinuation of trusteeship.

(a) The Board may direct the discontinuation of a trusteeship when:

(1) The Board determines that the cause for which the trusteeship action was instituted no longer exists.

(2) The trustee has, with the prior approval of the Board, consummated the sale, assignment, conveyance or other disposition in bulk of all the property of the former principal or slot machine licensee relating to the slot machine license.

(b) Upon the discontinuation of the trusteeship with the approval of the Board, trustees shall take steps as may be necessary to affect an orderly transfer of the property of the former or suspended principal or slot machine licensee.

[Pa.B. Doc. No. 08-1293. Filed for public inspection July 11, 2008, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Order of Quarantine; Emerald Ash Borer

Recitals

A. Emerald Ash Borer (EAB), *Agrilus planipennis* (*Fairemaire*)—a beetle indigenous to Asia—is a serious plant pest that attacks and kills ash trees belonging to the genus *Fraxinus*. EAB has worked its way east from Michigan, where it was first detected in 2002.

B. EAB has killed 20-25 million ash trees during the short time it has been present in North America. Typically, trees are killed within 3 years of the initial attack by this beetle. EAB presents a clear threat to this Commonwealth's forest and horticultural resources.

C. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests. These powers include the authority to establish quarantines to prevent the spread of plant pests within this Commonwealth.

D. The Department has issued previous EAB-related Orders of Quarantine, establishing a quarantined area that includes all of Allegheny, Beaver, Butler and Lawrence Counties, and restricting the movement of designated articles and materials from this quarantined area.

E. EAB has recently been detected in Mercer County—a county outside of the current quarantined area—making it necessary to expand the quarantined area to include that county.

Order

Under authority of section 21 of the act (3 P. S. § 258.21), and with the Recitals previously listed, incorporated into this Order by reference, the Department orders the following:

1. Confirmation of Quarantine; Addition of Mercer County to the Quarantined Area.

a. The quarantine established by Order of June 27, 2007, and Order of July 16, 2007, with respect to Allegheny, Beaver, Butler and Lawrence Counties (collectively, the quarantined area) remains in effect, subject to the conditions set forth in this Order.

b. A quarantine is hereby established with respect to Mercer County, effective immediately. Mercer County is part of the quarantined area, and is subject to the conditions set forth in this Order.

2. *Limitations Imposed.* The following objects or materials may not be moved out of the quarantined area, unless done in accordance with Paragraph No. 3 of this Order:

- a. The Emerald Ash Borer in any living stage of development;
- b. Ash trees of any size;
- c. Ash limbs, branches, stumps and roots;
- d. Any cut, nonconiferous (hardwood) firewood;

e. Nonconiferous (hardwood) bark and nonconiferous (hardwood) wood chips larger than 1 inch in two dimensions;

f. Ash logs and lumber with either the bark or the outer 1 inch of sapwood, or both, attached;

g. Any item made from or containing the wood of the ash tree that is capable of spreading emerald ash borer; and

h. Any other article, product or means of conveyance determined by the Department to present a risk of spreading the EAB infestation.

3. *Movement of regulated articles from quarantined areas.* An article described in Paragraph No. 2 of this Order may be moved from a quarantined area only under the following circumstances:

a. With a valid certificate or limited permit (as described in Paragraph No. 4) attached;

b. Without a certificate or limited permit (as described in Paragraph No. 4) attached if:

i. The regulated article is moved by the United States Department of Agriculture or the Department for experimental or scientific purposes; or

ii. The regulated article originates outside the quarantined area and is moved intrastate through the quarantined area under the following conditions:

A. The points of origin and destination are indicated on a waybill accompanying the regulated article; and

B. The regulated article, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40° F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

C. The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

D. The article has not been combined or commingled with other articles so as to lose its individual identity.

E. Without a certificate or limited permit (as described in Paragraph No. 4) attached if a USDA-issued or USDA-authorized (by USDA compliance agreement) certificate or permit is attached.

4. *Obtaining a Certificate or Limited Permit from the Department for Intrastate Movement of Articles.* The Department or a person operating under a compliance agreement will issue a certificate or limited permit authorizing the intrastate movement of articles described in Paragraph No. 2 of this Order if it is satisfied that all of the following are accurate:

a. The article is either of the following:

i. The article is apparently free of EAB, based on inspection; or the article has been grown, produced, manufactured, stored or handled in a manner that, in the judgment of the Department, prevents the article from presenting a risk of spreading EAB; or

ii. The article is to be moved to a specified destination for specific processing, handling or utilization (the destination and other conditions to be listed on the advance

written permission), and this movement will not result in the spread of EAB because EAB will be destroyed by the specific processing, handling or utilization; and

b. The article is to be moved in compliance with this Order and any additional emergency conditions that the Department may impose under the act in order to prevent the artificial spread of EAB; and

c. The article is eligible for intrastate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.

5. *Cancellation of a Certificate or Limited Permit.* Any certificate or limited permit may be canceled orally or in writing by the Department whenever the Department determines that the holder of the certificate or limited permit has not complied with the act or this Order. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit.

6. *Compliance Agreements.* The Department will consider entering into a compliance agreement with any person that demonstrates an understanding of the requirements of this Order and otherwise satisfies the Department it is capable of issuing certificates or limited permits in accordance with the requirements of this Order. The Department shall either provide blank certificates and limited permits to a person operating under a compliance agreement or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the intrastate movement of regulated articles that have met all of the requirements of Paragraph No. 4.

7. *Documentation to Accompany Articles in Intrastate Movement from the Quarantined Area.* If an article described in Paragraph No. 2 of this Order is to be moved intrastate from the quarantined area, the article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have a copy of the applicable Department-issued or Department-authorized (by compliance agreement as described in Paragraph No. 6) certificate or limited permit

securely attached at all times during intrastate movement attached to the article itself, or to the container carrying the article, or to the consignee's copy of the accompanying waybill: Provided, that the description of the article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article. The carrier must furnish the certificate or limited permit authorizing the intrastate movement of the article to the consignee at the destination of the shipment.

8. *Federal Requirements for Interstate Movement of Articles.* This Order is distinct from, and in addition to, any Federal statute, regulation or quarantine order addressing the interstate movement of articles from the quarantined area or this Commonwealth.

9. *Contacting the Department.* A person seeking information about the requirements of this Order, or a limited permit for intrastate movement of quarantined articles, or a compliance agreement for intrastate movement of quarantined articles, shall contact the Department at the following address or telephone number: Department of Agriculture, Attention: Walt Blosser, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-5205, wblosser@state.pa.us.

10. *Criminal and Civil Penalties.* A person who violates this Order will face summary criminal prosecution carrying up to 90 days imprisonment and a fine of up to \$300 with respect to each violation. In addition, a person who violates this Order may be assessed a civil penalty of up to \$20,000 with respect to each violation.

11. *Cooperation with other agencies.* The Department will consult with USDA, other State agencies and the Pennsylvania State University Cooperative Extension with respect to the most efficacious measures to survey for and detect EAB to slow the spread or eradicate this pest.

12. *Effective Date.* This quarantine is effective as of June 27, 2008, and shall remain in effect until rescinded by subsequent order.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-1294. Filed for public inspection July 11, 2008, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending July 1, 2008.

BANKING INSTITUTIONS

Conversions

| Date | Name of Bank | Location | Action |
|-----------|---|----------|-----------|
| 6-27-2008 | From: The Merchants National Bank of Bangor Bangor Northampton County To: Merchants Bank of Bangor Bangor Northampton County | Bangor | Effective |

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|---|---------------|
| | Conversion from a Federally-chartered bank to a Pennsylvania State-chartered bank. Merchants Bank of Bangor is a wholly-owned subsidiary of MNB Corporation, Bangor, an existing bank holding company. | | |
| | Branch offices operated by Merchants Bank of Bangor: | | |
| | 303 Pennsylvania Avenue Bangor Northampton County | 1 Centre Square Easton Northampton County | |
| | 1250 Braden Boulevard Easton Northampton County | 6626 Main Street Martins Creek Northampton County | |
| | 2118 Delaware Drive Mount Bethel Northampton County | 44 South Broad Street Nazareth Northampton County | |
| | 291 West Moorestown Road Nazareth Northampton County | 101 Held Drive Northampton Northampton County | |
| | 45 North Broadway Wind Gap Northampton County | | |

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 7-1-2008 | Landmark Community Bank, Pittston, and Landmark Interim Bank, Pittston Surviving Institution: Landmark Community Bank, Pittston | Pittston | Effective |
| | As a result of the merger, Landmark Community Bank, Pittston, has become a wholly-owned subsidiary of Landmark Bancorp, Inc., Pittston, a newly-formed bank holding company. | | |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|--|---------------|
| 6-16-2008 | Northwest Savings Bank Warren Warren County | 125 Emeryville Drive Suite 100 Cranberry Township Butler County | Opened |
| 6-23-2008 | First Star Bank Bethlehem Northampton County | 6302 Route 309 New Tripoli Lehigh County | Opened |
| 6-24-2008 | First Commonwealth Bank Indiana Indiana County | Grant Street and Oliver Avenue Pittsburgh Allegheny County | Filed |
| 6-25-2008 | CNB Bank Clearfield Clearfield County | 2035 Edinboro Road Millcreek Erie County | Opened |
| 6-27-2008 | Fidelity Savings Bank Pittsburgh Allegheny County | 5000 Centre Avenue Pittsburgh Allegheny County | Filed |

Branch Relocations

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 6-24-2008 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 3045 US Route 30 West Latrobe Westmoreland County <i>From:</i> 3954 US Route 30 West Latrobe Westmoreland County | Filed |

NOTICES

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| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 6-24-2008 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 8291 SR 22 New Alexandria Westmoreland County <i>From:</i> 412 West Main Street New Alexandria Westmoreland County | Filed |
| 6-25-2008 | Northwest Savings Bank Warren Warren County | <i>To:</i> 437 Cochran Road Mt. Lebanon Township Pittsburgh Allegheny County <i>From:</i> 300 Cochran Road Mt. Lebanon Township Pittsburgh Allegheny County | Filed |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|---|---------------|
| 6-24-2008 | Graystone Bank Lancaster Lancaster County | 37 North Market Street Frederick Frederick County, MD | Filed |

Articles of Amendment

| <i>Date</i> | <i>Name of Bank</i> | <i>Purpose</i> | <i>Action</i> |
|-------------|--|--|------------------------------|
| 7-1-2008 | Minersville Safe Deposit Bank and Trust Company Minersville Schuylkill County | Amendment to Article I of the Articles of Incorporation provides for a change of the name of the institution from "Minersville Safe Deposit Bank and Trust Company" to "Miners Bank." | Approved and Effective |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Community Charter Conversions

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 7-1-2008 | Superior Credit Union Collegeville Montgomery County | Collegeville | Effective |

The credit union has amended its Articles of Incorporation to serve a field of membership limited to the following community: All people who live, work, worship, attend school in, and businesses and other legal entities in Montgomery County, PA.

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 7-1-2008 | Pennsylvania State Employees Credit Union, Harrisburg, and Clarion University Federal Credit Union, Clarion Surviving Institution: Pennsylvania State Employees Credit Union, Harrisburg | Harrisburg | Effective |

Articles of Amendment

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Purpose</i> | <i>Action</i> |
|-------------|--|---|------------------------|
| 7-1-2008 | NBA Credit Union Bristol Bucks County | Amendment to Article IV, Section 3, of the Articles of Incorporation decreases the Board of Directors from 11 to 9 members and eliminates the Supervisory Committee. | Approved and Effective |
| 7-1-2008 | Crayola LLC Employees Credit Union Easton Northampton County | Amendment to Article 8 of the Articles of Incorporation provides for the inclusion of "minor grandchildren at a different address" in the credit union's field of membership. | Approved and Effective |

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 08-1295. Filed for public inspection July 11, 2008, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final

determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

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

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

I. NPDES Renewal Applications

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> |
|-----------------------------|--|---|--------------------------------------|-----------------------------|
| PA0062634 (Minor Sewage) | Larry L. Luckenbill Sammy's Mobile Home Park 631 South Route 183 Schuylkill Haven, PA 17972 | North Manheim Township Schuylkill County | UNT to Mahonney Creek 03A | 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> |
|-----------------------------|--|--|--------------------------------------|-----------------------------|
| PA0080331 (IW) | Ephrata Area Joint Authority 124 South State Street Ephrata, PA 17522-2411 | Lancaster County Ephrata Borough | UNT Cocalico Creek 7J | Y |
| PA0009423 (IW) | Borough of Everett Area Municipal Authority 100 Mechanic Street Everett, PA 15537-1177 | Bedford County West Providence Township | John's Branch 11-D | Y |
| PA0041505 (Sew) | Hereford Estates Mobile Home Park Berks Properties 3613 Seisholtzville Road Hereford, PA 18056 | Berks County Hereford Township | Perkiomen Creek 3E | Y |
| PA0087904 (IW) | Roaring Spring Water 740 Spang Street Roaring Spring, PA 16673-0097 | Roaring Spring Borough Blair County | Halter Creek 11-A | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|--|--------------------------------------|---|-----------------------------|
| PA0209244 IW | Brady Township—Troutville Borough Water Association, Inc. 3309 Shamokin Trail Luthersburg, PA 15848-4019 | Brady Township Clearfield County | UNT LaBorde Branch UNT East Branch Mahoning Creek 17C | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|--|--------------------------------------|--|-----------------------------|
| PA0221091 | ELCAM Tool and Die, Inc. 497 Buena Vista Highway Wilcox, PA 15870 | Jones Township Elk County | UNT to West Branch Clarion River 17-A | Y |
| PA0021504 | Western Butler County Authority 607 Market Street P. O. Box 427 Zelienople, PA 16063 | Zelienople Township Butler County | UNT to Glade Run 20-C | N |

| <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> |
|-----------------------------|---|--|--------------------------------------|-----------------------------|
| PA0034789 | Saint Marys Area Water Authority 967 State Street Saint Marys, PA 15857-4311 | Saint Marys City Elk County | Laurel Run 17-A | Y |
| PA0043834 | Mercer Co. Regional Council of Governments 2495 Highland Road Hermitage, PA 16148 | South Pymatuning Township Mercer County | Shenango River 20-A | Y |
| PA0023451 | Mount Jewett Borough Secretary Treasurer P. O. Box 680 Mt. Jewett, PA 16740 | Mt. Jewett Township McKean County | UNT to Kinzua Creek 16-B | Y |
| PA0103225 | KRS Development, Inc. 17933 Paint Boulevard Shippenville, PA 16254 | Paint Township Clarion County | UNT to the Clarion River 17-B | Y |

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

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

PA0011851, Industrial Waste, SIC Nos. 3317, 3356 and 3451, **Superior Tube Company, Inc.**, 3900 Germantown Pike, Collegeville, PA 19426-3112. This existing facility is located in Lower Providence Township, **Montgomery County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge process wastewater, treated groundwater, stormwater and miscellaneous wastewaters from a tubing manufacturing facility.

The receiving stream, Perkiomen Creek and a UNT to Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for: TSF, WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, Inc. is located on Perkiomen Creek and is approximately 4.5 miles below the point of discharge.

The proposed effluent limits for IMP 108 are based on a design flow of 0.0181 mgd.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|----------------------|----------------------------|--------------------------|-----------------------------|--------------------------|---|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| Suspended Solids | 2.0 | 4.1 | 13.6 | 27.5 | 34.0 |
| Ammonia as N | 0.037 | 0.085 | 0.25 | 0.56 | 0.63 |
| Fluoride | | | 2.5 | | 0.63 |
| Oil and Grease | 1.5 | 3.0 | 10.0 | 20.0 | 5.0 |
| Cadmium, Total | 0.012 | 0.031 | 0.078 | 0.207 | 25.0 |
| Zinc, Total | 0.067 | 0.119 | 0.445 | 0.786 | 0.207 |
| Total Toxic Organics | | | 2.13 | | 1.112 |
| pH (Standard Units) | | | Monitor, minimum | | Monitor |
| Copper, Total | 0.094 | 0.153 | 0.622 | 1.015 | 1.555 |
| Lead, Total | 0.019 | 0.031 | 0.129 | 0.208 | 0.322 |
| Nickel, Total | 0.112 | 0.19 | 0.739 | 1.259 | 1.847 |
| Silver, Total | 0.011 | 0.019 | 0.072 | 0.129 | 0.18 |
| Cyanide, Total | 0.029 | 0.054 | 0.196 | 0.361 | 0.49 |
| Chromium, Total | 0.081 | 0.135 | 0.539 | 0.896 | 1.348 |

The proposed effluent limits for Outfall 008 are based on a design flow of 0.1717 mgd.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|----------------------------|--------------------------|-----------------------------|--------------------------|---|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| Suspended Solids | | | 30.0 | 60.0 | 75.0 |
| Oil and Grease | | | 15.0 | | 30.0 |
| Chromium, Total | | | Monitor | Monitor | Monitor |
| Copper, Total | | | Monitor | Monitor | Monitor |
| Zinc, Total | | | Monitor | Monitor | Monitor |
| Trichloroethylene | | | 1.27 | 1.98 | 3.17 |
| Total Dissolved Solids | | | 1,000 | 2,000 | 2,500 |
| pH (Standard Units) | | | 6.0 minimum | | 9.0 |
| Temperature | | | | | 110° F |
| Cadmium, Total | | | 0.333 | 0.052 | 0.083 |

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------|------------------------|----------------------|-----------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| Lead, Total | | | Monitor | Monitor | Monitor |
| N-Propyl Bromide | | | Monitor | Monitor | Monitor |

The proposed effluent limits for Stormwater Outfalls 002, 004—007 are based on a design flow of an average stormwater event.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|------------------------|----------------------|-----------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| CBOD ₅ | | | Monitor | | |
| Chemical Oxygen Demand | | | Monitor | | |
| Oil and Grease | | | Monitor | | |
| Suspended Solids | | | Monitor | | |
| Total Kjeldahl Nitrogen | | | Monitor | | |
| Total Phosphorus | | | Monitor | | |
| Iron, Dissolved | | | Monitor | | |
| Copper, Total | | | Monitor | | |
| Nickel, Total | | | Monitor | | |
| Zinc, Total | | | Monitor | | |
| pH (Standard Units) | | | Monitor | | |

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

1. Remedial Measures if Public Nuisance.
2. Approved Chemical Additive Usage Rates.
3. Chemical Additives.
4. Approved Test Method.
5. Change of Ownership.
6. TTO Definition.
7. TTO Monitoring.
8. Proper Sludge Disposal.
9. TMDL/WLA Analysis.
10. Stormwater Requirements.
11. Laboratory Accreditation.
12. Remediation Systems Quarterly Reports.

PA0244406, Industrial Waste, SIC 3273, **Nyce Crete Company, Inc.**, 711 North County Line Road, P. O. Box 64418, Souderton, PA 18964. This proposed facility is located in Lansdale Borough, **Montgomery County**.

Description of Proposed Activity: The discharge of stormwater from a Ready-Mix Concrete Batch Plant. This property is located at 901 West Sixth Street, Lansdale, PA 19446.

The receiving stream, UNT 02889 to West Branch Neshaminy Creek is in the State Water Plan Watershed 2F and is classified for: WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake is for the AQUA PA-Neshaminy located on Neshaminy Creek.

The proposed effluent limits for Outfalls 001—003 are based on stormwater discharge:

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|--|------------------------|----------------------|---|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| Total Suspended Solids (Issuance thru 24 months) (25 months thru expiration) | | | Report 50 | Report 100 | 100 |
| pH (Issuance thru 24 months) (25 months thru expiration) | | | Monitor and Report Within 6.0 and 9.0 Standard Units | | |
| Oil and Grease | | | Report | Report | |

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

1. Implement Structural Stormwater BMPs.
2. Adopt Necessary Remedial Measures.
3. Small Stream Discharge.
4. Proper Disposal of Solids.
5. Applicable Stormwater Conditions and BMPs.
6. Definition of 10-Year, 24-Hour Storm.

PA0013005, IW, SIC 2672, **FiberMark, Inc.**, 45 North 4th Street, Quakertown, PA 18951. This proposed facility is located in Quakertown Borough, **Bucks County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge noncontact cooling water and stormwater from the facility.

The receiving stream, UNT to Beaver Run, is in the State Water Plan Watershed 2D and is classified for: TSF. The nearest downstream public water supply intake for PA Water Company is located on Delaware River and is 29.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 is based on a design flow of 0.09 mgd.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|---|---------------------------------|---|
| Temperature | | | 110° F |
| pH | Within limits of 6.0 to 9.0 Standard Units at all times | | |

The proposed effluent limits for stormwater Outfalls 001—003 are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-----------------------------------|---------------------------------|---|
| CBOD ₅ | | | Monitor and Report |
| COD | | | Monitor and Report |
| Oil and Grease | | | Monitor and Report |
| pH | | | Monitor and Report |
| Total Suspended Solids | | | Monitor and Report |
| Total Kjeldahl Nitrogen | | | Monitor and Report |
| Total Phosphorous | | | Monitor and Report |
| Iron (Dissolved) | | | Monitor and Report |

The EPA waiver is in effect.

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

Major Permit Conditions:

1. Discharge to Special Protection Waters.
2. Groundwater Monitoring.
3. Monitoring of Injection Wastewater.

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

Application No. PA 0261114, Industrial Waste, SIC Code 4951, **McConnellsburg Borough Municipal Authority**, P. O. Box 218, McConnellsburg, PA 17233. This facility is located in Todd Township, **Fulton County**.

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

The receiving stream, UNT Big Cove Creek, is in Watershed 13-B, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is the City of Hagerstown located on the Potomac River, approximately 40 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.018 mgd are:

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | |
|-------------------------|-----------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Total Suspended Solids | 30 | 60 | 75 |
| Aluminum, Total | 4.0 | 8.0 | 9.0 |
| Iron, Total | 2.0 | 4.0 | 5.0 |
| Manganese, Total | 1.0 | 2.0 | 2.5 |
| Total Residual Chlorine | 0.5 | | 1.6 |
| pH | 6.0 to 9.0 at all times. | | |

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.

Application No. PAS 603506, Industrial Waste, SIC Code 5015, **Aumiller's Auto Wreckers, Inc.**, 45 Auto Parts Drive, Milroy, PA 17063. This facility is located in Armagh Township, **Mifflin County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of stormwater.

The receiving stream, UNT Laurel Creek, is in Watershed 12-A, and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Newport Borough located on the Juniata River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfalls 001 and 002 are:

| <i>Parameters</i> | <i>Concentration (mg/l)</i> |
|------------------------|------------------------------|
| | <i>Instantaneous Maximum</i> |
| CBOD ₅ | Monitor and Report |
| COD | Monitor and Report |
| Oil and Grease | Monitor and Report |
| pH | Monitor and Report |
| Total Suspended Solids | Monitor and Report |
| Total Iron | Monitor and Report |

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

This facility may conduct an annual inspection in lieu of sampling.

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.

Application No. PA 0260771, CAFO, **Brymesser Farm CAFO**, 1540 Leidigh Drive, Boiling Springs, PA 17007.

Stanley Brymesser has submitted an NPDES permit application for the Brymesser Farm CAFO, an existing swine and steer operation in Monroe Township, **Cumberland County**. The CAFO is situated near Yellow Breeches Creek, which is classified as a HQ-CWF. The CAFO has a target animal population of approximately 456 animal equivalent units consisting of 3,000 finishing swine and 25 finishing steer.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit. The permit application and draft permit are on file at the Southcentral Regional Office of the Department.

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

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

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

PA0216330, Sewage, **Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106. This application is for renewal of an NPDES permit to discharge treated sewage from Homewood Maintenance Building STP in Big Beaver Borough, **Beaver County**.

