

PENNSYLVANIA BULLETIN

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

No. 408, November 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

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THE GENERAL ASSEMBLY

Cost-of-Living Factor Under the Public Official Compensation Law

Under Section 4(d) of the Public Official Compensation Law (Act 72 of 2005), for the 12-month period beginning December 1, 2008, through November 30, 2009, the salary of the members of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period of November 1, 2007, through October 31, 2008.

The percentage increase and the new salary amount have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

The cumulative percentage change in the CPI-U for November 1, 2007, through October 31, 2008, equals 2.8247%. The new salary amount equals \$78,314.66.

Under section 4(d.1) of the Public Official Compensation Law (Act 72 of 2005), for the 12-month period beginning December 1, 2008, through November 30, 2009, the additional compensation of the officers and leaders of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period from November 1, 2007, through October 31, 2008.

The percentage increase and the new compensation amounts have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

| <i>Leadership Position</i> | <i>% Increase</i> | <i>New Compensation</i> |
|-------------------------------------|-------------------|-------------------------|
| President pro tempore/ Speaker | 2.8247% | \$ 43,939.52 |
| Majority Floor Leader | 2.8247% | \$ 35,153.29 |
| Minority Floor Leader | 2.8247% | \$ 35,153.29 |
| Majority Whip | 2.8247% | \$ 26,678.64 |
| Minority Whip | 2.8247% | \$ 26,678.64 |
| Majority Caucus Chairman | 2.8247% | \$ 16,634.37 |
| Minority Caucus Chairman | 2.8247% | \$ 16,634.37 |
| Appropriations Chairman | 2.8247% | \$ 26,678.64 |
| Minority Appropriations Chairman | 2.8247% | \$ 26,678.64 |
| Majority Caucus Secretary | 2.8247% | \$ 10,985.71 |
| Minority Caucus Secretary | 2.8247% | \$ 10,985.71 |
| Majority Caucus Policy Chairman | 2.8247% | \$ 10,985.71 |
| Minority Caucus Policy Chairman | 2.8247% | \$ 10,985.71 |
| Majority Caucus Administrator | 2.8247% | \$ 10,985.71 |
| Minority Caucus Administrator | 2.8247% | \$ 10,985.71 |

W. RUSSELL FABER,
Chief Clerk
Senate of Pennsylvania
ROGER NICK,
Chief Clerk
PA House of Representatives

[Pa.B. Doc. No. 08-2139. Filed for public inspection November 28, 2008, 9:00 a.m.]

Recent Actions during the 2008 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly During the 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 129 through 132 | | | | | |
| 129 | Oct 15 | HB2200 | PN4526 | 30 days | Public Utility Code (66 Pa.C.S.)—omnibus amendments |
| 130 | Oct 15 | SB0763 | PN2500 | Immediately | Local Tax Enabling Act—omnibus amendments |
| 131 | Oct 17 | HB1845 | PN4528 | Immediately | Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—omnibus amendments |
| 132 | Oct 17 | SB0100 | PN2484 | July 1, 2009 | Home Improvement Consumer Protection Act—enactment |
| 2008 VETOES OF REGULAR SESSION OF BILLS—VETO 003 through 004 | | | | | |
| 003 | Oct 17 | SB0740 | PN2499 | Immediately | Conveyance—Commonwealth properties |
| 004 | Oct 17 | SB1258 | PN2487 | Immediately | Fourth to Eighth Class and Selective County Assessment Law—expanding scope of act, application of act and appeals by municipalities |

* 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 dates 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. 08-2140. Filed for public inspection November 28, 2008, 9:00 a.m.]

THE COURTS

Title 255—LOCAL COURT RULES

LUZERNE COUNTY

Order Amending Rule 1302; Rule of Civil Procedure; No. 14722-2008

Order

Now, this 6th day of November, 2008, the Court hereby amends Luzerne County Rule of Civil Procedure 1302, in the following form, effective immediately.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Order, along with the diskette with the Administrative Office of Pennsylvania Courts, two (2) certified copies of this Order and the following rule 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 the local rule 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 1302. Appointment of the Board.

* * * * *

(g) Assessment Appeals

The following provisions shall govern the arbitration of assessment appeals:

(i) All assessment appeals shall be referred by the prothonotary to the Director of Specialty Courts for mediation. A report of mediation shall be filed in all cases.