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

Outfall 001: existing discharge, design flow of 0.0012 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|--|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform | 200/100 ml as a Geometric Mean | | | |
| (5-1 to 9-30) | 2,000/100 ml as a Geometric Mean | | | |
| (10-1 to 4-30) | 1.4 | | | 3.3 |
| Total Residual Chlorine | not less than 3.0 mg/l | | | |
| Dissolved Oxygen | not less than 6.0 nor greater than 9.0 | | | |
| pH | | | | |

Other Conditions: The following effluent limitations are proposed for Outfall 101 the oil/water separator.

| Parameter | Concentration (mg/l) | | | |
|------------------|---|-------------------|------------------|--------------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| Oil and Grease | 15 | | | 30 |
| Suspended Solids | 30 | | | 60 |
| pH | not less than 6.0 nor greater than 9.0 Standard Units | | | |
| Flow | Monitor and Report | | | |

The EPA waiver is in effect.

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

PA0240192, Sewage. **Frank R. and Myranda S. Hyden SFTF**, 24475 State Street, Meadville, PA 16335. This proposed facility is located in Blooming Valley Borough, **Crawford County**.

Description of Proposed Activity: a new NPDES permit for a new discharge of treated sewage from a Small Flow Treatment Facility.

The receiving water is a UNT to Woodcock Creek. The receiving stream is in State Water Plan 16-A and is classified for the following uses: HQ-CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, Emlenton Area Water Company, is located on the Allegheny River and is approximately 66 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

| Parameter | Concentrations | | |
|---------------------------|---------------------------|--|---------------------------------|
| | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
| Flow | XX | | |
| CBOD ₅ | 10 | | 20 |
| Total Suspended Solids | 20 | | 40 |
| **Total Residual Chlorine | XX | | |
| **Fecal Coliform | | 200/100 ml as a Geometric Average | |
| pH | | 6.0 to 9.0 Standard Units at all times | |

**—Data to be recorded on the Annual Maintenance Report.

XX—Monitor and report.

The EPA waiver is in effect.

PA0238767, Sewage. **Stoneworth Apartments, LLC**, 877 New Castle Road, Slippery Rock, PA 16057. This proposed facility is located in Worth Township, **Butler County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Salvation Army Camp Allegheny, located on Slippery Rock Creek and is approximately 3 miles below point of discharge.

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

The proposed effluent limits for Outfall 001 are based on a design flow of 0.024 mgd.

| Parameter | Concentrations | | |
|---------------------------------|---------------------------|--|---------------------------------|
| | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
| Flow (mgd) | XX | | |
| CBOD ₅ | 25 | | 50 |
| Total Suspended Solids | 30 | | 60 |
| Fecal Coliform (5-1 to 9-30) | | 200/100 ml as a Geometric Average | |
| (10-1 to 4-30) | | 2,000/100 ml as a Geometric Average | |
| Total Residual Chlorine | 1.4 | | 3.3 |
| pH | | 6.0 to 9.0 Standard Units at all times | |

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

WQM Permit No. 3608403, Sewerage, **Welsh Mountain Home**, 567 Springville Road, New Holland, PA 17557. This proposed facility is located in Salisbury Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of an onlot sewage disposal system to serve a new assisted living complex on the West side of Spring Road.

WQM Permit No. 3608404, Sewerage, **Paradise Township Sewer Authority**, 2 Township Drive, P. O. Box 40, Paradise, PA 17562. This proposed facility is located in Paradise Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of the Kinzers Phase II submersible pump station.

WQM Permit No. 6708407, Sewerage, **New Life for Girls**, Box D-700, Dover, PA 17315. This proposed facility is located in Conewago Township, **York County**.

Description of Proposed Action/Activity: Replacement of the existing concrete sludge tank at the inflow end of the plant.

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

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

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|--|---|
| PAI01 1508040 | East Goshen Municipal Authority 1580 Paoli Pike West Chester, PA 19380-6199 | Chester | East Goshen Township | Ridley Creek HQ-TSF |
| PAI01 1508041 | Greenstone Development II Corp. P. O. Box 973 Paoli, PA 19301 | Chester | Malvern Borough | Crum Creek HQ-CWF |
| PAI01 1508042 | The Hankin Group 707 Eagleview Boulevard P. O. Box 562 Exton, PA 19341 | Chester | Upper Uwchlan and Uwchlan Townships | Pickering Creek HQ-TSF Shamona Creek HQ-TSF-MF |
| PAI01 1508043 | Trustees of University of Pennsylvania 250 King of Prussia Road 4th Floor Radnor, PA 19087-5286 | Chester | Tredyffrin Township | Valley Creek EV |
| PAI01 2308005 | James Greco 1004 Millstream Drive Malvern, PA 19355 | Delaware | Edgmont Township | Chester Creek TSF-MF Ridley Creek HQ-TSF |
| PAI01 2308006 | One Landmark, LP P. O. Box 2006 Media, PA 19063 | Delaware | Edgmont Township | Crum Creek CWF Ridley Creek HQ-TSF |

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|-------------------------|----------------------------------|
| PAI023908011 | Cecilia Birdsell East Penn School District 800 Pine Street Emmaus, PA 18049 | Lehigh | Lower Macungie Township | Little Lehigh Creek HQ-CWF |

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> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI-0307-08-005 | George D. Koeck R. R. 6 Box 287 Altoona, PA 16601 | Blair | Logan Township | UNT to Mill Run HQ-CWF |
| PAI-0307-08-004 | Bee Line Wholesalers 1833 Pleasant Valley Boulevard Altoona, PA 16602 | Blair | Logan Township | Sandy Run HQ-CWF |

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

Fayette County Conservation District, 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI052603004-R | NWL Company 1001 LaFayette Drive Farmington, PA 15437 | Fayette | Wharton Township | Deadmens Run HQ-CWF |

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

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

SAFE DRINKING WATER

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.

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 4508501, Public Water Supply.

| | |
|---------------------------|--|
| Applicant | Pennsylvania American Water Stroud Township Monroe County |
| Responsible Official | David Kaufman Pennsylvania American Water 800 West Hersheypark Drive Hershey, PA 17033 |
| Type of Facility | PWS |
| Consulting Engineer | Francis M. Voyack, P. E. Quad Three Group, Inc. 37 North Washington Street Wilkes-Barre, PA 18701 |
| Application Received Date | June 11, 2008 |
| Description of Action | Application proposes the construction of the Blue Mountain Lake Booster Station and installation of 2,000 feet of 6-inch distribution system main as part of the proposed project. |

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

Permit No. 0108510, Public Water Supply.

| | |
|--------------|-------------------------------|
| Applicant | The York Water Company |
| Municipality | Berwick Township |
| County | Adams |

Responsible Official Mark S. Snyder
Engineering Manager
130 East Market Street
P. O. Box 15089
York, PA 17405-7089

Type of Facility Public Water Supply

Consulting Engineer Mark S. Snyder, P. E.
The York Water Company
130 East Market Street
P. O. Box 15089
York, PA 17405-7089

Application Received: June 11, 2008

Description of Action Race Track Road standpipe
chlorine booster installation.

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

Permit No. 4708501—Construction, Public Water Supply.

Applicant **DeLong Green Acres Personal Care Home**

Township or Borough Washingtonville Borough

County **Montour**

Responsible Official Bruce Hunsinger, Owner
DeLong Green Acres PCH
8 Church Street
P. O. Box 243
Washingtonville, PA 17884

Type of Facility Public Water
Supply—Construction

Consulting Engineer Britt Bassett, P. E., B.C.E.E.
Bassett Engineering
1440 Broad Street
Montoursville, PA 17754

Permit Issued Date June 27, 2008

Description of Action Application for a permit to operate
a community water supply and
installation of a reverse osmosis
treatment system.

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

Application No. 2508502, Public Water Supply.

Applicant **Fairview Township Water Authority**

Township or Borough Fairview Township
Erie County

Responsible Official John R. Agnello, Manager

Consulting Engineer Mark J. Corey, P. E.
Mark J. Corey & Associates
5845 Jordan Road
Erie, PA 16510

Application Received Date June 24, 2008

Description of Action Construction of new PWS water
well, known as Well No. 6 and
related pumping
equipment/instrumentation.

Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996217, Public Water Supply.

Applicant **Nestle Waters North America, Inc.**

Township or Borough Poland Spring, ME

Responsible Official Sathie Thayagan
Quality Control Manager

Type of Facility Out-of-State Bottled Water System

Application Received Date June 20, 2008

Description of Action Applicant requesting Department
of Environmental Protection
approval to use new municipal
source (Auburn Municipal Water)
to produce a new distilled water
product (Poland Spring Distilled
Water). Bottled water to be sold in
Pennsylvania under the brand
names; Deer Park Natural Spring
Water, Ice Mountain Natural
Spring Water, Poland Spring
Natural Spring Water, Poland
Spring Sparkling Spring Water
and Poland Spring Distilled
Water.

Permit No. 9996427, Public Water Supply.

Applicant **Polar Beverages Corp.**

Township or Borough Worcester, MA

Responsible Official Gina Brooks, QC Administrator

Type of Facility Out-of-State Bottled Water System

Application Received Date June 20, 2008

Description of Action Applicant requesting a permit
amendment to use new municipal
source water (Worcester Municipal
Water) to produce a new purified
bottled water product. Bottled
water to be sold in Pennsylvania
under the brand names Silver
Spring Pure Natural Spring Water
and Adirondack Purified Water.

MINOR AMENDMENT

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

Application No. 2608503MA, Minor Amendment.

Applicant **Municipal Authority of Westmoreland County**
124 Park and Pool Roads
New Stanton, PA 15672

Township or Borough New Stanton Borough
Hempfield Township

Responsible Official Curtis Fontaine, Operations
Manager
Engineering, Municipal Authority
of Westmoreland County
124 Park and Pool Roads
New Stanton, PA 15672

Type of Facility Water treatment plant

Consulting Engineer Gibson-Thomas Engineering Co.,
Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Application Received Date June 27, 2008

Description of Action Installation of a 48" transmission
main to replace an existing 20"
line.

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

Application No. 2577501-MA1, Minor Amendment.

Applicant **Edinboro Borough Municipal
Authority**

Township or Borough Edinboro Borough
Erie County

Responsible Official Taras Jemetz, Manager
124 Meadville Street
Edinboro, PA 16412

Type of Facility Public Water System, 500,000
gallon water storage tank.

Application Received Date June 2, 2008

Description of Action Recoat interior of 500,000 gallon
Sherrod Hill Road Tank.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

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

5134 Lancaster Avenue, City of Philadelphia, **Philadelphia County**. Charlene Drake, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Jenny Reynolds, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of unleaded gasoline. The future use of the site will remain the same.

Turner Apartments, Glenolden Borough, **Delaware County**. Nadia Botros, 820 Hawthorne Avenue, Secane, PA 19018 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site will remain the same.

Lukas Property, Radnor Township, **Delaware County**. Jeffery S. Fitch, EPCORP, LTD-FITCH ENVIRONMENTAL, P. O. Box 493, Southeastern, PA 19399 on behalf of Joseph T. Lukas, 714 Moonraker Court, Smithville, NJ 08205 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of chlorinated solvents. The proposed future use of the site will be nonresidential for continued use as an automotive repair shop. A summary of the Notice to Intent to Remediate was reported to have been reported in the *Delaware County Daily Times* on May 23, 2008.

St. John Neumann Place, LP, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, Keating Environmental Management, Inc., 123 John Robert Thomas Drive, Exton, PA 19341 on behalf of Suzanne O'Gady Laurito, St. John Neumann Place, LP, 1941 Christian Street, Philadelphia, PA 19146 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by the release of PAH. The future use of the site will remain the same.

1702-1708 Tulip Street, City of Philadelphia, **Philadelphia County**. Guy Sheets, Pirnie, 640 Freedom Business Center, Suite 310, King of Prussia, PA 19406 on behalf of Kenneth Chadwick, Temple East, Inc., d/b/a Northeastern Hospital, 2301 East Allegheny Avenue, Philadelphia, PA 19134 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of unleaded gasoline. The future use of the site will remain the same.

3662 Market Street, Upper Chichester Township, **Delaware County**. Raymond P. Duchanie, PG, ENVision Environmental, Inc., 130 Hickman Road, Suite 26, Claymont, DE 19703 on behalf of Grey T. Harvey, Wawa, Inc., 260 West Baltimore Pike, Wawa, PA 19063 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of lead. The future use of the site is being considered for development into a convenience store with retail gasoline sales. A summary of the Notice to Intent to Remediate was reported the *Delaware County Daily Times* on June 13, 2008.

Gantz Residence, Norwood Borough, **Delaware County**. Staci Cottone, J & J Spill Service, P. O. Box 370, Blue Bell, PA 19422 on behalf of Ronald Gantz, 106 Elmwood Avenue, Norwood, PA 19074 has been submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of No. 2 fuel oil. The future use of the site will remain the same. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Daily Times* on May 23, 2008.

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

Bryan Horetsky Residence, Taylor Township, **Blair County**. Groundwater and Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona, PA 16601, on behalf of Bryan Horetsky, 131 Brumbaugh Road, Roaring Spring, PA 16673, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. The site will be remediated to the Statewide Health Standard.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

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

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

Renewal Applications Received

Environmental Waste Minimization, Inc., 14 Brick Kiln Court, Northampton, PA 18067. License No. PA-HC 0219. Received on April 28, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application received, under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

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

Permit ID No. 301310. Tri-State Petroleum Recovery, 12 Creek Road, McKees Rocks, PA 15136-1601. Tri-State Petroleum Recovery, 12 Creek Road, P. O. Box 12, McKees Rocks, PA 15136-1601. Application for a permit renewal of a residual waste transfer facility in Kennedy Township, **Allegheny County** was received in the Regional Office on June 26, 2008.

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 to 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.

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

06-05005C: Eastern Industries, Inc. (4401 Camp Meeting Road, Center Valley, PA 18034) for use of waste derived fuel oil at their Oley Blacktop Plant on Bieber Mill Road, Oley, PA 19547 in Oley Township, **Berks County**. This is an existing facility controlled by the use of a fabric filter baghouse.

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

14-00014D: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) for construction of a stone crusher, recycled asphalt pavement (RAP) crusher, two RAP screens, various conveyors, feeders, bins and silos, portable stone crushing plant and associated 425 horsepower diesel-fired engine, 251 horsepower diesel-fired generator, 105 horsepower diesel-fired pump, 127 horsepower diesel-fired pump and 4.2 million gallon asphalt storage tank and the installation of two fabric collectors on the facility's secondary stone crushing plant in Spring Township, **Centre County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

15-0125: PPL Renewable Energy, LLC (Swedesford Road and Valley Creek Boulevard, Exton, PA 19341) for installation of two natural gas-fired Catterpillar reciprocating internal combustion engines in East Whiteland Township, **Chester County**. The pollutants of concern from the proposed operation include NO_x, VOC, CO and PM emissions. NO_x and VOC emissions will have the potential to exceed Title V thresholds, however, the facility will utilize air pollution control devices to maintain emissions below 25 tpy. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

09-0110E: Riverside Construction Materials, Inc. (7900 North Radcliffe Street, Bristol, PA 19007) for approval of an existing load-out station, construction of a new dust collector and construction of a new load-out station in Bristol Township, **Bucks County**. The existing load-out station, designated Truck Load-out No. 1 with Dust Collection (Source ID: 108), consists of two identical chutes with dust controls. Truck Load-out No. 1 with Dust Collection can load cement into two cement trucks at one time. A new load-out station will be installed, designated Load-out No. 2 with Dust Collection (Source ID: 109), consisting of one chute with dust controls. Load-out No. 2 with Dust Collection will only load one

truck at a time. The new dust collector, designated Dome No. 2 Dust Collector (Source ID: C04), will be used in conjunction with an existing dust collector to control emissions from three cement storage units at the facility. This application will result in an increase of controlled PM emissions of 0.19 tpy. 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.

46-0240A: Smithfield Beef Group, Inc. (249 Allentown Road, Souderton, PA 18964) plan approval for the modification of emission limitations contained in the previously issued plan approval No. 46-0240 for a 29.9 mmBtu/hr Boiler fired by natural gas, No. 2 fuel oil and animal fat/vegetable oil in Franconia Township, **Montgomery County**. This plan approval supersedes Conditions Nos. 12 and 13 of the previously issued plan approval No. 46-0240. The facility is currently operating under the State-only Operating Permit No. 46-00240. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

58-302-008: Donald Dean and Sons, Inc. (99 Grow Avenue, P. O. Box 246, Montrose, PA 18801) for construction of one 10.84 mmBtu/hr wood fired boiler at their facility in Bridgewater Township, **Susquehanna County**. This facility is not a Title V facility. Primary and secondary multiclones will control the PM from the wood fired boiler. Annual emissions from the boiler shall not exceed the following: 10.45 tons of NO_x, 1.19 tons of SO₂, 28.49 tons of CO, 26.59 tons of PM and 0.81 ton of VOC. The boiler is subject to NSPS Subpart Dc of the Federal Standards of Performance for Nonmetallic Mineral Processing Plants, 40 CFR 60.40c—60.48c. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements.

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

36-03052B: Boose Aluminum Foundry Co., Inc. (P. O. Box 261, 77 North Reamstown Road, Reamstown, PA 17567-0261) for replacing a molding line in Reamstown, **Lancaster County**. A baghouse will be added to control sand handling emissions. Increase in emissions will be less than 1 tpy of PM. The facility is a State-only facility. The approval will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

PA-26-00574A: Stone Materials, LLC (Stone Materials, LLC, P. O. Box 423, Reedsville, WV 26547) for construction of a Nonmetallic Mineral Processing Plant in Georges Township, **Fayette County**.

Under 25 Pa. Code § 127.44(a), the Department of Environmental Protection (Department) intends to issue a Plan Approval to Stone Materials, LLC (Stone Materials,

LLC, P. O. Box 423, Reedsville, WV 26547) to construct a Nonmetallic Mineral Processing Plant located in Georges Township, Fayette County.

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the address that follows.

Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222

For the Department to assure compliance with all applicable standards, the Department proposes to place the following Special Conditions and General Conditions on the Plan Approval:

Special Conditions

1. This Plan Approval is to allow the construction and operation of a nonmetallic mineral processing plant rated at 250 tph at the Rhehoboth Quarry located in Georges Township, Fayette County. (25 Pa. Code § 127.12b)

2. Air contamination sources covered by this Plan Approval include the following: (25 Pa. Code § 127.12b)

- One Nordberg 250 tph Jaw Crusher
- One Simplicity 250 tph Triple Deck Screen
- One Symons 250 tph Standard Cone Crusher
- Seven 250 tph Belt Conveyors
- Truck unloading to raw material stockpile transfer point
 - Loading raw material stockpile to grizzly feeder transfer point
 - Grizzly feeder to jaw crusher transfer point
 - Fifteen transfer points between conveyors and crushers, screen and stockpiles
 - Loading processed material onto trucks transfer point
 - Truck unloading to processed material stockpiles near plant entrance transfer point
 - Loading processed material onto trucks for shipment transfer point
 - Wind erosion of stockpiles
 - Front end loader traffic on unpaved haul roads
 - Raw material truck traffic on unpaved haul roads
 - Product truck traffic on unpaved haul roads

3. The throughput of the facility shall be limited to 500,000 tpy. (25 Pa. Code § 127.12b)

4. Records of throughput shall be kept to determine compliance with the conditions of the plan approval. (25 Pa. Code § 127.12b)

5. This plant is subject to the applicable provisions of Standards of Performance for Nonmetallic Mineral Processing Plants set forth in 40 CFR Part 60, Subpart OOO. In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other communications shall be forwarded to both Environmental Protection Agency (EPA) and the Department at the addresses that follows unless otherwise noted:

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

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

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

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

8. The plant shall be equipped with a water spray dust suppression system which shall be operated on any and all occasions that each respective unit is operated. Water spray bars shall be located at each screen, crusher and transfer point and operated as necessary to prevent visible fugitive emissions from each respective unit. (25 Pa. Code § 127.12b)

9. A pressurized water truck shall be available to the site and utilized as necessary to prevent visible fugitive emissions from the plant and limit visible fugitive emissions from the use of roadways to zero at the property line. (25 Pa. Code § 127.12b)

10. The Owner/Operator shall perform a daily inspection for the presence of visible fugitive emissions and malodorous emissions from the emission sources covered by this plan approval. Records of the inspections shall be maintained in a log and include any corrective actions taken. (25 Pa. Code § 127.12b)

11. The Owner/Operator shall submit an annual facility-wide emissions report (AIMS Report) to the Department by March 1 of each year for the previous calendar year. (25 Pa. Code § 135.3)

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

13. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided the following conditions are met: (25 Pa. Code § 127.12b)

(a) The Owner/Operator shall submit written Notice of the Completion of Construction and the Operator's intent to commence operation at least 5 days prior to the completion of construction. The Notice shall state the date when construction will be completed and the date when the Operator expects to commence operation.

(b) Operation of the sources covered by this Plan Approval is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit, or to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(c) Upon receipt of the written Notice of the Completion of Construction from the Owner/Operator the Department shall authorize a 180-day Period of Temporary Operation of the sources from the date of commencement of operation. The Notice submitted by the Owner/Operator, prior to the expiration of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of commencement of operation.

(d) Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance

with all conditions of the Plan Approval the Owner/Operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection.

(e) Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall submit an application for revision to a State-only Operating Permit to the Department at least 60 days prior to the expiration date of the Plan Approval.

(f) The Owner/Operator may request an extension of the 180-day Period of Temporary Operation if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the Period of Temporary Operation and shall provide a description of the compliance status of the source. The extension request shall include a detailed schedule for establishing compliance and the reasons compliance has not been established. This Period of Temporary Operation may be extended for additional limited periods, each not to exceed 180-days, by submitting an extension request as described previously.

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

General Conditions

1. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA) (35 P. S. § 4003) and 25 Pa. Code § 121.1. (25 Pa. Code § 121.1)

2. The issuance of this plan approval does not prevent the future adoption by the Department of Environmental Protection (Department) of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the Pennsylvania APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority. (25 Pa. Code § 127.12b(a)(b))

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

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

(b) Under 25 Pa. Code § 127.12b (d), temporary operation of the sources is authorized to facilitate the shake-

down of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

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

(d) The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 120 days. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. Such testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at such time as it notifies the company that testing is required. (25 Pa. Code § 127.12b)

4. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department. (25 Pa. Code § 127.12(a)(10))

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

(b) Upon cause shown by the permittee that the records, reports or information, or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act. (25 Pa. Code §§ 127.12(c) and (d) and 35 P. S. § 4013.2)

6. (a) This plan approval will be valid for a limited time, as specified by the expiration date contained on Page 1 of this plan approval. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the

construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

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

- (i) A justification for the extension.
- (ii) A schedule for the completion of the construction.

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

(c) If the construction, modification or installation is not commenced within 18 months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (relating to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted. (25 Pa. Code § 127.13)

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

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

(c) This plan approval is valid only for the specific source and the specific location of the source as described in the application. (25 Pa. Code § 127.32)

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

(b) The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

(c) Nothing in this plan approval condition shall limit the ability of the EPA to inspect or enter the premises of the permittee in accordance with § 114 or other applicable provisions of the CAA. (25 Pa. Code § 127.12(4) and 35 P. S. §§ 4008 and 114 of the CAA)

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

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

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

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

(d) The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder. (25 Pa. Code § 127.13a)

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

(b) No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors. (25 Pa. Code §§ 121.9 and 127.216)

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

Regional Air Program Manager
Department of Environmental Protection

(At the address given on the plan approval transmittal letter or otherwise notified) (25 Pa. Code § 127.12c)

12. (a) If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Pub. L. 106-40).

(b) The permittee shall prepare and implement a Risk Management Plan (RMP) which meets the requirements of section 112(r) of the CAA, 40 CFR Part 68 and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act when a regulated substance listed in 40 CFR 68.130 is present in a process in more than the listed threshold quantity at the facility. The permittee shall submit the RMP to the EPA according to the following schedule and requirements:

(1) The permittee shall submit the first RMP to a central point specified by the EPA no later than the latest of the following:

(i) Three years after the date on which a regulated substance is first listed under 40 CFR 68.130; or,

(ii) The date on which a regulated substance is first present above a threshold quantity in a process.

(2) The permittee shall submit any additional relevant information requested by the Department or the EPA concerning the RMP and shall make subsequent submissions of RMPs in accordance with 40 CFR 68.190.

(3) The permittee shall certify that the RMP is accurate and complete in accordance with the requirements of 40 CFR Part 68, including a checklist addressing the required elements of a complete RMP.

(c) As used in this plan approval condition, the term "process" shall be as defined in 40 CFR 68.3. The term "process" means any activity involving a regulated substance including any use, storage, manufacturing, handling or onsite movement of such substances or any combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. (25 Pa. Code § 127.12(9) and 40 CFR Part 68)

Any person wishing to provide the Department with additional information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department at the address shown. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval. Written comments should be directed to:

Mark A. Wayner, P. E.
Regional Air Quality Program Manager
Commonwealth of Pennsylvania
Department of Environmental Protection
Southwest Region—Field Operation
400 Waterfront Drive
Pittsburgh, PA 15222-4745

For additional information you may contact the following at the same address:

Nicholas J. Waryanka, P. E.
Air Quality Engineer
(412) 442-4172

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

20-005B: W. L. Dunn Construction Co. (180 North Franklin Street, Cochranon, PA 16314) for a plan approval to modify the throughput restrictions at the applicant's existing hot mix asphalt plant in East Fairfield Township, **Crawford County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for their facility in East Fairfield Township, Crawford County. It will authorize the applicant to average their production rates over their daily production period to meet their current maximum production rate, as well as allow for a higher single-hour production limit during peak production events. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

This installation will result in no increase in annual emissions. The Plan Approval includes emissions restrictions for PM, fuel restrictions and restrictions on hourly and annual throughput, and will also include appropriate testing, recordkeeping and work practice requirements as needed to demonstrate compliance with applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation are available

for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340, for an appointment.

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

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval No. 20-005B.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

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

25-124C: Scrap Salvage & Surplus, Inc. (690 Glenwood Way, Butler, PA 16001), Notice is hereby given, under 25 Pa. Code §§ 127.44(a) and 127.424(b), that the Department of Environmental Protection (Department) intends to issue a Plan Approval for their facility located in Center Township, **Butler County**. This plan approval will authorize the applicant to install a 32,000 acfm capacity baghouse on their existing mobile torch cutting operation, to replace an existing 16,000 scfm capacity unit. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

This installation will result in no net increase in emissions. The plan approval includes emissions restrictions for PM and SO_x, and will also include appropriate recordkeeping and work practice requirements as needed to demonstrate compliance with applicable air quality requirements.

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

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

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval No. 10-346B.

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

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

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

AMS 08091: LVI Environmental Services (2250 East Adams Avenue, Philadelphia, PA 19124) for operation of an Extec Megabite C-12 concrete crusher with a 300 horsepower diesel engine in the City of Philadelphia, **Philadelphia County**. There will be a potential annual emission increase of 8.6 tons of NOx for the facility. The Plan Approval will contain operating, testing, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

23-00003: ConocoPhillips (4101 Post Road, Trainer, PA 19061) for renewal of the Title V Operating Permit in Trainer Borough, **Delaware County**. The initial permit was issued on February 24, 2003. The facility is a petroleum refinery. As a result of potential emissions of NOx, SOx, VOC, CO and PM, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit Renewal does not reflect any change in air emissions from the facility. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The operation is subject to Compliance Assurance Monitoring under 40 CFR Part 64 and NSPS regulations. The renewal permit contains all applicable requirements including monitoring, recordkeeping and reporting.

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

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

405-00112: Four Daughters, LLC (1 Korn Street, Kingston, PA 18704) for operation of spray booths and associated air-cleaning devices, State-only Synthetic Minor Operating Permit in Kingston Borough, **Luzerne County**.

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

14-00037: Spectrum Control, Inc. (1900 West College Avenue, State College, PA 16801) for the operation of a ceramic capacitor manufacturing facility in Ferguson Township, **Centre County**.

The facility incorporates various material milling, mixing, pressing, spraying, drying, firing, assembly and the like operations as well as 48 natural gas-fired space heaters (with a total heat input of 18.59 mmBtu/hr), two batch vapor degreasers, a solvent dip tank and a 32.5 brake horsepower propane-fired emergency generator. The PM/PM10 emissions from a spray dryer, eight spray machines, two ink machines, a hammermill and four sifters are controlled by four cartridge collectors, only two of which exhaust to the outdoor atmosphere. The VOC and VHAP emissions from eight spray machines and two ink machines are controlled by a regenerative thermal oxidizer. The VOC emissions and VHAP emissions from one of the facility's two batch vapor degreasers are controlled by a refrigerated freeboard chiller. The PM/PM10 emissions from a spray booth incorporated in the facility's assembly operations are controlled by panel filters.

The air contaminant emissions from the facility are not expected to exceed 24.38 tons of VOCs, 12.48 tons of PM/PM10, 10.94 tons of NOx, 7.21 tons of CO, 5.49 tons of HAPs and .05 ton of SOx per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously contained in Plan Approval 14-399-016A, issued on February 6, 2007, (which superseded Plan Approval 14-399-016 issued on April 18, 2006,) and conditions previously established as requirements of a plan approval exemption determination made on March 12, 2008.

The conditions previously contained in Plan Approval 14-399-016A include:

1. A condition limiting the total combined VOC emissions from the facility's capacitor manufacturing operations (Source P101) and a solvent dip tank (Source P103) to no more than 21.9 tons in any 12-consecutive month period and the total combined VHAP emissions to no more than 5.3 tons in any 12-consecutive month period (of which no more than 3.7 tons in any 12-consecutive month period shall be of any single VHAP).

2. A condition limiting the total combined NOx, CO, SOx and PM/PM10 emissions from the facility's capacitor manufacturing operations (Source P101) to no more than .6, .5, .003 and 8.1 tons, respectively, in any 12-consecutive month period.

3. Conditions requiring the maintenance, and annual submission, of such records as are needed to demonstrate compliance with the emission limitations specified in 1. and 2. previously listed.

4. A condition limiting the PM/PM10 emissions in the exhaust of the two cartridge collectors and the regenerative thermal oxidizer associated with the facility's capacitor manufacturing operations (Source P101) to a maximum of .01 grains per dry standard cubic foot of effluent gas volume.

5. A condition restricting the fuel used in the regenerative thermal oxidizer to natural gas.

6. A condition requiring 100% of the VOC/VHAP emissions from the eight spray machines and two ink machines incorporated in the facility's capacitor manufacturing operations (Source P101) to be captured and ducted to the associated regenerative thermal oxidizer wherein at least 98%, by weight, shall be destroyed.

7. A condition requiring VOC destruction efficiency testing and methyl isobutyl ketone emission testing to be performed on the regenerative thermal oxidizer associated with the facility's capacitor manufacturing operations (Source P101) by no later than June 30, 2010, and every 2 years thereafter.

8. Conditions requiring the two cartridge collectors associated with the facility's capacitor manufacturing operations (Source P101) to be equipped with instrumentation to continuously monitor the pressure differential across the collectors and spare cartridges to be kept onsite for the respective collectors.

9. A condition requiring the regenerative thermal oxidizer associated with the facility's capacitor manufacturing operations (Source P101) to be equipped with instrumentation to continuously monitor and record the regenerative thermal oxidizer combustion chamber temperature as well as with low and high temperature alarms and alarms which activate for loss of compressed air and heat recovery chamber switching valve failure.

10. Conditions requiring the maintenance, and annual submission, of records of the identity, amount, VOC content, content of each individual VHAP and acetone content of all VOC-containing, VHAP-containing and acetone-containing materials used in the facility's capacitor manufacturing operations (Source P101) each month as well as the date, duration and air contaminant emission impact of any operation of the eight spray machines and two ink machines incorporated in the capacitor manufacturing operations (Source P101) at any time the regenerative thermal oxidizer is off-line.

11. A condition requiring the maintenance of records of the combustion chamber temperature of the regenerative thermal oxidizer associated with the facility's capacitor manufacturing operations (Source P101).

12. A condition requiring any air compressor supplying compressed air to the two cartridge collectors or regenerative thermal oxidizer associated with the facility's capacitor manufacturing operations (Source P101) to be equipped with an air dryer and oil trap.

13. A condition requiring all containers of VOC-containing, VHAP-containing and acetone-containing materials used in, or in association with, the facility's capacitor manufacturing operations (Source P101) to be closed when not in actual use, requiring all spray guns, lines, and the like to be cleaned by flushing a solid liquid stream of solvent into an appropriate container or by soaking equipment in a closed container of solvent, prohibiting solvents from being sprayed into the air or sprayed or flushed into a container as an atomized spray and requiring solvent-wet rags to be kept in closed containers when not in actual use.

14. A condition requiring the regenerative thermal oxidizer associated with the facility's capacitor manufacturing operations (Source P101) to maintain a combustion chamber temperature of at least 1,500° F for a retention time of at least one second.

15. A condition prohibiting the introduction of any VOC-containing, VHAP-containing or acetone-containing material into the spray dryer incorporated in the facility's capacitor manufacturing operations (Source P101).

16. A condition requiring the kilns incorporated in the facility's capacitor manufacturing operations (Source P101) to be operated with an oxidizing atmosphere at a temperature of at least 1,980° F.

17. A condition requiring the emission capture systems associated with the eight spray machines and two ink machines incorporated in the facility's capacitor manufacturing operations (Source P101) to be equipped with an alarm/interlock which will shut down the machines in the event of a capture system failure.

18. A condition allowing the eight spray machines and two ink machines incorporated in the facility's capacitor manufacturing operations (Source P101) to continue to operate in the event of a regenerative thermal oxidizer failure until the production run is finished provided that such occurrences do not total more than 25 hours in any 12-consecutive month period.

19. A condition allowing the cleaning of cartridges in the cartridge collector associated with a hammermill to occur only when the hammermill is not operating.

20. A condition limiting the amount of solvent used in one of the facility's two batch vapor degreasers (Source P102) to no more than 250 gallons in any 12-consecutive month period.

21. A condition limiting the solvent used in one of the facility's two batch vapor degreasers (Source P102) to solvent which contains no more than .1 pound of VHAPs per gallon.

22. Conditions which require one of the facility's two batch vapor degreasers (Source P102) to have a freeboard ratio of no less than 1.05 and to be equipped with a freeboard refrigeration device capable of maintaining a chilled air layer temperature of no greater than 50° F.

23. A condition requiring the freeboard refrigeration device associated with one of the facility's two batch vapor degreasers (Source P102) to be equipped with two independent refrigeration coils, only one of which shall be defrosted at any given time.

24. A condition prohibiting frost build up on the coils incorporated in the freeboard refrigeration device associated with one of the facility's two batch vapor degreasers (Source P102).

25. Conditions requiring the maintenance, and annual submission, of records of the identity, amount, VOC content and VHAP content of the solvent added to one of the facility's two batch vapor degreasers (Source P102) each month as well as the identity and amount of the solvent removed from the unit each month.

26. A condition prohibiting the use of solvents containing VHAPs in the facility's solvent dip tank (Source P103).

27. A condition requiring the facility's solvent dip tank (Source P103) to have a freeboard ratio of no less than .75.

28. Conditions requiring the maintenance, and annual submission, of records of the identity, amount, VOC content and VHAP content of the solvent added to the facility's solvent dip tank (Source P103) each month as well as the identity and amount of the solvent removed from the unit each month.

The conditions previously established as requirements of a plan approval exemption determination made for the second of the facility's two batch vapor degreasers (Source P104) on March 12, 2008, include:

29. A condition limiting the amount of solvent used to no more than 100 gallons in any 12-consecutive month period.

30. A condition prohibiting the use of a solvent containing methylene chloride, perchloroethylene, trichloroethylene, 1,1,1 trichloroethane, carbon tetrachloride, chloroform or any combination of these, in a total concentration greater than 5% by weight.

31. Conditions prohibiting the use of a lip exhaust system and requiring reduced room draft and a freeboard ratio of at least 1.0.

32. A condition requiring the maintenance of records of the identity and amount of solvent added each month.

New conditions the Department proposes to incorporate into the operating permit to be issued include:

33. A condition requiring two cartridge collectors used to control PM/PM10 from a hammermill and four sifters to be exhausted indoors at all times.

34. A condition requiring the annual submission of records of the identity, amount, VOC content and VHAP content of the solvent added to the second of the facility's two batch vapor degreasers (Source P104) each month as well as the identity and amount of solvent removed from the unit each month.

35. A condition limiting the fuel used in the facility's emergency generator (Source P105) to propane or natural gas.

36. Conditions requiring the spray booth incorporated in the facility's assembly operations (Source P106) to be equipped with panel filters and spare panel filters to be kept onsite.

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

10-00139: J.S. McCormick Co. (1043 Branchton Road, Boyers, PA 16020-1405) for issuance of a Natural Minor Operating Permit to operate a facility that processes coke breeze for use in brake manufacturing and metallurgical purposes in Cherry Township, **Butler County**. The facility's primary emission sources include three rotary dryers, coke screening/shaking and three space heating furnaces.

25-00969: Union Electric Steel Corp. (P. O. Box 465, Carnegie, PA 15106-0465) to issue a renewal of the State-only Operating Permit for their facility at 1712 Green Garden Road in the City of Erie, **Erie County**. The facility is a Natural Minor. The primary sources at the facility include three electro slag remelt stations, four electrically heated slag pots, miscellaneous natural gas combustion sources and a parts cleaner.

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 ¹ | | greater than 6.0; less than 9.0 | |
| Alkalinity greater than acidity ¹ | | | |

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

Permit Number 30031301 and NPDES Permit No. PA0235610, Dana Mining Company of PA, LLC, (308 Dents Run Road, Morgantown, WV 26501), to revise the permit and related NPDES permit for the 4 West Mine in Perry Township, **Greene County** to add surface acreage and an NPDES discharge point to install the Eisenhower Shaft Site. Surface Acres Proposed 2.6. Receiving stream: UNT to Glade Run, classified for the following use: WWF. Application received May 5, 2008.

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

32980107 and NPDES No. PA0234800. Fossil Fuel, Inc., 690 Weaver Road, Marion Center, PA 15759, permit renewal for reclamation only of a bituminous surface and auger mine in Grant Township, **Indiana County**, affecting 120.0 acres. Receiving streams: UNT to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 18, 2008.

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

03030102 and NPDES Permit No. PA0250350. AMFIRE Mining Co., LLC (1 Energy Place, Latrobe, PA 15650). Renewal application for continued operation and reclamation of an existing bituminous surface mine, located in East Franklin Township, **Armstrong County**, affecting 256.5 acres. Receiving streams: Long Run and UNT to Long Run, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received June 20, 2008.

63813210 and NPDES Permit No. PA0615129. PA Coal Reclamation, Inc. (P. O. Box 136, Cuddy, PA 15031). Revision application for importation and placement of reject material to an existing coal refuse reprocessing surface mine, located in Deemston Borough, **Washington County**, affecting 53.3 acres. Receiving streams: UNT to Tenmile Creek, classified for the following use: TSF. The potable water supply intake within 10 miles downstream from the point of discharge: Tri-county Joint Municipal Authority. Application received June 25, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

37900110 and NPDES Permit No. PA0207993. The Ambrosia Coal & Construction Co. (P. O. Box 422, Edinburg, PA 16116-9801). Renewal of an existing bituminous surface strip and auger operation in North Beaver Township, **Lawrence County** affecting 133.0 acres. Receiving streams: One UNT to Edwards Run (unclassified) and Edwards Run, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received June 23, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

12080101 and NPDES No. PA0256803. Allegheny Enterprises, Inc. (3885 Roller Coaster Road, Corsica, PA 15829). Commencement, operation and restoration of a bituminous surface mine in Lumber and Shippen Townships, **Cameron County**, affecting 469.7 acres. Receiving streams: Finley and Tannery Hollow Runs, classified for the following uses: CWF and currently designated as CWF, but its existing use classification was recently designated Exceptional Value. There are no potable water supply intakes within 10 miles downstream. Application received June 12, 2008.

17080107 and NPDES No. PA0256811. Junior Coal Contracting, Inc. (2330 Six Mile Road, Philipsburg, PA 16866). Commencement, operation and restoration of a bituminous surface auger-coal mine in Decatur and Woodward Townships, **Clearfield County**, affecting 298.7 acres. Receiving stream: Moshannon Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 19, 2008.

Noncoal Applications Returned

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

65070601. Delmont Quality Limestone, LLC (111 Freeport Road, Pittsburgh, PA 15215). Application for commencement, operation and reclamation of a noncoal surface mining site located in Washington and Bell Townships, **Westmoreland County**, proposed to affect 307.8 acres, is hereby cancelled/returned. Receiving streams: Beaver Run and UNTs to Beaver Run. Application received December 21, 2007. Application cancelled/returned June 26, 2008

Noncoal Applications Received

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

| <i>Parameter</i> | <i>30-day Average</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
|--------------------------------------|---------------------------|---------------------------------|----------------------------------|
| suspended solids | 35 mg/l | 70 mg/l | 90 mg/l |
| Alkalinity exceeding acidity* pH* | | greater than 6.0; less than 9.0 | |

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

37880304. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225). Renewal of NPDES Permit No. PA0204906, Slippery Rock Township, **Lawrence County**. Receiving streams: two UNTs to Slippery Rock Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Camp Allegheny. NPDES renewal application received June 20, 2008.

37930302. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225). Renewal of NPDES Permit No. PA0211583, Slippery Rock Township, **Lawrence County**. Receiving streams: UNT to Slippery Rock Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Camp Allegheny. NPDES renewal application received June 20, 2008.

10850306. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225). Renewal of NPDES Permit No. PA0106453, Marion Township, **Butler County**. Receiving streams: Two UNTs of Blacks Creek to Blacks Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES renewal application received June 20, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E22-534: Thomas B. Richey, Blue Mountain Commons HOP, Cedar Shopping Center, Inc., 3307 Trindle Road, Camp Hill, PA 17011, Susquehanna Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 16.0-foot long single span pedestrian bridge; extend an existing 50.0-foot long 10.0-foot 8.0-inch by 6.0-foot 11.0-inch corrugated metal arch culvert a total of 32.0 feet, 12.0 feet downstream and 20.0 feet upstream in a UNT to Paxton Creek (WWF); to extend an existing 38.0-inch by 60.0-inch stormwater pipe outfall 14.0 feet discharging to a UNT to Paxton Creek (WWF); to place approximately 646.0 cubic yards of fill associated with the road widening and culvert extension in the floodway of a UNT to Paxton Creek (WWF). The project is located north of Linglestown Road (SR 0039) approximately 1,000.0 feet west of its intersection with North Progress Avenue (Harrisburg East, PA Quadrangle N: 14.4 inches; W: 15.5 inches, Latitude 40° 19' 44"; Longitude: 76° 51' 40") in Susquehanna Township, Dauphin County. The purpose of the project is to increase the road width for turning lanes.

E22-538: ABBCO Real Properties, Linden Center Redevelopment, Attn: James A. Nardo, P. O. Box 442, Hershey, PA 17033, Lower Swatara Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To remove an existing 700.0-foot long, 30.0-inch by 60.0-inch CMP and to install and maintain two 60.0-inch HDPE pipes enclosing a 700.0-foot long section of a UNT to the Susquehanna River (WWF) permanently impacting

0.011 acre of PEM wetland. The project is located north of the Harrisburg Pike (SR 0230) just east of the Harrisburg International Airport connector (SR 3032) (Steelton, PA Quadrangle N: 21.5 inches; W: 1.1 inch, Latitude: 40° 12' 03"; Longitude: 76° 45' 26") in Lower Swatara Township, Dauphin County. The proposed improvements are for the redevelopment of what was previously the Olmstead Plaza. The wetland impact is considered de minimis and no mitigation is required.

E21-406: Wormleysburg Borough, Wormleysburg Trail, 20 Market Street, Wormleysburg, PA 17043, Wormleysburg Borough, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 9.0-foot wide by 3,100.0-foot long boardwalk along the right bank 100-year floodway and floodplain of the Susquehanna River (WWF) in order to provide a pedestrian walkway located downstream of the Harvey-Taylor Bridge (Harrisburg, West PA Quadrangle N: 1.60 inches; W: 3.93 inches, Latitude: 40° 15' 32"; Longitude: 76° 54' 11" to N: 0.50 inch; W: 2.83 inches, Latitude: 40° 15' 10"; Longitude: 76° 53' 43") in Wormleysburg Borough, Cumberland County.

E67-853: Creedin S. Paulus, Paulus Farm Pond, 41 Fishers Run Road, Dillsburg, PA 17019, Monaghan Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 1.15-acre pond impacting 0.41-acre of Palustine Emergent Wetland located in the floodway of a UNT to Fisher's Run (CWF) for the purpose of water supply for up to 25 cattle and irrigation for approximately 100 acres of apple orchards and 5 acres of small fruit vineyards. The project is located just north of Big Oak Road near its intersection with Fisher's Run Road (Wellsville, PA Quadrangle N: 22.4 inches; W: 12.9 inches, Latitude: 40° 07' 21.8"; Longitude: 76° 58' 6.2") in Monaghan Township, York County. The applicant is required to provide a minimum of 0.53 acre of wetland replacement onsite.

E44-136: Municipal Authority of the Township of Union, P. O. Box 5625, Belleville, PA 17004-9701, Union Township, **Mifflin County**, United States Army Corps of Engineers, Baltimore District.

To relocate and maintain an 8.0-inch PVC sanitary sewer line crossing Little Kishacoquillas Creek approximately 3.05 feet downstream (Belleville, PA Quadrangle N: 19.0 inches; W: 15.4 inches, Latitude: 40° 36' 17.5"; Longitude 77° 44' 08.5") of the SR 0305, Segment 0080, Offset 0000 Bridge over Little Kishacoquillas Creek in Union Township, Mifflin County, for the purpose of replacing the SR 0305, Segment 0080, Offset 0000 Bridge over Little Kishacoquillas Creek.

E07-422: Department of Transportation Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648, Logan Township, **Blair County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain: (1) a 50.0-foot long stream channel relocation of a perennial UNT to Dry Gap Run (HQ-CWF) (Altoona, PA Quadrangle N: 5.6 inches; W: 10.63 inches, Latitude: 40° 31' 54.96" N; Longitude: 78° 27' 10.69"); (2) a 12.0-inch outfall structure discharging to a UNT to Dry Gap Run (HQ-CWF) (Altoona, PA Quadrangle N: 5.6 inches; W: 10.63 inches, Latitude: 40° 31' 54.96" N; Longitude: 78° 27' 10.69"); and (3) an extension of 8.0 lineal feet of 24.0-inch culvert pipe to an existing 24.0-inch cast iron pipe having a total length of 69.0 feet within a UNT to Dry Gap Run (HQ-CWF)

(Altoona, PA Quadrangle N: 5.6 inches; W: 10.63 inches, Latitude: 40° 31' 54.96" N; Longitude: 78° 27' 10.69"). The project will permanently impact 58.0 feet of perennial stream, all for the purpose of providing safety improvement to SR 0036, Segment 0530 in Logan Township, Blair County.

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

E17-445. Paris Cleaners, Inc., 67 Hoover Avenue, DuBois, PA 15801. Water Obstruction and Encroachment Joint Permit Application for proposed construction of a 50,000 ft² industrial building and appurtenant structures in the City of Dubois, **Clearfield County**, United States Army Corps of Engineers, Pittsburgh District (Luthersburg, PA Quadrangle N: 21.5 inches; W: 16.5 inches).