(ii) The prothonotary shall not appoint a board of arbitrators unless a mediation report is filed.

(iii) Arbitrators shall be appointed as provided for in paragraphs (a) through (e) except that the same board of arbitrators may be appointed to multiple assessment appeal cases scheduled for the same day.

(iv) Compensation: Arbitrators shall be compensated as provided in paragraph (f) except that the compensation of each member of a board of arbitration in assessment appeals assigned to hear multiple cases on the same day shall not exceed \$125.00 per hour, but in no event shall any arbitrator be compensated more than \$125.00 per case without court approval.

[Pa.B. Doc. No. 08-2141. Filed for public inspection November 28, 2008, 9:00 a.m.]

MCKEAN COUNTY

Promulgation of Criminal Procedure; Rule L 117; Criminal Division; No. 82 MD 2008

Order

And Now, this 12th day of November, 2008, the Court approves and adopts McKean County Local Rule of Criminal Procedure L 117 (Coverage: Preliminary Arraignments; and Setting and Accepting Bail). The Rule shall become effective not less than thirty days after publication of the Rule in the *Pennsylvania Bulletin*.

The Court Administrator of the 48th Judicial District is hereby *Ordered* and *Directed* to do the following:

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

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

c. File one (1) certified copy of this *Order* and the pertinent Local Rule with the Criminal Procedure Rules Committee.

d. File one (1) certified copy of this *Order* and the pertinent Local Rule with the Prothonotary. The Prothonotary shall keep continuously available for public inspection, copies of this *Order* and the pertinent Local Rule.

e. Provide one (1) certified copy of this *Order* and the pertinent Local Rule with the Court Administrator of McKean County.

f. Provide one (1) certified copy of this *Order* and the pertinent Local Rule with each Judge of this Court.

By the Court

JOHN H. YODER,
President Judge

Rule L 117. Preliminary Arraignment and Setting and Accepting Bail.

1. In order to comply with the specific coverage requirements of Pa.R.Crim.P. 116, the following schedule for coverage is adopted:

a. All Magisterial District Courts in the 48th Judicial District shall be open to conduct public business during hours approved by the Court and posted at each Magisterial District Court as well as in a conspicuous place within the McKean County Courthouse designated by the President Judge.

b. Continuous Twenty-Four (24) hour coverage shall be in accordance with a rotating schedule of on-call Magisterial District Judges filed annually with the McKean County Clerk of Courts together with any amendments thereto.

c. During normal office hours, each Magisterial District Judge shall be primarily responsible to conduct all business relating to civil or criminal matters within his or her Magisterial District. Also, each Judge shall provide services pursuant to Pa.R.Crim.P. 117(A)(2)(a). The Magisterial District Judge on Twenty-Four (24) hour duty shall

be available if coverage has been prearranged or in the event of an emergency.

d. After normal office hours, during the week, the on-call Magisterial District Judge shall be available to conduct arraignments until 10:00 p.m. and to provide services pursuant to Pa.R.Crim.P. 117(A)(2)(a). Between the hours of 10:00 p.m. and 8:00 a.m., the on-call Judge may at his or her discretion defer the performance of Rule 117(A)(2)(a) services until after 8:00 a.m.

e. On weekends and holiday, the on-call Magisterial District Judge shall be available to conduct arraignments from 8:00 a.m. to 10:00 p.m. and provide services pursuant to Pa.R.Crim.P. 117(A)(2)(a). Between the hours of 10:00 p.m. and 8:00 a.m., the on-call Judge may at his or her discretion defer the performance of Rule 117(A)(2)(a) services until after 8:00 a.m.

f. The on-call Magisterial District Judge shall be available at all times during the week after normal business hours and at all times during weekends and holidays to issue search warrants, arrest warrants and emergency orders under the Protection From Abuse Act.

2. Bail Before Verdict:

a. During normal office hours, bail may be posted at the Magisterial District Court from which the transcript shall issue.

b. The on-call District Judge shall provide continuous coverage for the purpose of executing Pa.R.Crim.P. 117 as has been the established procedure, and further, that in the event an incarcerated defendant and/or person acting in his behalf wishes to post bail, the Warden of the McKean County Jail or his designated agent shall immediately contact the on-call District Judge in order that bail may be posted without undue delay.

c. Bail may also be posted, prior to the return of the transcript, on any day and at any time at the McKean County Jail with a correctional officer approved by the Warden of the Facility and deputized by the McKean County Clerk of Courts.