The applicant proposes to place and maintain fill within 0.17 acre of PEM wetlands for the purposes of constructing a 50,000 ft² industrial building and appurtenant structures on a 4.5 acre site. The watershed has a Chapter 93 water use protection designation of TSF and the wetlands are classified as "other wetlands" by the Department of Environmental Protection. Wetland replacement is proposed through the use of a monetary contribution to the Pennsylvania Wetland Replacement Project.

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

E02-1583. John Scott, 1202 Willoughby Lane, Mt. Pleasant, SC 29466. To construct and maintain a discharge structure in Sewickley Hill Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Ambridge, PA Quadrangle N: 15.8"; W: 2.6", Latitude 40° 35' 15.5"; Longitude: 80° 08' 35.7"). To construct and maintain a discharge structure consisting of a 4" pipe and R4 stone rip rap, on a UNT to Little Sewickley Creek (HQ, TSF), for the purpose of discharging effluent from an onlot sewage treatment facility.

E04-323. Department of Transportation, 25 Thomas Run Road, Bridgeville, PA 15017. To remove existing bridge and to construct and maintain culvert in Industry Borough, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District (Midland, PA Quadrangle N: 5.01 inches; W: 3.13 inches, Latitude: 40° 39' 9"; Longitude: 80° 23' 51"). The applicant proposes to remove the existing single-span bridge located over Sixmile Run (WWF); to construct and maintain a new 30.0' wide and 12.5' high and 116' long high Arch culvert, located approximately 200' downstream of the existing structure; to construct and maintain 88' of riprap protection on the upstream end of the new culvert and 173' of riprap protection on the downstream end of the new culvert; to construct and maintain a temporary stream relocation 172' long of the same stream; and to place and maintain fill in a de minimis wetland (0.017 acre) (PEM). The work is part of proposed realignment of Engle Road (SR 4032) and its intersection with SR 0068. To compensate for the wetland impacts the applicant proposes to make a payment to the wetland replacement fund.

ENVIRONMENTAL ASSESSMENTS

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

EA22-016: Department of Transportation Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a passive acid mine drainage treatment system, two created wetlands and an outfall channel along Bear Creek (CWF) resulting in 0.36 acre of permanent impacts to four PEM wetlands (Lykens, PA Quadrangle Latitude: N: 40° 34' 52"; Longitude: W: 76° 41' 56", North: 14.7 inches; West: 10.3 inches) for the purpose of treating acid mine drainage to Bear Creek (CWF) and creating compensatory mitigation wetlands.

D46-030EA. Commonwealth of Pennsylvania, Roderick A. Fletcher, P. E., Director, Bureau of Abandoned Mine Reclamation, P. O. Box 8476, Harrisburg, PA 17105-8476. Plymouth Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

Project proposes to breach and remove Plymouth Dam across the Schuylkill River (WWF, MF) for the purpose of

eliminating a threat to public safety and restoring the river to a free flowing condition. The project will restore approximately 1,000 lineal feet of stream channel. The dam is located at River Mile 18 (Norristown, PA Quadrangle Latitude: 40° 04' 36"; Longitude: 75° 19' 00").

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D52-004A. Westcolang Lake Dam, Westcolang Lake Association, c/o Rolf Naumann, 113 Bay Center Circle, Hawley, PA 18428. To modify, operate and maintain the Westcolang Lake Dam across Westcolang Creek (HQ-CWF), with no proposed impacts to wetlands or the stream channel, for the purpose of rehabilitating the existing dam and increasing spillway capacity to ensure compliance with Commonwealth Regulations (Narrowsburg, PA Quadrangle N: 2.0 inches; W: 5.3 inches) in Lackawaxen Township, **Pike County**.

ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS**

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

| <i>Location</i> | <i>Permit Authority</i> | <i>Application Type or Category</i> |
|-----------------|-------------------------|--|
| Section I | NPDES | Renewals |
| Section II | NPDES | New or amendment |
| Section III | WQM | Industrial, sewage or animal 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 |

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

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

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

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

I. NPDES Renewal Permit Actions

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--|--|-----------------------------|
| PA0036081 | Lehigh County Authority P. O. Box 3348 1053 Spruce Street Allentown, PA 18106 | North Whitehall Township Lehigh County | Lehigh River Watershed 2C TSF | Y |
| PA-0021873 | Borough of Jim Thorpe 421 North Street Jim Thorpe, PA 18229-2528 | Borough of Jim Thorpe Carbon County | Lehigh River 2B TSF | Y |
| PA-0063754 | Pennsylvania American Water 100 North Pennsylvania Avenue Wilkes-Barre, PA 18701-1397 | Dallas Township Luzerne County | Huntsville Reservoir CWF 5B | 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> |
|-----------------------------|---|---------------------------------------|--------------------------------------|-----------------------------|
| PA0088765 (Sew) | Nelson Wenger 100 East Queen Street Stevens, PA 17678 | Lancaster County Cocalico Township | Indian Run 7-J | Y |
| PA0051900 (Sew) | Robeson Township Municipal Authority 2689 Main Street Birdsboro, PA 19508 | Berks County Robeson Township | Schuylkill River 3-C | Y |
| PA0084638 (IW) | Borough of Boyertown 100 South Washington Street Boyertown, PA 19512-1599 | Berks County Earl Township | UNT to Ironstone Creek 3-D | Y |
| PA0027405 (Sew) | Ephrata Borough Authority 124 South State Street Ephrata, PA 17522 | Lancaster County Ephrata Borough | Cocalico Creek 7-J | Y |
| PA0087181 (Sew) | Ephrata Borough Authority 124 South State Street Ephrata, PA 17522 | Lancaster County Ephrata Borough | Cocalico Creek 7-J | Y |
| PA0080004 (Sew) | Martin's Famous Pastry Shoppe, Inc. 1000 Potato Valley Road Chambersburg, PA 17202 | Franklin County Antrim Township | UNT Conococheque Creek 13-C | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-------------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA0000302 Industrial Waste | PA-American Water Co. 1034 Waterworks Road Indiana, PA 15701 | Indiana County White Township | Two Lick Creek | Y |
| PA0095273 Industrial Waste | PA Brine Treatment, Inc. 931 Bells Mill Road Josephine, PA 15750 | Indiana County Burrell Township | Blacklick Creek | Y |
| PA0028258 Sewage | Ohiopyle Borough P. O. Box 83 Ohiopyle, PA 15470 | Fayette County Ohiopyle Borough | Meadow Run | 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. PA0056766, Industrial Waste, **City of Philadelphia, Department of Commerce—Division of Aviation**, Philadelphia International Airport, Terminal E, Philadelphia, PA 19153. This proposed facility is located in Tincum Township and City of Philadelphia, **Delaware and Philadelphia Counties**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater runoff into Mingo Creek in Watershed 3F.

NPDES Permit No. PA0244295, Sewage, **Franconia Sewer Authority**, 671 Allentown Road, Franconia, PA 18924. This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the issuance to discharge 0.15 mgd of treated sewage to Skippack Creek in Watershed 3E—Perkiomen.

NPDES Permit No. PA0021857, Amendment No. 1, Sewage, **Souderton Borough**, 31 West Summit Street, Souderton, PA 18964. This proposed facility is located in Franconia Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the amendment to discharge wastewater from the STP into a UNT to Skippack Creek in Watershed 3E.

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

Public Notice of Permit Issuance

Final Notice is hereby given that the Department of Environmental Protection, after public notice, has on June 30, 2008, issued a National Pollutant Discharge Elimination System Permit to:

NPDES Permit No. PA0027197, Sewage, **Harrisburg Authority**, One Keystone Plaza, Front and Market Streets, Harrisburg, PA 17101. This proposed facility is located in Harrisburg City, **Dauphin County**.

This notice reflects changes from the notice published in the *Pennsylvania Bulletin*.

| Parameter | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
|---|---------------------------|--------------------------|---------------------------------|
| NH ₃ -N (5-1 to 10-31) (6-1-2012 to 6-30-2013) | 11 | — | 22 |

Individuals 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.

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

NPDES Permit No. PA0240133, Industrial Waste, **Mahoning Distribution, Inc.**, 35 Main Street, Corsica, PA 15829. This proposed facility is located in Knox Borough, **Clarion County**.

Description of Proposed Action/Activity: A new NPDES Permit for a new discharge of remediated groundwater contaminated with unleaded gasoline.

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

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

WQM Permit No. WQG01360801, Sewage, **Thomas and Rachel Wolf**, 533 Snyder Hollow Road, New Providence, PA 17560. This proposed facility is located in Providence Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of a small flow sewage treatment system to serve their single-family residence located at 371 Snyder Hollow Road.

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

WQM Permit No. 1407408, Sewerage, **Pennsylvania State University**, 101P Physical Plant Building, University Park, PA 16802. This facility is located in State College Borough, College and Patton Townships, **Centre County**.

Description of Proposed Action/Activity: This permit issuance consolidates and clarifies numerous permits issued since the initial construction of the treatment facilities. No significant changes were made to the existing permit conditions.

WQM Permit No. 6008401, Sewerage 4952, **White Deer Township Sewer Authority**, P. O. Box 90, West Milton, PA 17786. This existing facility is located in White Deer Township, **Union County**.

Description of Action/Activity: The applicant is approved to replace some of the existing wastewater treatment facilities with upgraded equipment. The upgraded facilities will include a new influent structure, chlorination system, an improved sludge building with new sludge dewatering equipment.

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

WQM Permit No. 6207401, Sewerage, **Department of Conservation and Natural Resources, Bureau of Facility Design and Construction**, Rachel Carson State Office Building, P. O. Box 8451, Harrisburg, PA 17105-8451. This proposed facility is located in Pleasant Township, **Warren County**.

Description of Proposed Action/Activity: This project will provide residential sewage collection service to camping and recreational campsites within Chapman State Park, through pumping stations located at Campground Area (Pump Station No. 1); Concession Stand and First Aid Station (Pump Station No. 2) and Existing Restroom (Pump Station No. 3). Sewage from these three pumping stations will flow through a common force main to the eastern edge of the Park and an existing municipal gravity sewer main which then flows to the Kinzua-Warren County Joint Authority WWTP.

WQM Permit No. WQG018624, Sewerage, **Richard E. Gleichsner**, 7080 East Lake Road, Erie, PA 16511. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions**V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------------|----------------------------|
| PAI01 1507039 | Church of Jesus Christ of Latter Day Saints c/o NY Project Management Office P. O. Box 318 Ramsey, NJ 07446 | Chester | West Bradford Township | Broad Run EV |
| PAI01 1508020 | Chesterbrook II Land Owner, LP One Pitcairn Place Suite 1500 Jenkintown, PA 19046-3599 | Chester | Tredyffrin Township | Valley Creek EV |

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

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

List of NPDES and/or Other General Permit Types

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

General Permit Type—PAG-2

| <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> |
|---|---------------------|---|----------------------------|---|
| Radnor Township Delaware County | PAG200 2305060-1 | Radnor Township School District 1355 South Wayne Avenue Wayne, PA 19087 | Ithan Creek CWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Providence Township Montgomery County | PAG200 4606137-1 | TH Properties 345 Main Street Harleysville, PA 19438 | Mingo Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |

NOTICES

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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> |
|---|---------------------|--|------------------------------------|---|
| Horsham Township Montgomery County | PAG200 4608016 | Horsham Realty Partners, LP 636 Old York Road Jenkintown, PA 19046 | Sandy Run TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Towamencin Township Montgomery County | PAG200 4608025 | Department of Transportation 7000 Geerdes Boulevard King of Prussia, PA 19406 | UNT Towamencin Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Bryn Athyn Borough Montgomery County | PAG200 4607082-1 | Academy of New Church 2765 Huntingdon Pike P. O. Box 711 Bryn Athyn, PA 19009 | Huntingdon Valley Creek TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Lower Merion Township Montgomery County | PAG200 4607185 | William Maquire 1400 Waverly Road Gladywne, PA 19035 | UNT Schuylkill River WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Hatfield Township Montgomery County | PAG200 4607193 | Hatfield Quality Meats, Inc. 2700 Funks Road P. O. Box 902 Hatfield, PA 19440 | UNT Skippack Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Providence Township Montgomery County | PAG200 4608045 | Archdiocese of Philadelphia 222 North Seventeenth Street Philadelphia, PA 19103 | Mingo Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Norristown Borough Montgomery County | PAG200 4608091 | Farragut Family, LP 1000 East Main Street Norristown, PA 19401 | Schuylkill River WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Skippack Township Montgomery County | PAG200 4608054 | Perkiomen Valley Airport 767 Collegeville Pike Collegeville, PA 19426 | UNT Perkiomen Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| New Hanover Township Montgomery County | PAG200 4608026 | Bill Mann P. O. Box 97 858 Keller Creamery Road Telford, PA 18918 | Schlegal Road TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Merion Township Montgomery County | PAG200 4608031 | Robert Lilick P. O. Box 26572 Collegeville, PA 19426 | Frog Run WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Pottstown Borough West Pottsgrove Township Montgomery County | PAG200 4607093-1 | Sapphire Development Companies 357 South Gulph Road Suite 300 King of Prussia, PA 19406 | Manatawny Creek CWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Providence Township Montgomery County | PAG200 4608022 | Upper Providence Township 1286 Black Rock Road P. O. Box 406 Oaks, PA 19456 | Schuylkill River WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Lower Merion Township Montgomery County | PAG200 4608059 | Drs. James and Virginia Lowe 901 Great Spring Road Bryn Mawr, PA 19010 | Schuylkill River WWF | 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> |
|--|-------------------|--|--|--|
| City of Philadelphia Philadelphia County | PAG201 5107046 | V & H Associates 501 North 22nd Street Philadelphia, PA 19130-3507 | Tidal Schuylkill B WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| City of Philadelphia Philadelphia County | PAG201 5108010 | Inter-County Development Corp. 828 Red Lion Road Philadelphia, PA 19115-9171 | Pennypack Creek WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Bethlehem Township Northampton County | PAG2004808010 | Petie, Inc. Attn: Mark Wagner 3511 Country Club Road Easton, PA 18045 | Lehigh River WWF | Northampton County Conservation District (610) 746-1971 |
| Salem Township Luzerne County | PAG2004008004 | Transcontinental Gas Pipe Line Corporation 2800 Post Oak Boulevard P. O. Box 1396 Houston, TX 77251-1396 | Susquehanna River WWF | Luzerne County Conservation District (570) 674-7991 |
| Dallas Township Luzerne County | PAG2004007046 | Masonic Village at Dallas Attn: Joseph Murphy One Masonic Drive Elizabethtown, PA 17022 | Tributary to Toby Creek CWF | Luzerne County Conservation District (570) 674-7991 |
| Liverpool Township Perry County | PAG2035008008 | S. Dean Stephens 183 Riverview Road Liverpool, PA 17045 | Boyer Run—UNT to Susquehanna River WWF | Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 |
| Lower Allen Township Cumberland County | PAG2002108013 | PA PIPE, LLC 1250 St. Johns Road Camp Hill, PA 17011 | Cedar Run CWF | Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812 |
| Lower Swatara Township Dauphin County | PAG2002208009 | Fulling Mill, LLC 120 West Airport Road Lititz, PA 17543 | Susquehanna River WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| Lower Paxton Township Dauphin County | PAG2002203014-R | Eastern Communities, LP 7300 Derry Street Harrisburg, PA 17111 | Beaver Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| Middlesex Township Cumberland County | PAG2002107046 | Francis McNaughton McNaughton Company 4400 Deer Path Road Suite 201 Harrisburg, PA 17110 | Conodoguinet WWF | Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812 |
| Bethel Township Berks County | PAG2000608033 | Ray and Jenifer Hershey 340 Bashore Street Bethel, PA 19507 | UNT to Crosskill Creek CWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |

NOTICES

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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> |
|---|-------------------|---|--|--|
| Amity Township Berks County | PAG2000608031 | Walter Greth Greth Development Group, Inc. P. O. Box 305 Temple, PA 19560-0305 | Leaf Creek WWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |
| Bonneauville Borough Adams County | PAG2000103004R | S & A Homes, Inc. 2121 Old Gatesburg Road Suite 200 State College, PA 16803 | Littles Run WWF | Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636 |
| Berwick Township Adams County | PAG2000108004 | Don Irwin Insight Development, LLC 1943 Monterey Drive Mechanicsburg, PA 17050 | UNT to South Branch Conewago Creek WWF | Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636 |
| Germany Township Adams County | PAG2000108006 | Jack Digangi Innovative Remediation Technologies, LLC P. O. Box 824 Westminster, MD 21158 | UNT to Piney Creek WWF | Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636 |
| Butler Township Adams County | PAR100065R | Randy Test Test Enterprises, Inc. 1235 Abbottstown Pike Hanover, PA 17331 | UNT to Beaver Creek WWF | Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636 |
| Clearfield County Sandy Township | PAG2001708008 | Jones Development Company, LLC 4520 Madison Suite 100 Kansas City, MO 64111 | Sandy Lick Creek CWF, TSF | Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629 |
| Montour County Derry Township | PAG2004708004 | Peter Drost 4070 Mountain Street Beamsville, OR LOR 1B7 | Mud Creek WWF | Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140 |
| Tioga County Westfield Borough | PAG2005908003 | Rod Cochran Agency 107 West Main Street Westfield, PA 16950 | Cowanesque River CWF, TSF | Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 3 |
| Union County Buffalo Township | PAG2006008006 | Charles Parsel 406 South 22nd Street Lewisburg, PA 17837 | UNT to Limestone Run WWF | Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860 |
| Cambria County Richland Township | PAG2001108006 | Berkebile Excavating Co., Inc. P. O. Box 358 Tire Hill, PA 15959 | UNT Stonycreek River CWF | Cambria County Conservation District (814) 472-2120 |

| <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> |
|--|-------------------|---|--|--|
| Butler County Cranberry Township | PAG2001008004 | The Barn Robert Colosimo Daroco, Inc. 3004 Babcock Boulevard Suite 325 Pittsburgh, PA 15237 | Brush Creek WWF Wolfe Run WWF | Butler County Conservation District (724) 284-5270 |
| Butler Township | PAG2001008013 | AK Steel—Proposed New Railroad Track AK Steel Corporation P. O. Box 832 Butler, PA 16003 | Rocklick Creek WWF | Butler County Conservation District (724) 284-5270 |
| <i>General Permit Type—PAG-3</i> | | | | |
| <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> |
| Tioga County Wellsboro Borough | PAR804867 | Department of Transportation Engineering District 3-0 715 Jordan Avenue Montoursville, PA 17754 | Kelsey Creek WWF | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664 |
| <i>General Permit Type—PAG-4</i> | | | | |
| <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> |
| Thornbury Township Delaware County | PAG040088 | H. Fred Read 30 Slitting Mill Road Glen Mills, PA 19342 | UNT to Chester Creek | Southeast Regional Office 2 East Main Street Norristown, PA 19401 |
| Amwell Township Washington County | PAG046136 | David C. Smydo 69 Robinson Road Scenery Hill, PA 15360 | Tributary to Little Ten Mile Creek | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Sewickley Township Westmoreland County | PAG046103 | Bruce W. Huber, Jr. 569 Greenhills Road Herminie, PA 15637 | UNT | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Mt. Pleasant Township Westmoreland County | PAG046169 | George G. Gula 3801 Slopehill Road Mt. Pleasant, PA 15666 | UNT of Brush Run | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Harborcreek Township Erie County | PAG049435 | Richard E. Gleichsner 7080 East Lake Road Erie, PA 16511 | Eight Mile Creek 15-8M | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Waterford Township Erie County | PAG048891 | Flory Kondzielski 618 Seroka Road Waterford, PA 16441 | UNT to Lake LeBoeuf 16A | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

General Permit Type—PAG-5

| <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> |
|---|-------------------|--|----------------------------|--|
| Indiana Borough Indiana County | PAG056229 | Shell Oil Products, US 3139 Village Drive Waynesboro, VA 22980 | Marsh Run | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

General Permit Type—PAG-9

| <i>Facility Location & Municipality</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|--|-------------------|---|---|--|
| South Huntingdon Township Westmoreland County | PAG096113 | AA Affordable Sanitation 425 Fitz Henry Road Smithton, PA 15479 | Skokut Farms 425 Fitz Henry Road Smithton, PA 15479 | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

General Permit Type—PAG-12

| <i>Facility Location & Municipality</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|--|-------------------|--|-----------------------------------|--|
| Lebanon County South Annville Township | PAG123593 | Gerald Musser— Providence Egg Producers 118 Killinger Road Annville, PA 17003 | Killinger Creek 7-D TSF | DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802 |
| Lancaster County Manheim Township | PAG123662 | Joseph and James Stahl—Havest Lane Farm 910 Jake Landis Road Lititz, PA 17543 | UNT Conestoga River 7-J WWF | DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802 |
| Lancaster County Mt. Joy Township | PAG123663 | David Rosenberry Gretna View Farms 3709 North Colebrook Road Manheim, PA 17545 | Little Chickies 7-G TSF | DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802 |
| Buffalo Township Union County | PAG124833 | Jonathan Dietrich 5931 Buffalo Road Mifflinburg, PA 17844 | UNT to Beaver Run CWF | Northcentral Regional Office Watershed Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-0529 |

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. 3480046, Operations Permit, Public Water Supply.

Applicant **Bethlehem Authority**
10 East Church Street
Bethlehem, PA 18018

Lehigh Township

County **Northampton**

Type of Facility PWS

Consulting Engineer Phillip McLachlan, P. E.
Malcolm Pirnie, Inc.
111 South Independence
Mall—East
Suite 1010
Philadelphia, PA 19107

Permit to Operate Issued June 18, 2008

Permit No. 2409002, Operations Permit, Public Water Supply.

Applicant **Pennsylvania American Water**
800 West Hersheypark Drive
Hershey, PA 17033
Conyngham Township

County **Luzerne**

Type of Facility PWS

Consulting Engineer Scott Thomas, P. E.
Pennsylvania American Water
852 Wesley Drive
Mechanicsburg, PA 17055

Permit to Operate Issued June 18, 2008

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

Permit No. 2208503 MA, Minor Amendment, Public Water Supply.

Applicant **Susquehanna Area Regional Airport Authority**

Municipality Lower Swatara Township

County **Dauphin**

Type of Facility Repainting of a 400,000-gallon elevated storage tank.

Consulting Engineer John L. Latsha, P. E.
Glacé Associates, Inc.
3705 Trindle Road
Camp Hill, PA 17011

Permit to Construct Issued June 24, 2008

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

Permit No. 1408501—Construction, Public Water Supply.

Applicant **Rockview State Correctional Institute**

Township or Borough Benner Township

County **Centre**

Responsible Official Franklin J. Tennis
Superintendent
SCI Rockview
Box A
Bellefonte, PA 16823-0820

Type of Facility Public Water Supply—Construction

Consulting Engineer Walter Jenko, P. E.
Chester Engineers
260 Airside Drive
Moon Township, PA 15108

Permit Issued Date June 25, 2008

Description of Action Installation of approximately 17,225 LF of raw water transmission main to transport Benner Spring raw water to the existing filtration plant, rehabilitation of the existing Benner Spring Pump Station No. 1 and construction of a new Benner Spring Pump Station No. 2 and valve vault.

Permit No. 5908502—Construction, Public Water Supply.

Applicant **Mansfield Borough Municipal Authority**

Township or Borough Mansfield Borough

County **Tioga**

Responsible Official Robert Bartlett, Chairperson
19 East Wellsboro Street
Mansfield, PA 16933

Type of Facility Public Water Supply—Construction

Consulting Engineer Jimmie Joe Carl, P. E.
MRB Group, P.C.
2750 Westinghouse Road
Suite 1
Horseheads, NY 14845

Permit Issued Date June 30, 2008

Description of Action Installation of a new 350,000 gallon welded steel water storage tank. Westside water storage tank.

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

Permit No. 0208502, Public Water Supply.

Applicant **Plum Borough Municipal Authority**

4555 New Texas Road
Pittsburgh, PA 15239

Borough or Township Plum Borough

County **Allegheny**

Type of Facility High School pump station

Consulting Engineer R. F. Mitall & Associates, Inc.
117 Sagamore Hill Road
Pittsburgh, PA 15239

Permit to Construct June 17, 2008
Issued

Permit No. 0308501, Public Water Supply.

Applicant **Templeton Water Company**
Box 345
Templeton, PA 16259

Borough or Township Pine Township
County **Armstrong**

Type of Facility Booster station

Consulting Engineer Morris Knowles & Associates,
Inc.
443 Athena Drive
Delmont, PA 15626

Permit to Construct June 19, 2008
Issued

Permit No. 5608504, Public Water Supply.

Applicant **Windber Area Authority**
1700 Stockholm Avenue
Windber, PA 15963

Borough or Township Richland Township
Windber Borough

County **Cambria and Somerset**

Type of Facility Water storage tanks

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
Somerset, PA 15501

Permit to Construct June 26, 2008
Issued

Operations Permit issued to **Municipal Authority of Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15672 (PWSID No. 5260036) City of Connellsville, **Fayette County** on June 16, 2008, for the operation of facilities approved under Construction Permit No. 2680501MA.

Operations Permit issued to **Torrance State Hospital**, P. O. Box 111, Torrance, PA 15779 (PWSID No. 5650036) Derry Township, **Westmoreland County** on June 25, 2008, for the operation of facilities approved under Construction Permit No. 6507504.

Operations Permit issued to **Conemaugh Township Municipal Authority**, Box 429, 113 South Main Street, Davidsville, PA 15928 (PWSID No. 4560048) Conemaugh Township, **Somerset County** on June 25, 2008, for the operation of facilities approved under Construction Permit No. 5606501MA.

Operations Permit issued to **Latrobe Municipal Authority**, 104 Guerrier Road, Latrobe, PA 15650 (PWSID No. 5650060) Derry Township, **Westmoreland County** on June 26, 2008, for the operation of facilities approved under Innovative Technology Construction Permit No. 6507503.

Operations Permit issued to **Borough of Somerset**, 340 West Union Street, Somerset, PA 15501 (PWSID No. 4560042) Jefferson Township, **Somerset County** on June 27, 2008, for the operation of facilities approved under Construction Permit No. 5607501.

Permit No. 0307502MA, Minor Amendment, Public Water Supply.

Applicant

Worthington-West Franklin Joint Municipal Authority
102 West Main Street
Worthington, PA 16262

Borough or Township

West Franklin Township

County

Armstrong

Type of Facility

488,000 gallon water storage tank

Consulting Engineer

Bankson Engineers, Inc.
267 Blue Run Road
P. O. Box 200
Indianola, PA 15051

Permit to Operate
Issued

June 27, 2008

Permit No. 3279503A1-T1, Minor Amendment, Public Water Supply.

Applicant

Indiana County Municipal Services Authority
602 Kolter Drive
Indiana, PA 15701

Borough or Township

Young Township

County

Indiana

Type of Facility

Crooked Creek water treatment plant

Consulting Engineer

Gibson-Thomas Engineering Co.,
Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Operate
Issued

June 25, 2008

Permit No. 3279503-T1, Minor Amendment, Public Water Supply.

Applicant

Indiana County Municipal Services Authority
602 Kolter Drive
Indiana, PA 15701

Borough or Township

Jacksonville Borough; Blacklick,
Center and Young Townships

County

Indiana

Type of Facility

Crooked Creek water treatment plant

Consulting Engineer

Gibson-Thomas Engineering Co.,
Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Operate
Issued

June 25, 2008

Permit No. 3292502-T1, Minor Amendment, Public Water Supply.

Applicant

Indiana County Municipal Services Authority
602 Kolter Drive
Indiana, PA 15701

Borough or Township

Young Township

County

Indiana

Type of Facility

Crooked Creek water treatment plant

Consulting Engineer Gibson-Thomas Engineering Co., Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Operate June 25, 2008
Issued

Permit No. 3279503A2-T1, Minor Amendment, Public Water Supply.

Applicant **Indiana County Municipal Services Authority**
602 Kolter Drive
Indiana, PA 15701

Borough or Township Young Township
County **Indiana**

Type of Facility Crooked Creek water treatment plant

Consulting Engineer Gibson-Thomas Engineering Co., Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Operate June 25, 2008
Issued

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

Permit No. 1008501, Public Water Supply.

Applicant **Slippery Rock Municipal Authority**

Township or Borough Slippery Rock
County **Butler County**

Type of Facility Public Water Supply

Consulting Engineer William C. Smith, P. E.
Thomas Construction, Inc.
310 Diamond Road
Grove City, PA 16127

Permit to Construct June 25, 2008
Issued

Permit No. 2408501, Public Water Supply.

Applicant **Wilcox Water Company, Inc.**

Township or Borough Jones Township
County **Elk County**

Type of Facility Public Water Supply

Consulting Engineer Allan R. Vanderpoel, P. E.
E & M Engineers & Surveyors, PC
24 Derrick Road
Bradford, PA 16701

Permit to Construct June 30, 2008
Issued

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Delaware Township | R. R. 1 Box 410 Thompsontown, PA 17094 | Juniata |

Plan Description: The approved plan revision provides for a new small flow treatment facility to replace a malfunctioning onlot sewage system. It will have a treated discharge of 400 gpd to Delaware Creek, a tributary to the Juniata River. The proposed facility will serve the Velma Kerstetter single-family residence. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|---------------|
| Drumore Township | P. O. Box 38 Drumore, PA 17518 | Lancaster |

Plan Description: The approved plan provides for an onlot sewage disposal system management program, adoption of an ordinance stipulating requirements for the ownership, operations and maintenance of nonmunicipal sewage collection, treatment and disposal facilities and an education program on the merits of septic tank pumping and maintenance. The Department of Environment Protection's 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> |
|----------------------------|--|---------------|
| Spring Township | 2800 Shillington Road Reading, PA 19608 | Berks |

Plan Description: The approved plan provides for construction and operation of a community sewage treatment system with drip irrigation to serve Vinemont, upgrade of the Reedy Road Pump Station, upgrade and expansion of the Township WWTP to 2.0 mgd, inflow and infiltration removal work on the Wheatfield Road Interceptor and a commitment to negotiate intermunicipal agreements with surrounding municipalities. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Millcreek Township | 3608 West 26th Street Erie, PA 16506 | Erie |

Plan Description: The approved plan provides for the construction of sanitary sewer improvements to serve residential properties, including six existing homes, along Arbuckle Road east of Schultz Road. Department of Environmental Protection reference No. M6-07-043.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|---------------|
| Jones Township | P. O. Box 25 Wilcox, PA 15870 | Elk |

Plan Description: The approved plan provides for documentation of the existing wastewater treatment system serving the USDA Twin Lakes Recreation Area in the Allegheny National Forest. The wastewater system includes gravity and pressure sewage collection and an aerated lagoon treatment system with spray irrigation disposal. Any required NPDES Permits or WQM Permits must be obtained.

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:

Notice of Settlement under HSCA and CERCLA

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites

Cleanup Act (HSCA), (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) (42 U.S.C.A. §§ 9601—9675), has entered into a De Minimis Settlement Agreement (DSA) with Richard and Susan Dole Armstrong (Armstrongs) relating to the William Dick Lagoons Superfund Site in West Caln Township.

The William Dick Lagoons Site is a National Priority List Site under CERCLA of approximately 4.5 acres located along Telegraph and North Sandy Hill Roads in West Caln Township, PA. The Site makes up a small portion of a 170 acre tract of property (Property) which is being sold by the Armstrongs to West Caln Township for permanent preservation as open space in Chester County.

The Site consists of significant soils and groundwater contamination associated with former hazardous waste disposal operations in lagoons located on the Site. The USEPA, in conjunction with the Department, has implemented several remedial response actions at the Site, including the installation of a public water supply system to affected residences and various soil and groundwater treatment remedies.

The Armstrongs inherited the Property from William Dick, a/k/a Wassal Dick in or around 1983. The Armstrongs have asserted, and the Department has no information to indicate otherwise, that they neither caused nor contributed to any contamination at the William Dick Site. Moreover, the Armstrongs have cooperated fully with the Department in its oversight of response actions at the Site. The Department has determined that the transfer of the property to West Caln Township for the preservation of open space in Chester County in perpetuity is consistent with, and an important component of, a sound land-use policy and will provide for an enhanced wildlife habitat area, long-term protection for an important groundwater recharge and source area for certain waters of this Commonwealth, and increased recreational opportunities for the citizens of this Commonwealth. Under the terms of the DSA with the Department, the Armstrongs will make a contribution to the Department's response costs for the Site in exchange for a covenant not to sue and contribution protection from the Commonwealth.

This notice is provided under section 1113 of HSCA (35 P. S. § 6020.1113). The DSA may be examined from 8 a.m. to 4 p.m. at the Department's Offices at 2 East Main Street, Norristown, PA 19401 by contacting either Ragesh Patel at (484) 250-5719 or Anderson Lee Hartzell at (484) 250-5866. A public comment period on the DSA will extend for a period of 60 days from the date of publication of this Notice. Interested persons may submit written comments regarding the DSA to the Department by submitting them to Ragesh Patel at the previous address.

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

Brigadoon Tract, Darby Township, Delaware County. Matthew Overgaugh, Kleinfelder East In., 800 East Washington Street, West Chester, PA 19380, Rachel Goldberg, Kleinfelder East In., 800 East Washington Street, West Chester, PA 19380 on behalf of Norman Henss, The Henderson Group, 112 Chesley Drive, Suite 200, Media, PA 19063 has submitted a Final Report concerning remediation of site Groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Hirshenhorn Residence, Upper Township, Montgomery County. Staci Cottone, J & J Spill Service &

Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422 on behalf of Steve Hirshenhorn, 310 Harner Drive, Maple Glen, PA 19002 has submitted a 90-day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Yamamoto Farm, Newtown Township, **Bucks County**. Scott Alderfer, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Lawrence Dugan, Orleans Homebuilders, Inc., 3333 Street Road, Bensalem, PA 19020 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Bryn Mawr Hospital, Lower Merion Township, **Montgomery County**. Robert Terefenko, Center Point Services, Inc., 526 Benjamin Franklin Highway, Douglasville, PA 19518 on behalf of Al Leone, Bryn Mawr Hospital, 130 South Bryn Mawr Avenue, Bryn Mawr, PA 19010 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Miller & Son Paving, Warminster Township, **Bucks County**. Joseph LaPann, Keith Valley Environmental Inc., 151 Keith Valley Road, Horsham, PA 19044 on behalf of John McGrath, Five Ponds, LP, 1262 Wood Lane, Suite 207, Langhorne, PA 19047 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Fetick Property, Kennett Square Borough, **Chester County**. Michael Raffoni, GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543 on behalf of Matthew Fetick, 234 North Union Street, Kennett Square, PA 19348 has submitted a 90 day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Gantz Residence, Norwood Borough, **Delaware County**. Staci Cottone, J & J Spill Service, P. O. Box 370, Blue Bell, PA 19422 on behalf of Ronald Gantz, 106 Elmwood Avenue, Norwood, PA 19074 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

J.H. Brubaker Lumber Company, East Hempfield Township, **Lancaster County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of J.H. Brubaker Lumber Company, 2008 Marietta Avenue, Lancaster, PA 17603, submitted a Final Report concerning remediation of site soils contaminated with VOCs and lead. The report is intended to document remediation of the site to the Statewide Health Standard.

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

Mooney Chem (OMG Americas), Borough of Sugar Creek, **Venango County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of OMG Americas, Two Mile Run Road, P. O. Box 111, Franklin, PA 16323 has submitted a Risk Assessment

Report concerning remediation of site soils contaminated with arsenic, lead, xylenes (total), ethylbenzene, benzo[a]anthracene, benzo[b]fluoranthene, benzo[a]pyrene and groundwater contaminated with benzene, naphthalene, arsenic, benzene, naphthalene, aluminum, barium, iron and manganese. The Report is intended to document remediation of the site to meet Site-Specific Standards.

BTI Special Commodities Route I-80 MM 83.4, Pine Creek Township, **Jefferson County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073 on behalf of BTI Special Commodities, Inc., P. O. Box 4805, Des Moines, IA 50305 has submitted a Final Report concerning remediation of site soils contaminated with benzene, cumene, ethyl benzene, methyl tert-butyl ether, naphthalene, toluene, 1,2,4-trimethylbenzene (1,2,4-trimethylbenzene), trimethylebenzene. 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:

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

Fetick Property, Kennett Square Borough **Chester County**. Michael Raffoni, GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543 on behalf of Matthew Fetick, 234 North Union Street, Kennett Square, PA 19348 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 19, 2008.

Willard Elementary School, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Kleinfelder East, Inc., 800 East Washington Street, Philadelphia, PA 19380 on behalf of Francine Lock, School District of Philadelphia, 440 North Broad Street, 3rd Floor, Philadelphia, PA 19103 has submitted a Remedial Investigation and Cleanup Plan concerning the remediation of site soil contaminated with inorganic. The Remedial Investigation and Cleanup Plan was approved by the Department of Environmental Protection on June 25, 2008.

Gantz Residence, Norwood Borough, **Delaware County**. Staci Cottone, J & J Spill Service, P. O. Box 370, Blue Bell, PA 19422 on behalf of Ronald Gantz, 106 Elmwood Avenue, Norwood, PA 19074 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 23, 2008.

1400 Mill Creek Road Property, Lower Merion Township, **Montgomery County**. Jeffery Walsh, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield on behalf of Jeffery Walsh, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 has submitted a Final Report concerning the remediation of site soil contaminated with inorganic and unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 19, 2008.

Rite Aid Pharmacy 3637, City of Philadelphia, **Philadelphia County**. John Thatcher BL Companies, Inc., 213 Market Street, 6th Floor, Harrisburg, PA 17101 on behalf of Robert Lerner, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with other organic and metals. The Remedial Investigation Report was approved by the Department of Environmental Protection on May 6, 2008.

BMW of the Main Line, Lower Merion Township, **Montgomery County**. Samuel Kucia, Environmental Consulting, Inc., 500 West Washington Street, Suite 375, Norristown, PA 19401 on behalf of Elizabeth Kirsch,

Kirsch Enterprises, Inc. and Estate of C.H. Kirsch, c/o Richard E. Javage, Jr. Esq., 3550 Township Line Road, Drexel Hill, PA 19026 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvent. The Final Report did not demonstrate attainment of the Statewide Health Standard and was placed on hold by the Department of Environmental Protection on June 26, 2008.

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

Former Exxon Allentown Terminal, Hanover Township, **Lehigh County**. Stephanie Rose, Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 submitted a Final Report (on behalf of her client, ExxonMobil Corporation, 1545 Route 22 East, Annandale, NJ 08801), concerning the remediation of soil and groundwater contamination related to an inadvertent rupture of an underground gasoline pipeline during utility removal activities. The report demonstrated attainment of a combined Site-Specific Standard for soils and a Residential Statewide Health Standard for soils and groundwater and was approved on June 27, 2008.

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

CR Property Group LLC/106 Fallsview Avenue, York Haven Borough, **York County**. Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110 on behalf of CR Property Group, LLC, 1561 East Market Street, York, PA 17403, submitted a Final Report concerning remediation of site soils contaminated with kerosene. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on June 23, 2008.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Alexander Family Farm, Benner Township, **Centre County**. Mountain Research, LLC, 825 Twenty-Fifth Street, Altoona, PA 16601 on behalf of Alexander Family Partnership Farm, 201 Fillmore Road, Bellefonte, PA 16823 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on June 24, 2008.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to transport hazardous waste.

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

HAZARDOUS WASTE TRANSPORTER LICENSE RENEWED

OP-Tech Environmental Services, Inc., 6392 Deere Road, Syracuse, NY 13206. License No. PA-AH 0599. Effective April 2, 2008.

Duquesne Light Company, Const. Coord. and Underground, 2645 New Beaver Avenue, Pittsburgh, PA 15233. License No. PA-AH 0462. Effective April 3, 2008.

EAP Industries, Inc., P. O. Box 275, 1575 Smith Township State Road, Atlasburg, PA 15004. License No. PA-AH 0660. Effective April 7, 2008.

G. Tresch Transportation, Inc., 630 South Evergreen Avenue, Woodbury, NJ 08097. License No. PA-AH 0380. Effective April 7, 2008.

South Jersey Pollution Control, Inc., 209 Harmony Road, P. O. Box 28, Mickleton, NJ 08056. License No. PA-AH 0145. Effective April 8, 2008.

Univar USA, Inc., 328 Bunola River Road, Bunola, PA 15020. License No. PA-AH 0334. Effective April 11, 2008.

Hydro Technology, Inc., P. O. Box 66071, Newport, MI 48166. License No. PA-AH 0708. Effective April 14, 2008.

Safety-Kleen Canada, Inc., 300 Woolwich Road, Breslau, ON N0B 1 M0. License No. PA-AH 0517. Effective April 21, 2008.

S & C Transport, Inc., 12600 Stark Road, Livonia, MI 48150. License No. PA-AH 0446. Effective April 22, 2008.

David J. Winning Company, 5610 Aiken Road, Mckees Rocks, PA 15136. License No. PA-AH S100. Effective May 6, 2008.

National Waste Clean, Inc., 304 Pulaski Street, South Plainfield, NJ 07080. License No. PA-AH 0528. Effective May 15, 2008.

Rinchem Company, Inc., 6133 Edith Boulevard NE, Albuquerque, NM 87107. License No. PA-AH S205. Effective May 21, 2008.

Cousins Waste Control Corporation, 1701 East Matzinger Road, Toledo, OH 43612. License No. PA-AH 0344. Effective May 21, 2008.

Tonawanda Tank Transport Service, Inc., 1140 Military Road, P. O. Box H, Buffalo, NY 14217. License No. PA-AH 0429. Effective May 28, 2008.

West Central Environmental Corporation, P. O. Box 83, Rensselaer, NY 12144-0083. License No. PA-AH 0422. Effective May 28, 2008.

Page E.T.C., Inc., P. O. Box 1290, Weedsport, NY 13166. License No. PA-AH 0338. Effective May 28, 2008.

Pioneer Tank Lines, Inc., 12501 Hudson Road, South, Afton, MN 55001-9751. License No. PA-AH 0600. Effective June 2, 2008.

Lewis Environmental, Inc., P. O. Box 639, Royersford, PA 19468. License No. PA-AH 0591. Effective June 6, 2008.

Stat, Inc., d/b/a Sparks Transportation and Tank Cleaning, Inc., P. O. Box 1443, Lenoir, NC 28645. License No. PA-AH 0532. Effective June 24, 2008.

Radiac Research Corporation, 261 Kent Avenue, Brooklyn, NY 11211. License No. PA-AH S007. Effective June 24, 2008.

HAZARDOUS WASTE TRANSPORTER LICENSE ISSUED

Nuway Environmental Services, LLC, 1741 Clarks Ferry Road, Lexington, SC 29073. License No. PA-AH 0743. Effective April 17, 2008.

Providence Environmental Concepts and Services, LLC, P. O. Box 3216, Columbia, SC 29230. License No. PA-AH 0739. Effective April 23, 2008.

Summit Transport & Environmental, Inc., 150C John Street, Weston, WV 26452. License No. PA-AH 0737. Effective May 20, 2008.

Moran Environmental Recovery, LLC, 75D York Avenue, Randolph, MA 02368. License No. PA-AH 0744. Effective May 28, 2008.

Thunderbird Trucking, LLC, 4343 Kennedy Avenue, East Chicago, IN 46312. License No. PA-AH 0745. Effective June 4, 2008.

Advanced Waste Carriers, Inc., 1126 South 70th Street, Suite N408B, West Allis, WI 53214. License No. PA-AH 0742. Effective June 24, 2008.

HAZARDOUS WASTE TRANSPORTER LICENSE

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

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

HAZARDOUS WASTE TRANSPORTER LICENSE VOLUNTARILY TERMINATED

Universal Environmental Nevada, Inc., P. O. Box 10120, Reno, NV 89510. License No. PA-AH 0709. Effective April 1, 2008.

PSC Recovery Systems, d/b/a Georgia Recovery Systems, 8025 Spence Road, Fairburn, GA 30213. License No. PA-AH 0734. Effective April 7, 2008.

Providence Environmental, Inc., 312 Sharpe Road, Columbia, SC 29203. License No. PA-AH 0695. Effective April 30, 2008.

Marisol, Inc., 213 West Union Avenue, Bound Brook, NJ 08805-1334. License No. PA-AH 0164. Effective December 31, 2007.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

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

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE RENEWED

Environmental Waste Minimization, Inc., 14 Brick Kiln Court, Northampton, PA 18067. License No. PA-HC 0219. Effective May 14, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 301288. Recycle Oil Company, 1600 South 25th Street, Easton, PA 18042. A

Permit Renewal authorizing the continued operation to accept and process waste oil, oily water, antifreeze and petroleum-contaminated debris at this residual waste processing facility located in Wilson Borough, **Northampton County**. The permit was issued in the Regional Office on June 27, 2008.

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. 301071, MAX Environmental Technologies, Inc., 233 Max Lane, Yukon, PA 15698. Extension of a residual waste processing and disposal permit renewal for the full 10 year term allowed. Approval granted by the Regional Office on June 27, 2008.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 100934. Blue Ridge Landfill, IESI Blue Ridge Landfill Corporation. P. O. Box 399, Scotland, PA 17254-0399. Landfill located in Greene Township, **Franklin County**. The major permit modification for an increase in average daily volume to 1,700 tpd was issued by the Southcentral Regional office on June 6, 2008.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP4-32-00227A: Electro-Mec, Inc. (4470 Lucerne Road, Indiana, PA 15701) on June 25, 2008, was authorized under GP-4 to install and operate one Steelman Industries Model No. 898 BA-E burn-off oven with a primary burner rated at 558,000 Btu/hr and an after-burner rated at 829,000 Btu/hr at their facility in White Township, **Indiana County**. Authorization to operate under this GP will expire June 25, 2013.

GP5-26-00555A: Atlas Pipeline Pennsylvania, LLC (1550 Coraopolis Heights Road, 2nd Floor, P. O. Box 611, Moon Township, PA 15108) on June 26, 2008, was authorized under GP-5 to operate one 1,340 bhp Caterpillar model number G3516 LE lean burn natural gas-fired compressor engine and one 0.150 mmBtu/hr Tul-Pro model number 5G-150 glycol dehydrator at their Joseph Station in Dunbar Township, **Fayette County**. Authorization to operate under this GP will expire on June 26, 2013.

GP5-63-00937: Range Resources Appalachia, LLC (380 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317) on June 27, 2008, was authorized under GP-5 to use two internal combustion engines with dehydrator equipped with a thermal oxidizer at Fulton Compressor Station. This authorization will expire on June 27, 2013. The facility is located in Mt. Pleasant Township, **Washington County**.

GP14-26-00575: Green Ridge Cemeteries, Inc. (2901 Memorial Boulevard, Connellsville, PA 15425) on June 25, 2008, was authorized under GP-14 to install and operate one Matthews Cremation Division Model No. IE43-PPII human crematory rated at 150 pph at their facility in Bullsken Township, **Fayette County**. Authorization to operate under this GP will expire June 25, 2013.