Certification

I hereby certify that this is a true and correct copy of McKean County Local Rule of Criminal Procedure L 117.

[Pa.B. Doc. No. 08-2142. Filed for public inspection November 28, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

STATE CONSERVATION COMMISSION

[25 PA. CODE CH. 83]

Facility Odor Management

The State Conservation Commission (Commission) is adopting final-form regulations in Chapter 83, Subchapter G (relating to facility odor management) to govern odor management at certain facilities and agricultural operations. These final-form regulations are authorized by 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

These final-form regulations were adopted at the Commission's meeting of July 29, 2008.

A. *Effective Date*

These regulations will go into effect February 27, 2009.

B. *Contact Person*

For further information, contact Karl G. Brown, Executive Secretary, State Conservation Commission, Suite 407, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110, (717) 787-8821. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form regulation is available on the Commission's web site: www.agriculture.state.pa.us/agriculture/cwp/view.asp?a=3&q=127144.

C. *Statutory Authority*

These final-form regulations are promulgated under 3 Pa.C.S. § 504(1.1) (relating to powers and duties of Commission), which authorizes the Commission to promulgate regulations establishing practices, technologies, standards, strategies and other requirements for odor management plans (OMPs); section 4 of the Conservation District Law (3 P.S. § 852), which authorizes the Commission to promulgate rules and regulations as may be necessary to carry out its functions; and section 503(d) of the Conservation and Natural Resources Act (71 P.S. § 1340.503(d)), which amended the authority and responsibilities of the Commission, the Department of Environmental Protection (DEP) and the Department of Agriculture.

D. *Background and Introduction*

Act 38 was signed by Governor Rendell on July 6, 2005, and constituted an important part of his initiative to protect Agriculture, Communities and the Rural Environment (ACRE). As part of that initiative, the DEP and the Commission promulgated other regulations implementing Act 38 provisions addressing water quality issues in 2005 and 2006. At the same time, various funding, technical assistance and policy development programs aimed at supporting agriculture in this Commonwealth were started and expanded during that same time frame. Examples are the Commission's enhanced Plan Development Incentives Program (PDIP) to support phosphorus based nutrient management plan writing, grants for alternative manure utilization and technologies projects, expanded agricultural compliance and technical assistance and expanded regulatory oversight over the farm community.

These final-form regulations address the concerns of communities about odors generated at new and expanding agricultural operations. The final-form regulations require OPMs for manure storage facilities and animal housing facilities at the operations most likely to elicit public concerns from neighbors—concentrated animal operations (CAOs) and concentrated animal feeding operations (CAFOs).

CAOs and CAFOs fall under a very comprehensive set of water quality regulations which have recently been amended to address current environmental issues. CAOs shall meet various requirements under Chapter 83 (relating to State Conservation Commission), administered by the Commission and delegated county conservation districts. CAFOs shall follow permitting requirements under the National Pollutant Discharge Elimination System (NPDES) regulations administered by DEP under Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). Those regulations address water quality, not odor management.

These final-form regulations were developed in close coordination with several groups. First, the Nutrient Management Advisory Board (NMAB) was highly involved with the development of these final-form regulations. The NMAB represents a wide range of agricultural, academic, governmental, environmental and private interests. A special NMAB Committee was formed and met with the Commission staff more than 20 times from 2006 through 2008, providing strong direction and assistance to the Commission staff in developing these final-form regulations. The Committee and the Commission staff led discussions of the proposed rulemaking with the full NMAB on April 13, 2006, July 13, 2006, December 5, 2006, February 6, 2007, July 12, 2007, September 5, 2007, October 10, 2007, and April 24, 2008. The NMAB approved these final-form regulations on April 24, 2008, and passed them on to the Commission with their recommendation for the Commission's approval.

In addition to the extensive involvement of the NMAB, the Commission's staff has worked closely with a team of experts on odor management at the Pennsylvania State University (PSU). These experts have developed and refined an odor management planning process over the last several years. This process was the one the Legislature had in mind when it passed the odor management provisions of Act 38. Key elements of this process have been incorporated into the regulations and are described in some detail in this preamble.