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

GP-33-179B: Snyder Brothers, Inc.—Himes Station (Swamp Run Road, Brookville, PA 15825) on June 24, 2008, for a natural gas fired compressor engine (BAQ-GPA/GP-5) in Knoxdale Township, **Jefferson County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

09-0122B: Arkema, Inc. (100 PA Route 413, Bristol, PA 19007) on June 26, 2008, to optimize the Spray Dryer Process at their facility in Bristol Township, **Bucks County**. This facility is a Major facility for VOC. VOC Emissions increase from this source is less than 6 tpy. The Plan approval will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

24-012G: C/G Electrodes LLC—St. Marys Plant (800 Theresia Street, St. Marys, PA 15857-1898) on June 23, 2008, to construct two carbottom baking kilns Nos. 495 and 496 exhausting to existing thermal incinerator and wet-limestone scrubber in St. Marys City, **Elk County**. This is a Title V facility.

25-025L: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room 9-201, Erie, PA 16531) on June 24, 2008, to increase the VOC emission limitation for Source 944 (Wind turbine gearbox paint booth) in Lawrence Park Township, **Erie County**. This is a Title V facility.

37-012B: Dunbar Asphalt Products, Inc. (P. O. Box 477, Wheatland, PA 16161) on June 23, 2008, to modify a plan approval to increase production and change the No. 2 fuel oil sulfur limit at their Hillsville Hot Mix Batch Asphalt Plant in Mahoning Township, **Lawrence County**.

43-270G: CCL Container (One Llodio Drive, Hermitage, PA 16148-9015) on June 23, 2008, to install two new baghouses to replace four existing baghouses for controlling the print lines in Hermitage City, **Mercer County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

PA-30-00150A: Wellington Development—WVDT, LLC (1620 Locust Avenue, Fairmont, WV 26554) on June 27, 2008, to extend the plan approval for the Wellington Development—WVDT, LLC Greene Energy Resource Recovery Project in Cumberland Township, **Greene County** to December 7, 2011. The plan approval has been extended. This extension does not change any condition or applicable standard of this Plan Approval.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

23-00014: Kimberly-Clark of Pennsylvania, LLC (Front and Avenue of the States, Chester, PA 19013) on June 26, 2008, for renewal of the Title V Operating Permit in the City of Chester, **Delaware County**. The initial permit was issued on December 19, 2001. The facility is primarily used for the manufacture of tissue paper and paper towels. As a result of potential emissions of NO_x and VOCs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

23-00046: Container Research Corp. (Hollow Hill Road, Glen Riddle, PA 19037) on June 26, 2008, to operate one boiler unit and two paint spray booths in Aston Township, **Delaware County**. The main emissions from this facility are VOCs. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued in September, 2002. The renewal contains conditions including monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00095: Longwood Gardens (410 Street Road, Kennett Square, PA 19348) on June 26, 2008, to renew the State-only Operating Permit in East Marlborough Township, **Chester County**. The initial permit was issued on May 21, 2003. Longwood Gardens is a nonprofit business activity focused on horticulture. The primary emission sources include four diesel-fired emergency generators that are used in the event of a power interruption and three main boilers that are used to heat the greenhouses in the cool months of the year.

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

54-00042: The Commodore Corp. (P. O. Box 557, Goshen, IN 46527) on June 27, 2008, to operate their woodworking operations facility in Pine Grove Borough, **Schuylkill County**. This is a State-only Synthetic Minor operating permit.

45-00023: Bustin Industrial Products, Inc. (410 Oak Street, East Stroudsburg, PA 18301) on June 30, 2008, to issue a State-only (Synthetic Minor) Operating Permit, incorporating the requirements of operating permit 45-318-006, for operation of a paint booth and associated air cleaning device at their facility in East Stroudsburg Borough, **Monroe County**.

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

25-00961: National Fabricators and Machining, Inc. (9209 West Main Road, North East, PA 16428) on June 23, 2008, to re-issue a Natural Minor Permit to operate an industrial machinery fabricating facility in North East Township, **Erie County**. Emissions sources associated with this facility include spray booth, heat stress oven, welding operation, torch cutting, 24 space heaters, two safety klean parts cleaners and sand blasting operation. This facility is natural minor because the emissions of pollutants are less than Title V threshold.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00036: Visteon Systems, LLC (2750 Morris Road, Lansdale, PA 19446-6083) on June 26, 2008, for a minor modification of TVOP No. 46-00036 for their facility in Worcester Township, **Montgomery County**. The minor modification revises a Work Practice Requirement condition for the five Electric Generators (Source 731A) to allow the engines' timing to be set to the manufacturer's recommended setting. The modified TVOP includes monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements. Minor modification of TVOP No. 46-00036 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

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

33-00107: Beverage Air Corp. (119 Progress Street, Brookville, PA 15825-2617) on June 10, 2008, for an administrative amendment of the State-only Operating Permit to incorporate the change of ownership to Beverage Air Corporation, the responsible official change and permit contact change in Brookville Borough, **Jefferson County**.

33-00155: Trail King Industries, Inc. (147 Industrial Park Road, Brookville, PA 15825-7201) on June 20, 2008, for an administrative amendment of the State-only Operating Permit to incorporate the conditions from plan approval 33-155C in Pine Creek Township, **Jefferson County**.

42-00004: American Refining Group, Inc. (77 North Kendall Avenue, Bradford, PA 16701-1726) on June 16, 2008, for an administrative amendment of the TV Operating Permit to correct typographical errors with the elective emission restriction pertaining to BART restrictions in Sources 033, 034 and C301 by clarifying the emissions can not equal or exceed 250 tpy for NO_x, PM₁₀, SO_x or VOCs based on the definitions of BART eligible source and an existing stationary facility in 40 CFR Section 51.301 in Clarion Borough, **Clarion County**.

43-00310: Duferco Farrell Corp. (15 Roemer Boulevard, Farrell, PA 16121-2201) on June 16, 2008, for an administrative amendment of the TV Operating Permit to correct a typographical error for the BART restrictions in Sources 106 and 107 by clarifying the emissions can not equal or exceed 250 tpy for NO_x based on the definitions of BART eligible source and an existing stationary facility in 40 CFR 51.301 in the City of Farrell, **Mercer County**.

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

V04-007: Smurfit-Stone Container Corp.—d/b/a Altiivity Packaging (5000 Flat Rock Road, Philadelphia, PA 19127) for the operation of a paperboard manufacturing facility in the City of Philadelphia, **Philadelphia County**. The operating permit was effective from July 12, 2005, and expires on August 1, 2010. The minor administrative change only includes the change in the responsible official.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

56070110 and NPDES No. PA0262498. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541. Commencement, operation and restoration of a bituminous surface auger mine in Stonycreek Township, **Somerset County**, affecting 282.4 acres. Receiving streams: Schrock Run; UNT No. 2 to Glades Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. The application also includes several variance requests: First, to relocate approximately 1,780 feet of a UNT to Glades Creek. The relocation will begin at the headwaters and discharge to Schrock Run. This relocation will allow the stream to contribute to

Schrock Run instead of pooling in an abandoned surface pit. The second variance request is to re-establish a stream channel that has been affected by previous surface mining activities. The UNT to Glades Creek will be reconstructed during reclamation of Phase II, returning the channel to its original location. The reconstruction will begin at its headwaters and continue for approximately 1,430 feet. The third variance request is for a General Permit BMR-GP-102 to install a stream crossing on Schrock Run. The crossing location will be approximately 2,030 feet downstream of the headwaters of Schrock Run. The fourth variance request is to conduct mining activities within the 100 foot right-of-way of two Township Roads: T-650 and T-531. T-531 will be temporarily closed from its intersection with SR 1001 to the intersection with SR 1003. T-650 will be temporarily closed beginning at a point approximately 800 feet south of its intersection with SR 1001 and continuing south to its intersection with T-530. Application received September 10, 2007. Permit issued June 24, 2008.

11980101 and NPDES No. PA0234737. L & J Energy Company, Inc., P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface auger mine in Susquehanna Township, **Cambria County**, affecting 93.0 acres. Receiving streams: West Branch Susquehanna River; Douglas Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 30, 2008. Permit issued June 23, 2008.

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

Contract No. 65-07-01 and NPDES Permit No. PA0251437. Coal Loaders, Inc. (P. O. Box 556, Ligonier, PA 15658). Government Financed Construction Contract issued for reclamation of approximately 8.8 acres of abandoned mine lands located in Ligonier Township, **Westmoreland County**. Receiving streams: Hannas Run and UNTs to Hannas Run. Application received December 14, 2007. Contract issued June 26, 2008.

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16060808. Eagle Contracting, Inc. (196 Airport Road, Shippenville, PA 16254) Transfer of an existing small noncoal shale operation from Vince DiStefano in Highland Township, **Clarion County** affecting 5.0 acres. Receiving stream: UNT to Clarion River. Application received May 21, 2008. Permit issued June 19, 2008.

37870301. I. A. Construction Corp. (158 Lindsay Road, Zelenople, PA 16063) Renewal of NPDES Permit No. PA0107913 in Wayne Township, **Lawrence County** affecting 116.2 acres. Receiving streams: Duck Run and UNT to Duck Run. Application received May 8, 2008. Permit issued June 25, 2008.

3175SM3. I. A. Construction Corp. (158 Lindsay Road, Zelenople, PA 16063) Renewal of NPDES Permit No. PA0208103 in Plain Grove Township, **Lawrence County** affecting 153.0 acres. Receiving streams: UNT to Jamison Run and Jamison Run. Application received May 8, 2008. Permit issued June 27, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08052803. Irene West (P. O. Box 387, Wysox, PA 18854), commencement, operation and restoration of a small industrial minerals permit located in Rome Town-

ship, **Bradford County** affecting 3.0 acres. Receiving streams: Parks Creek to Wysox Creek. This is an upgrade from 2,000 tpy to 10,000 tpy. Permit issued April 14, 2008.

08080803. Frederick R. Saxer (R. R. 2, Box 22B, Wyalusing, PA 18853), commencement, operation and restoration of a small industrial minerals permit located in Wilmot Township, **Bradford County** affecting 5.0 acres. Receiving streams: Sugar Run to the Susquehanna River. Application received January 26, 2008. Permit issued May 21, 2008.

53080802. Richard A. Davis (1361 Mina Road, Coudersport, PA 16915), commencement, operation and restoration of a small industrial minerals permit located in Clara Township, **Potter County** affecting 5.0 acres. Receiving streams: Fishing Creek to the Allegheny River. Application received February 6, 2008. Permit issued April 11, 2008.

53080803. Richard A. Davis (1361 Mina Road, Coudersport, PA 16915), commencement, operation and restoration of a small industrial minerals permit located in Roulette Township, **Potter County** affecting 5.0 acres. Receiving streams: Allegheny River to the Ohio River. Application received February 22, 2008. Permit issued May 21, 2008.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

01084109. J. Roys, Inc., P. O. Box 125, Bowmansville, PA 17507-0125, blasting activity permit issued for utility development in Littlestown Borough, **Adams County**. Blasting activity permit end date is June 15, 2009. Permit issued June 18, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

24084101. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866-0077). (Electronic) Blasting activity permit to blast a highway/road in Johnsonburg Borough, **Elk County**. This blasting activity permit will expire on December 30, 2009. Application received June 13, 2008. Application issued June 25, 2008.

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

36084001. Explosives Experts, Inc., (P. O. Box 879, Sparks, MD 21152), construction blasting at Manheim Township High School in Manheim Township, **Lancaster County** with an expiration date of September 25, 2008. Permit issued June 25, 2008

67084002. Explosive Experts, Inc., (P. O. Box 879, Sparks, MD 21152), construction blasting at Northfield Development in West Manheim Township, **York County** with an expiration date of January 31, 2009. Permit issued June 25, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

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

E06-634: Exeter Township, 4975 DeMoss Road, Reading, PA 19606, Exeter Township, **Berks County**, United States Army Corps of Engineers, Philadelphia District.

To remove an existing 48.0-inch by 60.0-inch CMP culvert pipe and an 48.0-inch by 48.0-inch stone arch structure with a total length of 40.0 feet and to construct and maintain a 7.0-foot by 3.5-foot concrete box culvert having a length of 40.0 feet in a UNT to Antietam Creek (CWF) (Birdsboro, PA Quadrangle N: 19.02 inches;

W: 14.16 inches, Latitude: 40° 21' 17" N; Longitude: 75° 51' 06" W) in Exeter Township, Berks County.

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

E14-508. Theodore R. Brown, 60 Municipal Lane, Port Matilda, PA 16870. Brown Bridge in Halfmoon Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (Port Matilda, PA Quadrangle N: 5.7 inches; W: 4.8 inches).

To construct and maintain a 30-foot clear span steel I-beam and wood plank bank-to-bank bridge on concrete abutments with a minimum underclearance of 3.5 feet and earthen approaches to cross Halfmoon Creek, located in a pasture 2,050 feet west of the intersection of SR 550 (Halfmoon Valley Road) and T-309 (Smith Road) in Halfmoon Township, Centre County. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

Muddy Creek Encroachments

- Phase 1 Diversion (2) 48-inch diameter pipes and cofferdams
- Phase 2 Diversion (2) 48-inch diameter pipes and cofferdams
- SR 2012 Right Abutment Removal Construction and R-8 Rock Protection
- SR 2012 Left Abutment Removal Construction and R-8 Rock Protection
- SR 2012 Bridge Pier Removal
- Right Bank R-8 Rock Protection
- Right Bank R-8 Rock Protection
- Construct Right Mud Sill (Downstream)
- Construct Left Mud Sill (Upstream)
- Railroad Pier No. 2 Removal
- Railroad Pier No. 3 Removal

E14-509. Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. SR 2012, Section A01 Bridge Replacement, in Gregg Township, Centre County, United States Army Corps of Engineers, Baltimore District (Spring Mills, PA Quadrangles N: 40° 50' 12.50"; W: 77° 32' 46.41").

To construct and maintain a prestressed concrete box beam bridge with a single clear span of 70.00 feet, minimum inlet underclearance of 6.34 feet at midspan and a skew of 90° across Muddy Creek, located 2,000 feet southeast on Penns Creek Road (SR 2012) from its intersection with Lower Georges Valley Road, (Spring Mills, PA Quadrangles N: 40° 50' 12.50"; W: 77° 32' 46.41") in Gregg Township, Centre County. The project proposes: 328 square feet (0.008 acre) of permanent wetland impacts, 910 square feet (0.021 acre) of temporary wetland impacts, 934 square feet (0.021 acre) of riverine wetland impacts. The total estimated permanent stream disturbance for the project is 244 linear feet as summarized in the following table:

| <i>Length (LF)</i> | <i>Latitude (N)</i> | <i>Longitude (W)</i> |
|--------------------|---------------------|----------------------|
| 140 | 40° 50' 12.25" | 77° 32' 46.74" |
| 140 | 40° 50' 12.25" | 77° 32' 46.90" |
| 35 | 40° 50' 12.62" | 77° 32' 46.58" |
| 35 | 40° 50' 12.25" | 77° 32' 46.41" |
| 32 | 40° 50' 12.50" | 77° 32' 46.58" |
| 43 | 40° 50' 12.25" | 77° 32' 46.90" |
| 23 | 40° 50' 11.88" | 77° 32' 47.23" |
| 25 | 40° 50' 11.75" | 77° 32' 47.23" |
| 37 | 40° 50' 11.38" | 77° 32' 47.07" |
| 13 | 40° 50' 12.13" | 77° 32' 47.23" |
| 13 | 40° 50' 12.00" | 77° 32' 47.07" |

This permit also includes 401 Water Quality Certification.

E18-429. Charles M. Smith, P. O. Box 20, 18 School House Road, North Bend, PA 17764. Smith Home, in Chapman Township, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Renovo East, PA Quadrangle Latitude 41° 20' 57"; Longitude 77° 41' 57.5").

To construct, operate and maintain a 70 foot long by 40 foot wide single-family residence in the floodway of Young Womans Creek. The total square footage of the structures footprint totals 2,220 square feet and shall be elevated 18 inches above the 100 year flood elevation on a concrete foundation. Young Womans Creek is classified as a HQ-CWF and the project is located in Chapman Township, Clinton County. This permit was issued under Section 105.13(e) "Small Projects."

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E11-326. Cambria Somerset Authority, 224 Walnut Street, Johnstown, PA 15901. To relocate channel in Summerhill Township, **Cambria County**, United States Army Corps of Engineers, Pittsburgh District (Ebensburg,

PA Quadrangle N: 5.2 inches; W: 11.2 inches, Latitude: 40° 24' 13"; Longitude: 78° 42' 20"). To relocate and maintain 120-linear feet of the channel of a UNT to the North Branch of the Little Conemaugh River (CWF) for the purpose of realigning the stream. The project consists of construction of 30 linear feet channel and riprap rock for channel bank protection for a length of 30 feet just upstream of the existing bridge. The project is located at the Law Road Bridge, an access to the Wilmore Reservoir.

E63-605. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106. To construct a stream relocation consisting of three culverts in Carroll Township, **Washington County**, United States Army Corps of Engineers, Pittsburgh District (Monongahela, PA Quadrangle N: 9.6 inches; W: 9.1 inches, Latitude: 40° 10' 44"; Longitude: 79° 56' 22"). To construct and maintain a 850 ft. long stream relocation of Taylors Run (WWF) with a drainage area of 3.24 square miles; a 30 ft. long crossing consisting of two 72 inch diameter culverts located within the stream relocation; and 0.01 acre of adjacent PEM wetland fill, which will be mitigated at the Interstate 70 to SR 51 Mon Fayette wetland mitigation site. This project provides for protecting and moving Taylors Run away from a continuing slide condition which threatens to choke off the existing stream channel and has been partially completed under Emergency Permit 6308201. In addition,

100 ft. of a UNT (WWF) with a drainage area of less than 100 acres conflicting with the stream relocation will be filled. Onsite stream mitigation will compensate for the stream impacts. The project is located approximately 1.5 miles south of the center of Monongahela.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E20-568, D & L Energy, Inc., 2761 Salt Springs Road, Youngstown, OH 44509. CCPI 1 and 2 Gas Well and Pipelines, in Vernon Township, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Meadville, PA Quadrangle N: 40° 39' 40"; W: 80° 10' 26").

The applicant proposes to construct and maintain two natural gas wells, a 2-inch-diameter steel natural gas distribution line and associated access road construction and modification within the FEMA floodway of French Creek approximately 0.1 mile west of the west bank of French Creek and approximately 0.5 mile NE of the intersection of Dunham and Rodgers Ferry Roads in Vernon Township, Crawford County. French Creek is a perennial stream classified as a WWF.

E37-177, Westminster College, 319 South Market Street, New Wilmington, PA 16172-0001. McClure Run Stream Restoration Project, in New Wilmington Borough, **Lawrence County**, United States Army Corps of Engineers, Pittsburgh District (New Castle North, PA Quadrangle N: 41° 7' 1.6"; W: 80° 19' 57.6").

To construct and maintain 1,400 feet of stream restoration within McClure Run for the purpose of stream bank stabilization and enhancement while implementing a natural stream channel design approach consisting of the following activities: excavating floodplains, minor stream realignments, regarding of the bank slopes along the upper reach of the restoration area, placement of in-stream structures such as rock cross vanes, creation of riparian wetlands and bioretention cells and enhanced riparian plantings along the full length of McClure Run as bound by Westminster Campus. The project also includes the following: 1) to remove a pedestrian bridge; 2) to remove an existing pedestrian bridge and to construct and maintain a pedestrian bridge; 3) to repair and maintain two vehicle bridges; 4) to repair and maintain 13 stormwater outfalls; and 5) to construct and maintain a walking trail and fence within the floodway. McClure Run is a perennial stream classified as a TSF.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 1621.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

SSIP

| Permit No. | Applicant Name & Address | County | Municipality | Tank Type | Tank Capacity |
|------------|--|--------------|----------------------|---|-------------------------|
| 08-65-009 | Luther P. Miller, Inc. 641 South Edgewood Avenue Somerset, PA 15501 Attn: Troy Miller | Westmoreland | Ligonier Township | Four ASTs storing petroleum products | 60,000 gallons total |

SPECIAL NOTICES

Notice of Certification to Perform Radon-Related Activities in this Commonwealth

In the month of May 2008, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

| Type of Name | Address | Type of Certification |
|-------------------------------|---|-----------------------|
| Accredited Radon of Allentown | 2517 Treeline Drive Easton, PA 18040 | Mitigation |
| James F. Andrews Enterprises | 353 Loveville Road Warriors Mark, PA 16877 | Mitigation |
| Gerald Aubrey | 1517 Daws Road Blue Bell, PA 19422 | Testing |
| William Barroner | R. R. 2, Box 231A Williamsburg, PA 16693 | Testing |
| Don Cessna | 407 West Sample Street Ebensburg, PA 15931 | Testing |
| Edward Cummins | 429 Schuylkill Road Phoenixville, PA 19460 | Testing |
| Joseph Donnelly, III | P. O. Box 993 Kimberton, PA 19442 | Mitigation |

| <i>Type of Name</i> | <i>Address</i> | <i>Type of Certification</i> |
|---|---|------------------------------|
| Gregory Gibson | P. O. Box 733 Tannersville, PA 18372 | Testing |
| Steven Haslam | 1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125 | Testing |
| Frank Hendron | 1311 Talley Road Wilmington, DE 19803 | Testing |
| Frank Hendron Northeast Inspection Corporation | 1311 Talley Road Wilmington, DE 19803 | Mitigation |
| Robert Hewlett | P. O. Box 1942 Cranberry Township, PA 16066 | Testing |
| Harold Hill | 1882 West 8th Street Wyoming, PA 18644 | Testing and Mitigation |
| Shane Hissem | 2721 Route 982 Mount Pleasant, PA 15666 | Testing |
| Richard Hoffman | 2843 North Front Street Harrisburg, PA 17110 | Testing |
| Carl Keller | 4142 Gore Road Conneaut, OH 44030 | Testing and Mitigation |
| John Kerrigan | 100 Old Kennett Road Wilmington, DE 19807 | Mitigation |
| Kirk Knappman | 421 West Chocolate Avenue Hershey, PA 17033 | Testing |
| L & J Marketing, Inc. | 706 East Street West Easton, PA 18042 | Testing |
| Thomas Nightlinger | 1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125 | Testing |
| Roman Paul | P. O. Box 731 Valley Forge, PA 19482 | Testing |
| Peter Piazza | 106 Winslow Court Greensburg, PA 15601 | Testing |
| Quality Home Services of Delaware Valley, Inc. | 700 Braxton Road Ridley Park, PA 19078 | Testing |
| RJH Radon Mitigation, Inc. | P. O. Box 91 943 High Street Akron, PA 17501 | Mitigation |
| Dennis Sekelik | 724 Scrubgrass Road Pittsburgh, PA 15243 | Testing |
| John Selko | 1276 Bethel Green Drive Bethel Park, PA 15102 | Testing |
| Robert "Michael" Sheely | 1000 Wolfe Road Enola, PA 17025 | Testing |
| Michael Stabile | 2 Stonecrest Road Blakeslee, PA 18610 | Testing |
| Swindell Enterprises, Inc. | 227 Locust Street Box 12 Alum Bank, PA 15521 | Testing |
| Richard Thornhill | 471 Washington Street Leetsdale, PA 15056 | Mitigation |
| Michael Tokarczyk | 753 Lutzville Road Everett, PA 15537 | Mitigation |
| Jody Viscomi | 1304 Eynon Street Scranton, PA 18504 | Testing |
| Gary Walters | P. O. Box 40 Enola, PA 17025 | Mitigation |

| <i>Type of Name</i> | <i>Address</i> | <i>Type of Certification</i> |
|---------------------|--|------------------------------|
| David Welker | 12 James Street Mill Hall, PA 17751 | Testing |
| Dennis Workman | 261 Kimbel Drive Phoenixville, PA 19460 | Testing |
| David Wotring | R. R. 1, Box 491 Scotrun, PA 18355 | Testing |

**Request for Comment and Notice of Public Meeting
For the Proposed Total Maximum Daily Load
(TMDL) for the Watershed of South Branch Plum
Creek In Indiana County**

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

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL developed for the watershed of South Branch Plum Creek in Indiana County. The TMDL was established in accordance with the requirements of section 303(d) of The Clean Water Act. Streams within this watershed were listed in Pennsylvania's 2006 Integrated Water Quality Monitoring and Assessment Report as being impaired due to sedimentation resulting from agricultural activities.