The Commission staff also worked with a third group—an interagency team of agriculture experts from the Department of Agriculture, the United States Department of Agriculture Natural Resources Conservation Service (NRCS), county conservation districts, DEP, the PSU College of Agricultural Sciences and Penn State Extension.

The Commission's staff provided briefings on the regulations as they were being developed and finalized, to numerous groups representing local government, industry and the public. The Agriculture Air Quality Task Force also received briefings on the draft regulations during 2006.

Finally, the Commission held two public meetings and two public hearings to solicit comments on the proposed regulations. The two meetings were held on October 1, 2007, and October 4, 2007, in Dubois and Lancaster, respectively. The two hearings were held on October 8, 2007, and October 11, 2007, in Dubois and Lancaster, respectively.

This final-form rulemaking incorporates the input from all the parties described previously, in addition to the 12 commentators that provided formal comments on the proposed regulations during the 60-day comment period. These final-form regulations follow the format of the nutrient management regulations in Chapter 83, to facilitate comprehension by the regulated community and others familiar with those regulations.

Two key aspects of these regulations bear special mention. First, the regulations are limited in their scope to odors associated with new or expanding manure management and animal housing facilities at CAOs and CAFOs. These regulations do not otherwise apply to existing agricultural operations, and they do not address odor from land application of manure. These limitations reflect the odor management provisions in Act 38.

Second, the OMPs are not required to eliminate odors. Under Act 38, they only need to include reasonably available technology, practices, standards and strategies to manage odor impacts, considering both the practical and economic feasibility of installation and operation and the potential impacts from the facilities. This aspect of Act 38 reflects the impracticality of completely eliminating odors associated with agricultural operations, as well as the evolving nature of the science of odor management and of the regulation of odor management. The Legislature was obviously cognizant of the subjective nature of odors in rural areas and the difficulties in eliminating and regulating them. The Commission developed this rulemaking with that legislative dictate in mind.

E. Summary of Changes from the Proposed Rulemaking General

Clarifying and stylistic changes to the proposed regulations are made throughout these revisions. Many changes are intended to address changes requested by the Independent Regulatory Review Commission (IRRC) to conform to the Regulatory Review Act (71 P. S. §§ 745.1—745.15). Some of these will be described as follows.

Numerous commentators expressed their support of the Commission's proposal. Commentators expressed that the process outlined in the regulations is a balanced and flexible approach of addressing odor management from animal production operations. The proposal was described by a majority of the commentators as being practical for the farm community to implement.

A majority of the commentators indicated their support of the Commission's position to assess an operation based on the characteristics of the area existing at the time of the plan development. Also they strongly supported the concept of not requiring plan amendments unless the farm is proposing a significant expansion or new construction activity that would be expected to increase the impacts from odors generated from the site. These commentators expressed that a person moving into an area next to an existing animal operation should consider the possible impacts from the farm as they are assessing the area, and not hold the farmer responsible to add additional odor BMPs to address new neighbors moving into the area, unless the farmer is making changes to the farm at the same time.

A commentator expressed the need for the Commission to meet with representatives from the Pennsylvania State Association of Township Supervisors (PSATS) and builders organizations to discuss the problems created when residential development is encouraged to take place in close proximity to farming areas. The Commission agrees with this comment and will make the effort to actively reach out to these entities to help them understand how their efforts, in combination with these new requirements, can help minimize conflicts with agricultural operations in their area.

A commentator expressed that the public should be given access to the processes involved in developing and maintaining an OMP. The program as developed under these regulations will provide the public with access to proposed plans, and an opportunity to provide comments, during the approval process. The plans will be approved by the Commission, or the local county conservation district. Those approvals will be made at public meetings, and access to the final plan will be allowed prior to the meetings. This is the same process followed for Nutrient Management Plans under Act 38.

§ 83.701 (relating to definitions)

Impact. Two commentators expressed some concern relating to the definition of the term "impact" as used in the regulations. The proposed definition excluded the assessment of property values and health effects when assessing the potential impact of an operation on the neighboring landowners. These two commentators questioned why those issues were not included in this definition. One additional commentator expressed support for the Commission's definition of "impact" and supported the lack of any requirement to consider these issues.

The statute requires OMPs that "manage the impact of odors," but does not define the word "impact." The Commission has developed a use of that term that is consistent with the statute, based on consideration of the language in the statute, and the nature of the science of odor management at agricultural operations in this Commonwealth at the time Act 38 was passed by the Legislature.

There is no clear indication in the statute that odor impacts must include mental and physical health affects, or changes in property values. The statutory references to health and safety in unrelated sections listed by one commentator were provisions contained in the statute when it was the Nutrient Management Act, which addressed solely water quality impacts from nutrient pollution. Those impacts were well known at the time the Nutrient Management Act was passed. The situation was very different for odors in 2005 when the Legislature added these new provisions to the Nutrient Management Act and created Act 38.

When Act 38 became law in 2005, there was an existing OMP offered by the PSU College of Agriculture. The program was well-known to the Legislature—indeed, the factors and criteria used in 3 Pa.C.S. § 504(1.1) are very similar to the ones used by the PSU voluntary OMP. Therefore, the Commission believes that the Legislature intended that the odor management requirements under Act 38 would follow the then-existing PSU program.

The PSU voluntary OMP management program was developed over several years using data from hundreds of personal interviews by PSU researchers, who studied the

main indicator of “odor impacts”—conflicts between farms and their neighbors. The conflicts were essentially objections raised or asserted by neighbors to the odors from new and expanded operations after they became operational. The PSU researchers were able to identify the various factors that caused these conflicts, including those that were later contained in 3 Pa.C.S. § 504(1.1)(i). Notably, this scientific research did not address mental and physical health effects, or changes in property values.

The PSU research also included evaluation of measures which can be taken to minimize these conflicts, as the location and positioning of new farm buildings and other structures. Again, the measures were directed at minimizing the causes for conflicts, not for addressing any health or property value effects.

Therefore, the Commission believes that the final-form rulemaking stays true to the intent of the Legislature when Act 38 was passed. If the Legislature desires to expand the scope of the odor management program in the future to encompass these other issues, the Commission will revise these regulations accordingly.

Expansion: This term was suggested to be defined in the regulation to provide consistent implementation of the regulation. The Commission agreed with the comment and included a definition of this term in the final-form rulemaking.

Construction: This term was suggested to be included in the definition section of the regulations to further program consistency. The Commission agreed with this comment and included this definition.

§§ 83.711 and 83.721 (relating to applicant eligibility.)

Plan development: Commentators suggested that the Commission allow for plan development funding for any existing animal operation, including expanding operations. The Commission agreed with this comment and therefore the final-form rulemaking has been revised to allow the Commission to support plan development for all operations in existence as of February 27, 2009. Plan development is key to addressing odor management issues from farming operations and the Commission believes that it is important to support efforts to develop these plans on all farms in the State.

§ 83.731 (relating to conservation districts)

Heading: A commentator expressed the confusion that could exist with the heading of this section. The heading implied that the Commission may delegate to various local agencies, where the statute only permits delegation to properly qualified conservation districts. The Commission agreed with the comment and revised the heading to more accurately reflect that only conservation districts will be considered by the Commission for delegation of authority under this new regulation.

§ 83.741 (relating to general)

Types of Operations: The Commission discovered that it failed to include one of the circumstances by which a farm could change its animal density and therefore become a CAO and possibly a CAFO. The final-form regulation was revised to include the situation when a farm operation may lose acreage and therefore fall under the CAO and possibly CAFO designation.

§ 83.742 (relating to identification of construction activities)

(*Editor's Note:* The proposed addition of § 83.742 was withdrawn by the Commission.)

Section 83.742 of the proposed regulations was deleted in the final-form rulemaking, since it is incorporated into the definition of construction and construction activities.

Expanding a manure storage when improving storage integrity: The regulations stated that when improving the integrity of an existing storage, if the operator does not expand the facility by more than 15% then the activity would not be considered construction for the purposes of planning under the act. A commentator indicated that the Commission should define from what point in time that 15% expansion is to be measured from. The Commission has revised this wording (which now resides in the definition section under “construction”) to say that the percentage increase will be measured from the current manure storage volume as verified by the approved Nutrient Management Plan.

Replacing a destroyed animal facility: A commentator expressed support of the Commission's direction to allow replacement of a destroyed animal housing facility with one of similar size. The Commission further clarified this wording which now resides in the definition section under “construction” by stating that if the replacement building has a similar animal capacity as the one that was destroyed, this activity would not be considered construction for the purposes of planning under the act.