There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in the watershed of South Branch Plum Creek. Sediment loadings were allocated among all land use categories present in the watershed. Data used in establishing this TMDL were generated using a water quality analysis model designed by the Pennsylvania State University.

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL). To request a copy of this TMDL, contact Joe Boylan at jboylan@state.pa.us or 400 Waterfront Drive, Pittsburgh, PA 15222.

The Department will consider all comments in developing the final TMDL, which will be submitted to Environmental Protection Agency for approval. Written comments will be accepted at the previous address and must be received by September 1, 2008. A public meeting to discuss the technical merits of the TMDL will be held on Wednesday, July 30, 2008, at 6 p.m. at the Grange near Davis, PA. This building is located at the intersection of Five Points and Hill Roads in Davis, PA.

**Drinking Water State Revolving Fund Special
Notice under the Federal Safe Drinking Water Act
(SDWA); 42 U.S.C. 300f et seq.**

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

Project Location:

| <i>Applicant</i> | <i>Address</i> | <i>County</i> |
|------------------|---|---------------|
| Winslow Township | 1277 Yellow Brick Road Reynoldsville, PA 15851 | Jefferson |

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Common-

wealth's State Revolving Fund, is intended to be the funding source for this project. Winslow Township proposes to extend service from the Sykesville Borough water system to the Village of Soldier. This project will include a distribution system, a 75,000 gallon glass-lined, bolted-steel finished water storage tank, a transmission line and a booster pump station to convey finished water from Sykesville Borough. 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.

Project Location:

| <i>Applicant</i> | <i>Address</i> | <i>County</i> |
|--|---|---------------|
| Paint Township Municipal Water Authority (PTMWA) | 22139 Route 66 Shippenville, PA 16254 | Clarion |

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. Paint Township Municipal Water Authority proposes to extend service to residents and businesses situated along Route 66, Doe Run Road, McClain-Watson, Myers and Manor Church Roads within the Township. The project involves installation of a pipeline infrastructure from existing waterline. Water source is PA American Water Clarion. 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.

**Bureau of Mine Safety
Request for Variance**

The Department of Environmental Protection (Department), Bureau of Mine Safety (Bureau), has received a request for variance from Cumberland Coal Resources, LP. The following notification contains a summary of this request. A complete copy of the variance request may be obtained from Cathy Dunn by calling (724) 439-7469 or from the BMS web site at www.depweb.state.pa.us/deepminesafety/site/default.asp.

The Department is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to: Joseph A. Scaffoni, Director, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (52 P. S. § 702) (act), provides a mechanism for operators to obtain variances from specific requirements of the act to accom-

modate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 268(b) states that shelter holes shall be provided on the clearance side along designated travelingways, which are also used as haulage entries, other than belt conveyor haulage entries. Such shelter holes shall be spaced not more than 80 feet apart.

Summary of the Request: Cumberland Coal Resources, LP requests a variance that pertains specifically to the current Gateroad at the Cumberland Mine.

[Pa.B. Doc. No. 08-1296. Filed for public inspection July 11, 2008, 9:00 a.m.]

Solar Workgroup Meeting

The Solar Workgroup (Workgroup) will hold a meeting on September 4, 2008, at 10 a.m. in the Second Floor Auditorium, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Workgroup consists of members from the solar industry and local government officials. The purpose of the meeting is to provide a forum for the industry members and local government officials to discuss potential issues that may arise as solar installations become more prevalent Statewide. The meeting will stimulate information sharing and possible development of tools and resources to facilitate the deployment of solar installations.

The agenda and materials for the September 4, 2008, meeting will be available at the meeting. Questions concerning this meeting should be directed to Libby Dodson, Office of Energy and Technology Deployment, Division of Energy Promotion, 400 Market Street, Harrisburg, PA 17101, (717) 772-8907, ldodson@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact Angela Rothrock at (717) 772-8911 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-1297. Filed for public inspection July 11, 2008, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Meeting Cancellation

The July 15, 2008, meeting of the Environmental Quality Board (Board) is cancelled. The next meeting of the Board is scheduled for Tuesday, August 19, 2008, at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the August 19, 2008, meeting will be available on the Department of Environmental Protection's web site at www.depweb.state.pa.us (DEP Keywords: EQB).

Questions concerning the Board's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or mtate@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-1298. Filed for public inspection July 11, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

Approved Courses of Instruction in Boating Safety Education; Corrected Notice

Under 58 Pa. Code § 91.7 (relating to criteria for courses of instruction in boating safety education), the Executive Director of the Fish and Boat Commission (Commission) may approve, by notice, boating safety education courses that meet the course criteria established under this section and will publish a list of approved boating safety education courses in the *Pennsylvania Bulletin* on an annual basis or more frequently as required. The Commission previously published a notice identifying approved courses in boating safety education at 38 Pa.B. 3726 (July 5, 2008). However, the Commission determined that a few courses inadvertently were omitted.

The Commission, therefore, is republishing the list of approved boating safety education courses, effective as of July 1, 2008, as follows:

Fish and Boat Commission (classroom course)
United States Coast Guard Auxiliary (classroom course)
United States Power Squadrons (classroom course)
Nautical Know How (classroom course)
Safe Boating America (classroom course)
Janet M. Teller, d/b/a America Boating Classes
(classroom course)
Kalkomey Enterprises, Inc., d/b/a Boat Ed
(correspondence course)
BoaterExam America, Inc. (Internet course)
Kalkomey Enterprises, Inc., d/b/a Boat Ed
(Internet course)

DOUGLAS J. AUSTEN, Ph. D.,
Executive Director

[Pa.B. Doc. No. 08-1299. Filed for public inspection July 11, 2008, 9:00 a.m.]

Egg Collection; Temporary Change to Fishing Regulations

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to make it unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. Eggs taken from lawfully harvested fish from the Lake Erie water-

shed may be possessed and used as bait in the Lake Erie watershed only. This action does not prohibit the possession of eggs contained within a lawfully harvested fish that is possessed for the purpose of human consumption.

The Executive Director has found that this action is necessary and appropriate for the protection, preservation and management of fish. This temporary modification will go into effect immediately and will remain in effect until January 1, 2009, unless the Commission, by appropriate action, adopts the new regulation. The Commission, under a separate notice of proposed rulemaking, will seek public comments on permanent changes to the Commission's fishing regulations.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 08-1300. Filed for public inspection July 11, 2008, 9:00 a.m.]

Possession and Use as Bait of Eggs Taken from VHS-Susceptible Species of Fish; Temporary Changes to Fishing Regulations

Viral hemorrhagic septicemia (VHS) is an infectious disease found in a variety of fish species. To prevent the spread of the disease in this Commonwealth, the Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to make it unlawful to possess and use as bait unpreserved, refrigerated or frozen eggs taken from VHS-susceptible species of fish from a VHS-affected or VHS-at risk state or region in or along the waters of this Commonwealth except within the Lake Erie watershed.

For purposes of this temporary change, the following terms shall have the following meanings. "VHS-susceptible species" shall include the following species as well as any other fish species later designated by APHIS order or Commission notice published in the *Pennsylvania Bulletin*: Bluegill (*Lepomis macrochirus*); Bluntnose Minnow (*Pimephales notatus*); "Bullhead catfishes" (*Ictalurus spp.*); Brown Trout (*Salmo trutta*); Burbot (*Lota lota*); Channel Catfish (*Ictalurus punctatus*); Chinook Salmon (*Oncorhynchus tshawytscha*); Common Carp (*Cyprinus carpio*); "Crappies" (*Pomoxis spp.*); Emerald Shiner (*Notropis atherinoides*); Freshwater Drum (*Aplodinotus grunniens*); Gizzard Shad (*Dorosoma cepedianum*); Largemouth Bass (*Micropterus salmoides*); Lake Trout (*Salvelinus namaycush*); "Whitefishes" (*Coregonus spp.*); Muskellunge (*Esox masquinongy*); Northern Pike (*Esox lucius*); Pumpkinseed (*Lepomis gibbosus*); Rainbow Trout/Steelhead (*Oncorhynchus mykiss*); Rock Bass (*Ambloplites rupestris*); Round Goby (*Appollonia melanostomus*); "Redhorse Suckers" (*Moxostoma spp.*); Smallmouth Bass (*Micropterus dolomieu*); Spottail shiner (*Notropis hudsonius*); Trout-perch (*Percopsis omiscomaycus*); Walleye (*Sander vitreus*); White Bass (*Morone chrysops*); White Perch (*Morone Americana*); White Sucker (*Catostomus commersonii*); and Yellow Perch (*Perca*

flavescens). A VHS-affected or VHS-at risk state shall include Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk. A VHS-affected or VHS-at risk region shall include the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

The Executive Director also has taken immediate action to make it unlawful to possess and use eggs from VHS-susceptible species of fish from the Lake Erie watershed as bait in other watersheds of this Commonwealth. This action represents a change to § 69.3 (relating to transportation of VHS-susceptible fish out of the Lake Erie watershed), which previously allowed for the possession and use as bait of eggs from VHS-susceptible species of fish from the Lake Erie watershed in other watersheds of this Commonwealth provided the fish were from a group of fish certified as having tested negative for VHS or were from an artificial propagation facility certified as having tested negative for VHS.

The Executive Director has found that these actions are necessary and appropriate for the protection, preservation and management of fish. These temporary modifications will go into effect immediately and will remain in effect until January 1, 2009, unless the Commission, by appropriate action, adopts the new regulation and amendment. The Commission, under a separate notice of proposed rulemaking, will seek public comments on permanent changes to the Commission's fishing regulations.

DOUGLAS J. AUSTEN, Ph. D.,
Executive Director

[Pa.B. Doc. No. 08-1301. Filed for public inspection July 11, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (act) (71 P. S. § 745.5(g)) provides that the Commission may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Close of the Public Comment Period</i> | <i>IRRC Comments Issued</i> |
|-----------------|---|---|-----------------------------|
| 6-311 | State Board of Education Program Approval 38 Pa.B. 1961 (April 26, 2008) | 5/27/08 | 6/26/08 |
| 14-512 | Department of Public Welfare Individual Support Plan for Individuals with Mental Retardation 38 Pa.B. 1937 (April 26, 2008) | 5/27/08 | 6/26/08 |

**State Board of Education
Regulation #6-311 (IRRC #2684)**

Program Approval

June 26, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the April 26, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Education (Board) to respond to all comments received from us or any other source.

Section 42.1. Scope.—Clarity.

To be consistent with the rest of the regulation, the phrase “2-years” in subsection (3) should be “2-year.”

Section 42.11. Application.—Clarity.

Subsection (d)(1)(iv)

This subsection references “applicable statutes and regulations.” To give the regulated community clear guidance on the requirements it is expected to follow, a cross-reference to the “applicable statutes and regulations” should be added. A similar concern applies to Section 42.32(c)(1)(iii).

Subsection (d)(2)

This subsection requires that waivers must be made “in the form and content prescribed by the Department in its application guidelines.” We note that similar provisions in Section 42.32(c)(3) state that these requirements will be posted on the Department’s web site. Will the guidelines in this subsection also be posted on the Department’s web site?

Further, Section 42.32(c)(4) states that the Department will respond to waiver requests in writing. Will the Department also respond to the waiver requests under this subsection in writing?

**Department of Public Welfare
Regulation #14-512 (IRRC #2687)**

**Individual Support Plan for Individuals with
Mental Retardation**

June 26, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the April 26, 2008 *Pennsylvania Bulletin*. Our comments are based

on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

The proposed regulation amends four existing chapters. This first portion of our comments relates to general issues. Following this first portion, our comments will focus on specific provisions within the proposed regulation. Comments on two or more similar provisions from different chapters are combined under the same heading that identifies in bold type the specific sections of the proposed regulation that are being reviewed.

1. General—Statutory authority; Fiscal impact; Reasonableness; Feasibility; Implementation procedures; Clarity.

Single Plan

Given statements by the Department in the Preamble, it is our understanding that there will be one “individual plan” (IP) for an individual who is covered by two or more of the chapters included in this proposed regulation. Two commentators indicated that this intent was unclear in the proposed regulation. We agree. Even though the proposed regulation uses the term “IP” and practically identical requirements and procedures in the four chapters, there is nothing to indicate that the activities regulated by two or more different chapters must be coordinated and unified into a single IP. This lack of direction raises the following issues and questions.

First, different types of individuals are served by the four chapters. Chapters 6400 and 6500 are limited to clients with mental retardation. Chapters 2380 and 2390, however, cover clients with different types of disabilities, including, but not limited to, mental retardation. Hence, providers and their specialists may need to determine which clients might be covered by the different chapters. Who would determine whether an individual was covered by services of the different chapters?

Second, since the Preamble indicates that the supports coordinator manages the development of the IP, one might assume that the supports coordinator would take responsibility for arranging one IP involving two or more chapters. However, there is nothing in the proposed regulation that indicates the supports coordinator must do this.

In addition, there are provisions that place the responsibility for the IP on a program or family living specialist when there is no “assigned supports coordinator.” The “specialists” are employees of the providers and there is no indication how they would coordinate a single plan with other providers. If there is one IP for the activities or services governed by two or more of the four chapters, who is responsible for coordinating the IP with the different providers?

Third, along with a single IP, would there be one joint review meeting with the individual and all his or her different providers governed by two or more chapters? Who will be responsible for coordinating the timing and location of such a meeting if there is no assigned supports coordinator?

The Department needs to formalize the process for unifying two or more chapters into one IP. This is necessary to make the process clear to providers and their clients. The final-form regulation should set forth procedures and requirements for unifying the IP when an individual is receiving services covered by two or more chapters.

Fiscal Impact

A few commentators indicated that the proposed regulation could impose additional costs on providers and others in the regulated community. One example was a concern with the high turnover rate in “supports coordinators.” This situation could be exacerbated by this proposed regulation since more will be required of specialists and other provider staffs if supports coordinators are missing or in transition.

This raises several questions. How frequently are there situations when there is no “assigned supports coordinator” or the position is in transition? What will be the fiscal impact of the proposed regulation on providers if their specialists must take the lead in developing and writing the IP?

Commentators also expressed concerns with potential cost increases related to giving IP teams control of staff-to-client ratios rather than using the minimum staff requirements in the existing regulations.

In developing the final-form regulation, the Department should include a detailed fiscal impact analysis that addresses the issues and questions noted previously.

Articles IX and X of the Public Welfare Code

In their response to Question #9 of the Regulatory Analysis Form, the Department has indicated that its statutory authority for promulgating this regulation stems from Articles IX and X of the Public Welfare Code. In subsequent conversations with the Department, it is our understanding that the Department is specifically relying on 62 P. S. §§ 911 and 1021. With its submittal of the final-form regulation, the Department should clarify its statutory authority, particularly with regard to non-profit institutions governed under Article IX.

2. Sections 2380.3, 2390.5, 6400.4 and 6500.4. Definitions.—Reasonableness; Clarity.

Document and Documentation

The words “document,” “documenting” and “documentation” are used in several provisions in the proposed regulation. However, it is unclear what is entailed in “documenting.” Does this simply entail a staff person making a note or keeping a record, or does it mean gathering evidence and independent verification? The final-form regulation should either define the term or should specify the types or forms of documentation required for each provision.

Outcome

The term “outcome(s)” is used throughout the proposed regulation. It appears to be a “term of art” for mental health professionals with a definition that is somewhat different from the standard definition for this word in most dictionaries. One commentator expressed concern with this term. The final-form regulation should include a definition for the term in each of the four chapters.

Supports Coordinator

The use of the term “individual” within this definition is inconsistent with how the term “individual” is defined in the existing provisions of three of the four chapters. As a result, rather than change the existing definition of “individual,” the Department should change the word “individual” in this definition to “person” in the relevant sections of the final-form regulation.

In addition, what are “case management functions?” The term is used in the definition for “supports coordina-

tor” but it is not defined. The final-form regulation should include a definition for this term.

3. Sections 2380.33, 2390.33, and 6400.44. Program specialist; and Section 6500.43. Family living specialist.—Implementation procedures; Clarity.

These sections provide information regarding the different types of specialists and their responsibilities. We raise six issues.

First, subsections 2380.33(b)(5), 2390.33(b)(5), 6400.44(b)(5) and 6500.43(d)(5) all indicate that the appropriate specialist shall be responsible for providing the completed assessment and IP prior to the planning meeting, and this information shall be sent to the appropriate persons “*within 30 days following the receipt of notification of the planning meeting.*” (Emphasis added.) However, these subsections do not make clear whether the planning meeting could occur within this 30-day time frame, and thus, the relevant information may not be received in time. Therefore, the final-form regulation should clarify that the planning meeting would occur **after** the 30-day deadline.

Second, Subsections 2380.33(b)(6)(i) and (ii); 2390.33(b)(6)(i) and (ii); 6400.44(b)(6)(i) and (ii); 6500.43(d)(6)(i) and (ii) use the term “content discrepancy,” however, it is unclear how the Department would determine whether such a discrepancy exists. Therefore, the final-form regulation should include examples of when this would occur.

Third, in Subsections 2380.33(b)(8), 2390.33(b)(8) and 6400.44(b)(8) what are “direct support professionals?” The final-form regulation should include a definition for this term.

Fourth, it appears that Subsections 2380.33(b)(10) and (11); 2390.33(b)(10) and (11); 6400.44(b)(10) and (11); 6500.43(d)(10) and (11) require both monthly **and** quarterly documentation of the “individual’s participation and progress for IP outcomes.” (Emphasis added.) The final-form regulation should explain the need for both types of documentation, in particular, why the regulation “ensures” monthly documentation, but is “providing” quarterly documentation. Furthermore, the Department should explain why the regulation states that quarterly documentation should be submitted to “the supports coordinator, individual, and if appropriate, the individual’s parent, guardian, or advocate,” but does not include the same for monthly documentation.

Fifth, Subsections 2380.33(c), (d) and (e); 2390.33(c), (d) and (e); 6400.44(c), (d) and (e); 6500.43(e) and (f) mention individuals that do not have supports coordinators. However, the regulation does not indicate how the specialist would determine whether or not there is an assigned supports coordinator. The final-form regulation should clarify this process. In addition, has the Department considered combining these three subsections together?

Finally, Subsection (d) in 2380.33, 2390.33, and 6400.44 provides that without an assigned supports coordinator, “the program specialist shall prepare the IP using **the Department approved format.**” (Emphasis added.) However, the regulation does not describe the approved format or how to obtain copies. The final-form regulation should indicate whether it will be available online or identify the appropriate Bureau or Division to contact with questions regarding the format.

4. Sections 2380.35 and 6400.45. Staffing.—Implementation procedures; Clarity.

The proposed regulation amends both sections by adding language stating that “direct staff support” and

“staffing ratios” must “be implemented as written” and “specified in the IP.” However, the existing Subsection (a) in both sections specifies minimum required ratios for staff and individuals. A commentator raised similar concerns regarding Subsection (a) and the new language in Subsections 2380.35(e) and (f). It should be noted that similar language is also included in Subsections 6400.45(d) and (e).

The Department should determine whether the minimum ratios prescribed in Subsection (a) apply to the staff ratios set up by the IPs, or whether the Department should revise Subsection (a). In addition, the final-form regulation should clarify any resulting conflicts including whether the exceptions in the original regulation at Section 2380.35(a) are allowed (i.e. “except while staff persons are attending meetings or training at the facility”).

Finally, what is the difference between the phrase “direct staff support as specified in the IP shall be implemented as written” and the other phrase “staffing ratios specified in the IP shall be implemented as written”?

5. Sections 2380.101 and 2390.91. Program activities and services.—Need; Clarity.

Originally, these sections required that “program activities” shall be provided, as specified in each IP. The proposed regulation adds that “services” must also be provided. However, the regulation does not define “services,” nor does it explain the need for including this term. In order to resolve these issues, a definition for this term should be included in the final-form regulation.

6. Sections 2380.103, 2390.95, 6400.122, and 6500.112. Development of the IP.—Implementation procedures; Clarity.

In Section 2380.103(2), the new time period for completion of the IP is “within 30 days after the individual’s admission date.” Why not use “30 individual attendance days” which is used in the existing regulation, or “60 days” or “90 days,” as proposed in other chapters? Why is the measurement of “attendance days” being dropped in the proposed regulation? What happens if the individual is absent for a prolonged period? The final-form regulation should explain not only the need for, but also provide for possible exceptions to this deadline.

In Sections 2380.103(9), 6400.122(9) and 6500.112(8) what type of change to the individual’s needs would prompt the planning team to review an IP more frequently?

7. Sections 2380.104, 2390.97, 6400.123 and 6500.113. Review of the IP.—Implementation procedures; Clarity.

Section 2380.104(a) states that the review of each individual’s progress can be completed “every 3 months, or more frequently if the individual’s needs change.” A commentator questioned if the review is moved up before the three month mark, will subsequent reviews be recalibrated to be three months from the earlier date or from the original date for the “three-month” review? The Department should clarify this issue in the final-form regulation.

Sections 2380.104(c)(1), (2) and (3); 2390.97(d)(1), (2) and (3); 6400.123(c)(1), (2) and (3); 6500.113(c)(1), (2), and (3) all provide various circumstances for when an IP shall be revised. Who is responsible for making these determinations? Is it the provider, the IP team or the Department? If there is a disagreement between a provider and

a client or client’s family or representative, what is the process for resolving the difference?

8. Sections 2380.106, 2390.96, 6400.125, and 6500.115. Content of the IP.—Implementation procedures; Duplication; Clarity.

The topics and their sections are not necessarily in the same order in each chapter. For example, the section on “content of the IP” comes before the section on “review” in Chapter 2390, but there is a different order in the other chapters. The Department should review the numerical order of their sections, and if appropriate, make the necessary changes.

In Sections 2380.106(a)(5), 2390.96(a)(5), 6400.125(a)(5), and 6500.115(a)(6) the phrase “greater level of independence” is vague. It is unclear how specialists determine whether an individual had achieved a greater level. The final-form regulation should provide examples of how this is observed or measured. Also, the final-form regulation should clarify whether the term “assessment” refers to an individual’s initial or periodic assessment.

In Sections 2380.106(a)(7) and (8); 6400.125(a)(7) and (8); 6500.115(a)(7) and (8), what is “maladaptive behavior?” Also, in Sections 2380.106(a)(8), 6400.125(a)(8), and 6500.115(a)(8), what are examples of “restrictive procedures”? The final-form regulation should include definitions for both of these terms.

9. Chapter 2390. Vocational Facilities.—Clarity.

Section 2390.94 requires an “initial assessment” of the individual within 20 attendance days of admission. How often will assessments be performed after the first one? Where is this specified in the regulation? Section 2390.97 requires a review of the IP every three months, but it does not specifically mention an assessment. The timing of new assessments or re-assessments should be specified in the final-form regulation.

10. Section 2390.99. Interdisciplinary team responsibility for individual written program plan.—Clarity.

This section is among the existing provisions in Chapter 2390. However, it is not included in the proposed regulation, even though its title includes the term “individual written program plan,” which is being deleted elsewhere in this chapter. The section reads:

The interdisciplinary team is responsible for ensuring that the client needs specified in the plan are met.

If this section is to be retained, should the title be revised and the term “plan” in the text be replaced with the new acronym “IP” in the final-form regulation?

11. Chapter 2390, Appendix A.—Clarity.

Appendix A is entitled “Vocational Facilities Licensing Inspection Instrument.” In a few places, this appendix refers to the “individual written program plan” or “IWPP.” When will this appendix be updated to refer to the IP rather than an IWPP?

12. Section 6400.127. Copies of the IP.—Clarity.

What will happen to the existing language in Subsection (b), which includes the current acronym of “IPP” (individual program plan)? It appears that the proposed regulation would move this existing language to the new Subsection (d) unaltered.

13. Section 6500.43. Family living specialist.— Clarity.

In the new language in Subsection (d)(10), the words “participation progress” appear together. Should there be an “and” between these two words? The phrase “participation and progress” is used in Subsection (d)(11). The Department should review the regulation and make the appropriate changes to the final-form regulation, if necessary.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1302. Filed for public inspection July 11, 2008, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

| Reg. No. | Agency/Title | Public Received | Meeting |
|----------|--|-----------------|---------|
| 57-258 | Pennsylvania Public Utility Commission Electronic Filing | 6/25/08 | 8/7/08 |
| 57-248 | Pennsylvania Public Utility Commission Inspection and Maintenance Standards for the Electric Distribution Companies | 6/25/08 | 8/7/08 |

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1303. Filed for public inspection July 11, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority

LTC-1 Associates, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Forest City Personal Care in Forest City, PA. The initial filing was received on June 25, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the

statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syeger@state.pa.us.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1304. Filed for public inspection July 11, 2008, 9:00 a.m.]

Erie Insurance Exchange; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing

On June 23, 2008, the Insurance Department (Department) received from Erie Insurance Exchange a filing for rate level changes for private passenger automobile insurance.

The company requests an overall rate change of 0.0% amounting to a decrease of \$351 thousand annually to be effective on November 1, 2008.

Unless formal administrative action is taken prior to August 22, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department’s web site at www.ins.state.pa.us. To access the filing, under “Quick Links” click on “Rate Filings Published in the PA Bulletin.”

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department’s Harrisburg Regional office.

Interested parties are invited to submit written comments, suggestions or objections to Eric Zhou, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1305. Filed for public inspection July 11, 2008, 9:00 a.m.]

Travelers Personal Insurance Company; Travelers Personal Security Insurance Company; Travelers Commercial Insurance Company; Private Passenger Automobile; Rate Revisions; Rate Filing

On June 19, 2008, the Insurance Department (Department) received from Travelers Personal Insurance Company, Travelers Personal Security Insurance Company and Travelers Commercial Insurance Company a filing for rate level changes for private passenger automobile insurance.

The companies request an overall 5.5% increase amounting to \$6.965 million annually, to be effective September 24, 2008.

Unless formal administrative action is taken prior to August 18, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional office.

Interested parties are invited to submit written comments, suggestions or objections to Michael P. McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-1306. Filed for public inspection July 11, 2008, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Berks County, Wine & Spirits Store #0622, (Relocation), Reading, PA

Lease Expiration Date: August 31, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,300 to 8,000 plus net useable square feet of new or existing retail commercial space. Location must be along Perkiomen Avenue in Exeter Township, Reading, PA, Berks County.

Proposals due: August 8, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Ronald Hancher, (717) 657-4228

Chester County, Wine & Spirits Store #1517, (Relocation), Wayne, PA

Lease Expiration Date: April 30, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 to 10,000 net useable square feet of new or existing retail commercial space. Location must be within a 1 mile radius from the intersection of Lancaster Avenue and Berkley Road, Tredyffrin Township, Wayne, PA, Chester County.

Proposals due: July 25, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

Montgomery County, Wine & Spirits Store #4618, (Relocation), Norristown, PA

Lease Expiration Date: March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new

or existing retail commercial space. Location must be within a 1 mile radius from the intersection of Main and DeKalb Streets, Norristown, PA, Montgomery County.

Proposals due: July 18, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 08-1307. Filed for public inspection July 11, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Extension of the Fuel Cost Recovery Surcharge

Order

Public Meeting held
June 24, 2008

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

Extension of the Fuel Cost Recovery Surcharge; S.P. 28209

Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) by its Fuel Cost Recovery Surcharge Order at Special Permission Number 28209, ratified June 1, 2006, authorized call or demand, paratransit and airport transfer carriers under the jurisdiction of this Commission to adjust rates and fares to offset significant increases in the cost of fuel. The fuel surcharge became effective on July 1, 2006, and was extended on June 21, 2007. It is currently scheduled to terminate on June 30, 2008.

In a letter dated May 1, 2008, the Pennsylvania Taxicab and Paratransit Association (PTPA), on behalf of its members, has requested that this Commission extend the fuel cost recovery surcharge for a period of 1 year. PTPA cites the ongoing instability of retail gasoline prices as the reason for this request.

Initially, all call or demand, paratransit and airport transfer carriers were authorized to collect the surcharge found on the Fuel Surcharge page of the Commission's web site. The average price of fuel was posted on the third Friday of each month, with the effective date of the surcharge being the first day of the subsequent month. The Commission determined the average cost of unleaded regular gasoline based upon gasoline prices in the index of the Energy Information Administration of the United States Department of Energy. The amount of the fuel surcharge was determined by locating the average price of gasoline on a chart, also displayed on that page, and selecting the corresponding fuel surcharge in the column for the respective type of transportation.

Determination of the amounts to be charged was based on the cost of gasoline per trip. The constants used for calculations were those based upon statistics from the Taxicab, Limousine and Paratransit Association: The av-

erage trip length of 6.8 miles for call or demand carriers and 13.61 miles for paratransit and airport transfer carriers; the average miles per gallon per vehicle of 15.04 for call or demand carriers and 13.01 for paratransit and airport transfer carriers; and \$1.35 per gallon of unleaded regular gasoline (the average cost in 2002 according to Energy Information Administration of the Department of Energy). The cost per trip was calculated by multiplying the price of gasoline by the ratio of miles per trip to miles per gallon. The cost per trip at \$1.35 per gallon would serve as the base line. The results are tabulated in the chart as follows.

PASSENGER CARRIER FUEL SURCHARGE CHART

| FUEL (\$/Gal) | TAXICABS* | PARATRANSIT/ AIRPORT TRANSFER** |
|---------------|-----------|---------------------------------------|
| \$3.00—\$3.09 | \$.75 | \$1.70 |
| \$3.10—\$3.19 | \$.80 | \$1.80 |
| \$3.20—\$3.29 | \$.85 | \$1.95 |
| \$3.30—\$3.39 | \$.90 | \$2.05 |
| \$3.40—\$3.49 | \$.95 | \$2.15 |
| \$3.50—\$3.59 | \$1.00 | \$2.25 |
| \$3.60—\$3.69 | \$1.05 | \$2.35 |
| \$3.70—\$3.79 | \$1.10 | \$2.45 |
| \$3.80—\$3.89 | \$1.15 | \$2.55 |
| \$3.90—\$3.99 | \$1.20 | \$2.65 |
| \$4.00—\$4.09 | \$1.25 | \$2.75 |
| \$4.10—\$4.19 | \$1.30 | \$2.85 |
| \$4.20—\$4.29 | \$1.35 | \$2.95 |
| \$4.30—\$4.39 | \$1.40 | \$3.05 |
| \$4.40—\$4.49 | \$1.45 | \$3.15 |
| \$4.50—\$4.59 | \$1.50 | \$3.25 |
| \$4.60—\$4.69 | \$1.55 | \$3.35 |
| \$4.70—\$4.79 | \$1.60 | \$3.45 |
| \$4.80—\$4.89 | \$1.65 | \$3.55 |
| \$4.90—\$4.99 | \$1.70 | \$3.65 |
| \$5.00—\$5.09 | \$1.75 | \$3.75 |
| \$5.10—\$5.19 | \$1.80 | \$3.85 |
| \$5.20—\$5.29 | \$1.85 | \$3.95 |
| \$5.30—\$5.39 | \$1.90 | \$4.05 |
| \$5.40—\$5.49 | \$1.95 | \$4.15 |
| \$5.50—\$5.59 | \$2.00 | \$4.25 |
| \$5.60—\$5.69 | \$2.05 | \$4.35 |
| \$5.70—\$5.79 | \$2.10 | \$4.45 |
| \$5.80—\$5.89 | \$2.15 | \$4.55 |
| \$5.90—\$5.99 | \$2.20 | \$4.65 |
| \$6.00—\$6.09 | \$2.25 | \$4.75 |
| \$6.10—\$6.19 | \$2.30 | \$4.85 |
| \$6.20—\$6.29 | \$2.35 | \$4.95 |
| \$6.30—\$6.39 | \$2.40 | \$5.05 |
| \$6.40—\$6.49 | \$2.45 | \$5.15 |
| \$6.50—\$6.59 | \$2.50 | \$5.25 |

| FUEL (\$/Gal) | TAXICABS* | PARATRANSIT/ AIRPORT TRANSFER** |
|---------------|-----------|---------------------------------------|
| \$6.60—\$6.69 | \$2.55 | \$5.35 |
| \$6.70—\$6.79 | \$2.60 | \$5.45 |
| \$6.80—\$6.89 | \$2.65 | \$5.55 |
| \$6.90—\$6.99 | \$2.70 | \$5.65 |
| \$7.00—\$7.09 | \$2.75 | \$5.75 |

* The amount is *per trip*.

** The amount is per paying passenger *per trip*.

The Commission’s intention was to create flexibility for both the carriers and the Commission. By establishing gasoline prices which would “trigger” a change in the surcharge, it would no longer be necessary to monitor the surcharge at different intervals. This flexibility would also aid in eliminating the need for emergency petitions, as was the case following Hurricane Katrina in 2005.

In the process of considering this request, the Commission has analyzed current information available from the Energy Information Administration of the United States Department of Energy, the American Automobile Association and OPIS Energy Group. Data from these groups indicate that the retail price of gasoline will continue to increase throughout the summer months and even beyond, due to increased demand and the uncertainty of supply.

Many refineries have failed to return from unplanned outages and maintenance. Should more unplanned outages occur, there will be a significant impact on the future path of prices. Several analysts expect to see refinery maintenance remain relatively high even into June. High import volumes also play a part in keeping supplies adequate. Additionally, there remain many trouble spots across the globe that could affect the crude oil supply, prices and gasoline prices (such as, Venezuela, Nigeria, Iran, and the like). Projections such as this indicate that the cost of gasoline will remain a problem for the transportation industry.

Based on our review, it appears that an extension of the Fuel Cost Recovery is an appropriate way to address the high costs and instability of gasoline prices at the present time. However, the industry should not continue to rely on this measure as a means of relief. Members of the industry will have the responsibility of taking appropriate measures.

After due consideration, we have determined that fuel costs are not likely to decrease. Based upon the evidence available, we are of the opinion that the passenger motor carrier industry continues to have a need for the Fuel Cost Recovery Surcharge to permit the recovery of fuel expenditures; *Therefore,*

It is Ordered that:

1. The Fuel Cost Recovery Surcharge established at Special Permission No. 28209 be and is hereby extended until June 30, 2009, unless changed, cancelled or extended by the Commission.

2. On the third Friday of every month, the Commission shall post on its web site at www.puc.state.pa.us/transport/motor/fuel_surcharge.aspx the average cost of unleaded regular gasoline upon which the surcharge will be determined.

3. Call or demand, paratransit and airport transfer carriers rendering transportation service under the juris-

diction of the PA Public Utility Commission shall notify the public by placing a notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28209. The surcharge has been extended and shall terminate on June 30, 2009. The current surcharge is (insert current charge here) per trip for each paying passenger"

4. The Fuel Cost Recovery Surcharge established at Special Permission No. 28209 be continued until midnight, June 30, 2009, at which time it will expire.

5. The Secretary of this Commission shall duly certify this order and deposit same with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1308. Filed for public inspection July 11, 2008, 9:00 a.m.]

Granger Energy of Morgantown, LLC; Doc. No. M-00051865F0002

Under the Pennsylvania Public Utility Commission's Statement of Policy Guidelines for Determining Public Utility Status, 52 Pa. Code § 69.1401(g) (relating to guidelines for determining public utility status—statement of policy), Granger Energy of Morgantown, LLC, has filed a Notice and Disclosure Statement. Granger asserts that its statement contains information sufficient so that a determination may be made as to the jurisdictional status of its landfill gas facility project located in Morgantown in Berks County.

The project, called the Conestoga Landfill Project, will be constructed at the Conestoga Landfill and is expected to have a capacity output between 6,000 and 10,000 standard cubic feet per minute. This gas is intended to serve three customers and will be delivered to them by means of a pipeline to be constructed by UGI Gas Utilities and maintained jointly by UGI and Granger. The pipeline will interconnect with a pipeline operated by Granger Energy of Honey Brook, LLC—an affiliated company of Granger—which delivers landfill gas in Lancaster County.

Granger maintains that the Conestoga Landfill Project does not meet the requirements to be considered a public utility. Granger states that it will amend its filing in the event of a change in the nature or operation of the project consistent with 52 Pa. Code § 69.1401(g)(4).

The Notice and Disclosure Statement is on file with the Commission and is available for public inspection at the Office of the Secretary, 400 North Street, Harrisburg, PA 17105-3265. A copy of this Secretarial Letter shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1309. Filed for public inspection July 11, 2008, 9:00 a.m.]

Tentative Order

Public Meeting held
June 24, 2008

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

Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standard Interconnection Application Forms; M-00051865

Tentative Order

By the Commission:

In 2006, we finalized our Regulations regarding Interconnection Standards in accordance with the Alternative Energy Portfolio Standards Act of 2004 (AEPS Act), 73 P. S. §§ 1648.1—1648.8, at 52 Pa. Code §§ 75.1—75.51. The Interconnection Standards call for several levels of review for proposed interconnection projects depending on the nameplate capacity of the generation equipment to be installed and the complexity of the project. *See*, 52 Pa. Code § 75.34. The Regulations also provide that standard interconnection forms will be used and posted on electric distribution companies' (EDC) web sites. 52 Pa. Code § 75.33.

Following promulgation of the Interconnection Regulations, the task of developing standard application forms and interconnection agreements for each level of interconnection request was assigned to the Interconnection Standards Working Group. On November 17, 2006, a sub-group was formed to concentrate on development of the interconnection application and agreement forms. The sub-group consisted of representatives from consumer interests, alternative energy system vendors, EDCs and the Energy Association of Pennsylvania.

As Pennsylvania was working with the AEPS Act and its implementation, there was also a regional group that worked with many of the issues confronting Pennsylvania regarding interconnection standards and application forms. That regional group was known as the Mid-Atlantic Demand Resource Initiative (MADRI). In November of 2005, MADRI issued the MADRI Model Small Generator Interconnection Procedures. Those procedures contained standard application and interconnection agreement forms which applied to several different levels of review for specific types of interconnection projects. The Interconnection Standards sub-group organized in November of 2006 was directed to use the MADRI forms as its starting point.

In December of 2007, the Interconnection Standards sub-group reported to Commission Staff that it had finished its work and was prepared to present standard application and agreement forms to the full Interconnection Standards Working Group for comment. On December 19, 2007, Commission Staff forwarded the draft standard application and agreement forms to the full Interconnection Standards Working Group for comment. Very few comments were received. The Interconnection Standards sub-group reviewed and incorporated those comments into a final draft of the standard application forms. On February 13, 2008, Commission Staff forwarded the final draft of the standard application and agreement forms to the full Interconnection Standards Working Group for comment. Only one comment was received which recommended increasing certain nameplate capacity limits to be consistent with amendments to the AEPS Act. The sub-group revised the draft standard

application and agreement forms to address that single comment and the final proposed standard application and interconnection agreement forms were presented to Commission Staff.

At this time, Commission Staff has advised that the Interconnection Standards Working Group has finished its work on the standard application and interconnection agreement forms for interconnection requests. Pursuant to 73 P. S. § 1648.5 and 52 Pa. Code § 75.33, the Commission tentatively adopts the draft standard application and interconnection agreement forms as presented by the Interconnection Standards Working Group. Those application forms are attached to this Tentative Order as Appendix A. It should be noted that the application forms are designed for an internet platform. Several of the items in each of the forms contain drop-down menu boxes for interconnection customers to use. In the event that a prospective interconnection customer chooses not to use the web-based application forms, the EDC can accommodate that customer with printed applications.

The applications and interconnection agreements are split into two discrete formats. First, Level 1 inverter-based systems with nameplate capacities of 10 kW or less, which have been certified per the Commission's Regulations at 52 Pa. Code § 75.34(1)(ii), will be processed with a basic application form and agreement. The application form is designed to provide the EDC with sufficient information at the beginning of the process to permit prompt action on the request and reduce the amount of time the EDC will need to evaluate and approve the interconnection.

The Interconnection Agreements for Levels 1 and 2—4 contain specific limitations on liability and indemnification provisions. These provisions are consistent with the MADRI forms. It should be noted that there is no requirement for insurance. *Final Rulemaking Re Interconnection Standards for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P. S. § 1648.5, L-00050175* (Order entered August 22, 2006), at 19.

By their nature, Levels 2 through 4 interconnection requests are more complicated endeavors and cover a far broader range of equipment installations than a Level 1 interconnection request. For that reason, the Level 2 through 4 standard forms advise prospective interconnection customers of the types of information that may be required by an EDC, but direct the customer to work directly with the EDC to determine the kinds of information needed to process the application. As noted in the standard form, a Level 2, 3 or 4 interconnection may require several meetings with EDC personnel as well as engineering studies as required by the Commission's Regulations. The interconnection application forms proposed in this Tentative Order have been conformed to the higher capacity limits for Customer-generators as provided in Act 35 of 2007, 2007 Pa. Laws 35. It is anticipated that the Commission's Regulations in Chapter 75 of Title 52 of the Pennsylvania Code will be amended in the near future to conform to the increased capacity limits set forth in Act 35.

We will direct that this Tentative Order be published in the *Pennsylvania Bulletin* and a copy of this Tentative Order and Annex A shall be served on all jurisdictional EDCs, all licensed electric generation suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Pennsylvania

Department of Environmental Protection and the Interconnection Standards Working Group. Interested persons may review the proposed application forms at the Commission's web site at www.puc.state.pa.us.

We will seek one additional round of comments on the proposed standard interconnection application forms. Comments to the proposed application forms will be due twenty days from the date of publication in the *Pennsylvania Bulletin*. To the extent that any changes to the application forms are suggested, comments should include a detailed analysis which supports the proposed changes. If engineering components are involved, specific, technical reasons why changes are needed must be provided. Proposed changes that are not supported by appropriate analyses are unlikely to be adopted.

At the conclusion of the comment period, we will review any comments submitted and issue a final Order adopting the resulting standard interconnection application forms. Upon the entry of that final Order, jurisdictional EDCs will be directed to use the standard interconnection application forms and post those forms on their web sites. While there may be occasions when an EDC and a customer generator seeking interconnection will need to deviate from the standard forms, we anticipate that such occasions will be rare. In the event the EDC and the customer generator are unable to reach agreement in those instances, they may avail themselves of the dispute procedure set forth in 52 Pa. Code § 75.51.

CONCLUSION

Pursuant to Section 1648.5 of the AEPS Act, 73 P. S. § 1648.5, and Section 75.33 of the Commission's Regulations, 52 Pa. Code § 75.33, we will tentatively adopt the proposed standard Interconnection Application Forms attached to this Tentative Order as Appendix A and seek comments on those forms. Any interested person may file comments within twenty (20) days of the publication of this Tentative Order in the *Pennsylvania Bulletin*; *Therefore*,

It Is Ordered:

1. That the standard Interconnection Application Forms attached hereto as Appendix A are tentatively adopted for use by jurisdictional electric distribution companies for processing interconnection requests brought under the Commission's Regulations at 52 Pa. Code §§ 75.1 through 75.50.

2. That a copy of this Tentative Order and Annex A be served upon the Commission's Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, all jurisdictional electric utility companies, licensed electric generation suppliers, the Pennsylvania Department of Environmental Protection and the Interconnection Standards Working Group.

3. That the Secretary shall cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin*.

4. An original and fifteen copies of any written comments referencing the caption and docket number of this Tentative Order shall be submitted within twenty (20) days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA. 17105-3265.

5. That the contact persons are Greg Shawley, Bureau of Conservation, Economics and Energy Planning, (717) 787-5369 (technical), and H. Kirk House, Office of Special Assistants, (717) 772-8495 (legal).

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1310. Filed for public inspection July 11, 2008, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.
Kimberly A. Young; Doc. No. 0575-45-2008**

On April 15, 2008, Kimberly A. Young, license no. CO-207755-L, of Audubon, Montgomery County, was assessed an additional civil penalty of \$250, for a total civil penalty due and owing of \$500, based on Kimberly A. Young having failed to pay a civil penalty that is a lawful disciplinary order of the State Board of Cosmetology (Board).

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 08-1311. Filed for public inspection July 11, 2008, 9:00 a.m.]

STATE BOARD OF DENTISTRY

**Bureau of Professional and Occupational Affairs v.
Marela C. Garcia; Doc. No. 1713-46-06**

On May 13, 2008, Marela C. Garcia, unlicensed, of Wynnwood, Montgomery County, was assessed a \$1,000 civil penalty and ordered that as a prerequisite for licensure, she must submit documentation to the State Board of Dentistry evidencing that she has successfully taken and passed the Jurisprudence, Ethics and Risk Management (JERM) Examination, based on findings that Marela C. Garcia held herself out as a practitioner or entitled or authorized to practice dentistry without being duly licensed or certified.

Individuals may obtain a copy of the adjudication by writing to Christopher P. Grovich, Board Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

JOHN V. REITZ, D.D.S.,
Chairperson

[Pa.B. Doc. No. 08-1312. Filed for public inspection July 11, 2008, 9:00 a.m.]

STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v.
John M. Callery, RN; Doc. No. 0345-51-07**

On May 21, 2008, John M. Callery, license no. RN-321279-L, of South Park, Allegheny County, had his nursing license indefinitely suspended, the suspension immediately stayed in favor of probation concurrent with the term of his probation in North Carolina based on disciplinary action taken against his license by the proper licensing authority of North Carolina.

Individuals may obtain a copy of order by writing to Carole L. Clarke, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

MARY E. BOWEN, RN, CRNP,
Chairperson

[Pa.B. Doc. No. 08-1313. Filed for public inspection July 11, 2008, 9:00 a.m.]

STATE BOARD OF PHARMACY

**Bureau of Professional and Occupational Affairs v.
Nasser Mahmud, R.Ph.; Doc. No. 1298-54-07**

On May 30, 2008, the State Board of Pharmacy (Board) suspended the license of Nasser Mahmud, license no. RP-043275-L, of Beltsville, MD, until he submits proof of completion of 30 hours of ACPE continuing education, publicly reprimanded his license and assessed a \$3,000 civil penalty based on findings that he failed to complete 30 hours of continuing education as required by the Board's regulations and that he procured a license through fraud, misrepresentation or deceit, by falsely indicating that he had 30 hours of ACPE approved continuing education.

Individuals may obtain a copy of the order of suspension by writing to Carole L. Clarke, Board Counsel, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649.

This order of suspension represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the

Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of a petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

MICHAEL A. PODGURSKI, R. Ph.,
Chairperson

[Pa.B. Doc. No. 08-1314. Filed for public inspection July 11, 2008, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

**Bureau of Professional and Occupational Affairs v.
James L. Kilpatrick; Doc. No. 0810-60-2008**

On April 18, 2008, James L. Kilpatrick, license no. MV-208423, of Port Allegany, McKean County, had his vehicle salesperson license suspended for his having failed to pay a State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) ordered civil penalty.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

GARY M. BARBERA,
Chairperson

[Pa.B. Doc. No. 08-1315. Filed for public inspection July 11, 2008, 9:00 a.m.]