§ 83.751 (relating to content of plans)

Conformance with local ordinances: A commentator expressed that the Commission should add wording to this section of the regulations to state that OMPs need to be consistent with any local land use ordinance. The Commission believes that the incorporation of this comment could allow for a local ordinance to impair the Commission's ability to approve an OMP, even if that ordinance was in conflict with the regulations. This is contrary to the intent of 3 Pa.C.S. § 519 (relating to preemption of local ordinances), as well as Chapter 3 of Act 38, which establish and protect the preemption of the State-Wide Odor Management Program over certain local laws and regulations.

§ 83.761 (relating to identification of agricultural operations and regulated facilities)

Surrounding land use: Comments were provided which indicated that the readers were confused about the scope of the assessment required by the Commission relating to the “surrounding land use.” In the final-form regulations, § 83.761(a)(2)(iii) and (b)(3) have been removed as they were redundant and therefore creating confusion. Section 83.771(b)(1) and (2) have been revised to clarify the criteria needed to conduct an evaluation.

The “surrounding land use” criterion is given meaning in § 83.771(b)(1)(ii), where the types of uses to be considered are listed. Beyond these basic criteria, further details are described in the Commission's Odor Management Guidance, where Surrounding Land Use Factors are described for completing an Odor Site Index. The Guidance is not a requirement, but is available to persons preparing OMPs.

Prevailing winds: A commentator questioned how the program was proposing to assess the direction of the prevailing winds during plan development. The prevailing winds text was removed from this section of the regulations but it remains in the Evaluation section of the regulations. The technical experts at PSU provided that, prevailing winds in this Commonwealth are commonly from the West-Northwest. Therefore for the purposes of this program, the Commission uses West to Northwest as the prevailing wind direction. The final-form rulemaking has been revised to explicitly indicate that West and Northwest will be presumed to be the prevailing wind direction under the Act 38 Facility Odor Management Program.

§ 83.762 (relating to operator commitment statement)

Documentation requirements: Section 83.762(3) has been revised to replace the word "records" with "documentation" and "documentation of plan implementation activities," consistent with the revisions made in § 83.791.

§ 83.771 (relating to managing odors)

Accessibility of BMP information: Many commentators expressed a concern that some of the information relating to the Level 2 Odor BMPs would only be available if the person requesting that information could pay for the copy-right and duplication fees imposed on those documents. The regulations list three possible reference sources for Level 2 Odor BMPs. The Commission has restructured these lists to ensure that they are all open and available to the public through the Commission's free web site. For individuals that do not have access to the Internet, the Commission will provide these BMP lists upon request at no charge to the public.

Use of AEU's to determine evaluation distance: A commentator indicated that the Commission should specifically identify what criteria will be used for determining evaluation distance for odor management planning purposes. Subsection (b)(3) was not definitive enough for the reader to feel comfortable in understanding how the Commission would make this determination. The Commission agreed with this comment and the final-form regulation has been revised to state that AEU's "shall" be used for determining the evaluation distance used within the program.

Time period to implement: It was obvious through the various comments the Commission received on this topic that many readers were confused about the 3-year lifespan of an approved plan. In the final-form rulemaking, § 83.801(f) has been revised to remove the redundant language. In addition, § 83.771(d) has been revised to clarify that an evaluation must be redone (by means of a new plan) if construction activities on the regulated facility are not started within 3 years from the date of plan approval. This section of the regulations has also been revised to allow the Commission to extend the 3-year deadline, not to exceed an additional 2 years, for situations when due to circumstances beyond the reasonable control of the operation, including delays caused by permitting of the facility, the agricultural operation was not able to obtain the necessary permits and approvals in time to initiate construction activities within the 3-year time frame.

§ 83.781 (relating to identification of Odor BMPs)

Vague language: A commentator expressed the concern that language used within this section of the regulation was too vague to allow the regulated community to implement the standards, and to allow the Commission to enforce the program. The phrase "feasible from a practical and economic perspective" comes directly from Act 38. The Commission has provided operators the opportunity in these regulations to select from a significant number of possible BMPs to address odor sources on their operation. Operators can select those BMPs that they would consider practical and economically feasible for their operation. The final-form rulemaking eliminates the phrase "normal maintenance activities used in the industry in this Commonwealth" as this wording has been determined to not provide any additional clarity to the regulations. The regulation now states that the Level I BMPs are intended to mean management-oriented measures, whereas Level 2 BMPs are structurally-oriented and other nonmanagement based measures.

§ 83.783 (relating to operation and maintenance schedule)

Lifespan of the required BMPs: A commentator expressed the concern that the regulations do not state whether the OMP needs to be followed indefinitely or only until the BMPs are installed. The Commission agreed with this comment and added language into this paragraph to indicate that the plan will need to include the lifespan of the various BMPs required in the plan. The BMPs would then need to be maintained, in accordance with program standards, for the entire lifespan documented in the plan.

§§ 83.791 and 83.792 (relating to general recordkeeping requirements; and recordkeeping relating to Odor BMPs)

Practicality of the recordkeeping requirement: Several commentators expressed a concern about the scope and practicality of the recordkeeping expectations of the Commission. Commentators have expressed the variability of records that may be required based on the type of BMPs required. In the final-form rulemaking, § 83.791(b) has been deleted; the Commission is not requiring use of a Commission-generated form. The headings for §§ 83.791 and 83.792 have been changed to use the word "documentation" to better reflect that the Commission is not requiring a standard form and that the Commission will accept and require a wide range of formats for this documentation, depending on the BMP being installed.

Section 83.792 has been revised to require that the plan identify the types of documentation needed to demonstrate compliance with the plan. This documentation will be required for all BMPs installed under an approved Facility Odor Management Plan. An example of this documentation would include contractor invoices and as-built design sketches relating to the implementation of a Windbreak/Shelterbelt BMP.

Submission of records for public review: A commentator suggested the Commission should require in regulations that records required under this program be submitted to the conservation district or Commission so that they would be available for public review. The Commission has included language in § 83.792 indicating that the required documentation shall be maintained onsite. The Commission believes that compliance can be accomplished effectively through the maintenance of documents onsite at the operation. Annual inspections by program staff of the approved operations, as well as additional visits in response to any complaints from neighbors, will provide adequate opportunity for program staff to ensure that the operator is complying with the operation and maintenance provisions of the plan.

§ 83.801 (relating to initial plan review and approval)

Nutrient Management Advisory Board review: A commentator notified the Commission that the second 90-day review period allowed for in the proposed regulations was not authorized in the law. The Commission concurs that the second 90-day review period is not explicitly stated in the Act 38 for Odor Management and therefore the second 90-day review period has been removed from the final-form rulemaking.

The allowance in subsection (c) for the Commission or the farmer to obtain a formal recommendation on the plan proposal from a committee of the NMAB was also removed in the final-form regulations due to the 90-day review restriction. The Commission recognizes that to

accommodate the initially proposed process of obtaining a recommendation from an outside Committee of the NMAB, the plan review activity would take longer than 90 days allowed for this action.

Lifespan of the approved plan: The wording relating to this issue was removed from subsection (f) because it was determined to be redundant since this issue is addressed in its entirety in § 83.771(d).

§ 83.802 (relating to plan implementation)

Documentation: Wording was changed in subsection (b) from “records” to “plan implementation documentation” to be consistent with the changes made in §§ 83.791 and 83.792.

§ 83.811 (relating to plan amendments)

Assessing farm expansion for amendment purposes: A commentator indicated that the proposed regulations did not provide enough clarity in subsection (b)(1) to explain how incremental changes in animal numbers would affect the amendment trigger. The Commission agrees with the commentator that the regulations need to indicate when the change in AEUs will be evaluated from. The final-form regulations incorporate this change in § 83.811(b)(1) as suggested by the commentator. Also in this paragraph it was suggested that the amendment trigger be revised to 10%, similar to the nutrient management plan amendment trigger. The Commission continues to believe that a 25% change is most relevant when dealing specifically with odor issues, not 10% as used for considering nutrient issues.

Amendments due to a change in the “operational management system.” The Commission received extensive comments on this amendment trigger provided in subsection(b)(3) of the proposed regulation. Commentators were concerned of how this amendment trigger would be evaluated and interpreted by the Commission. The Commission agrees with these comments. This amendment trigger has been eliminated from the final-form rulemakings as it does not provide any additional clarity to the regulations that is not already addressed in § 83.811(b)(1) and (2).

Amendments to revise Odor BMPs: Numerous commentators expressed a concern that the proposed regulations did not facilitate operators changing their plans to implement innovative, more effective BMPs than those originally included in the approved OMP. The Commission agreed with these comments. Revised § 83.811(d) provides operators with an opportunity to propose a change to the Odor BMPs listed on their approved nutrient management plan through amending only the Odor BMP section of the plan and not requiring operators to amend the remainder of the plan including the Odor Site Index. But if the operator has triggered any of the significant operation changes as outlined in § 83.811(b), a full plan amendment, requiring the rewrite of the entire plan, will be required including rerunning the Odor Site Index for the operation.

§ 83.812 (relating to plan transfers)

Signatures for plan transfers: Subsection (a) was revised consistent with submitted comments to clarify that a new operator must sign off on the plan prior to the plan being considered as transferred to the new operator. This signature indicates that the new operator concurs with the information in the plan and agrees to carry out the plan.

F. *Benefits, Costs and Paperwork*

1. *Benefits*

The main benefit of these regulations is to establish a level of regulatory requirements regarding agricultural odor management that does not currently exist in this Commonwealth’s rural communities. It is part of the balanced approach embodied in the Governor’s ACRE initiative.

The Commission has developed the final-form regulations in close coordination with various Federal, State and local agencies and institutions. These include the NMAB and the Board’s Odor Management Committee, the PSU College of Agriculture, PDA, DEP, the NRCS, various county conservation districts and Penn State Extension.

Farmers will benefit from this rulemaking in several ways. First, implementation of an OMP approved by the Commission affords important legal protections under Act 38. Second, odor management is an important issue in rural areas of this Commonwealth and this rulemaking will help to minimize conflicts between farmers and their neighbors, especially in areas where there is suburban encroachment into rural areas.

2. *Costs*

The cost of implementing these final-form regulations will mainly impact the regulated community and the Commonwealth. The Commonwealth costs are most readily seen in the financial assistance that the Commission is proposing to provide for plan development, and for plan implementation.

Note that CAO and CAFO farms that construct animal housing facilities or manure storage facilities are required to get an OMP.

Costs to the regulated community

Development of OMPs: Based on the Commission’s experience with the nutrient management program costs, and the projected time to conduct a site assessment for the proposed OMP, the Commission anticipates that the average cost for an OMP will be \$1,120 per OMP.

The Commission anticipates that 90 operations will develop OMPs under these regulations annually. This will equate to a total annual planning cost to the farm community of \$100,800, of which a portion of this will be offset through the Commission’s plan development cost share program.

Implementation of OMPs: The final-form regulations which provide for multiple levels of Odor BMPs anticipate that there will be no new cost to the regulated community until Level 2 Odor BMPs are required to be implemented and maintained. The cost for implementing Level 2 BMPs on a given farm are extremely variable. Based on the Commission’s assessment of the various BMPs that may be installed, and the general costs for installing these BMPs, the Commission has determined an average cost of installing Level 2 BMPs on a farm to be \$15,000. Each plan will use site specific criteria, and that there will be large variability in the Level 2 Odor BMPs implemented on regulated operations. Some farms needing Level 2 BMPs may only need to expend less than \$500 to

implement these BMPs where other farms needing Level 2 BMPs may need to be expend thousands of dollars.

The Commission anticipates that 17 operations a year will develop OMPs requiring Level 2 BMPs. This will equate to a total annual plan implementation cost to the farm community of \$255,800. A portion of this will be offset through the Commission's plan implementation cost share program for certain eligible farms.

Retention of documentation and BMP standards: The Commission has revised the principal reference document to be used for identifying possible Level 2 BMPs. This Odor BMP Reference List will now be made available to the public at no cost, therefore eliminating any possible costs associated with researching the principal odor management BMPs available for use under the program.

The Commission has revised its recordkeeping section in the final-form regulations to allow for a wide variety of documentation to verify BMP implementation and maintenance compliance. This documentation is expected to be a part of normal farm operations and is not expected to impose any additional program compliance costs on the regulated community.

Costs to the Commonwealth

Development of OMPs: The final-form rulemaking provides for the Commonwealth, through the Commission, to provide funding for financial assistance for plan development to offset the cost of developing OMPs for farmers whose agricultural operations are in existence as of February 27, 2009. This funding is similar to the Commission's PDIP that has provided cost share funding to farmers for the development of nutrient management plans since 1997. This new State cost share program, proposed to fund 75% of the cost of developing an OMP, is essential to ensure that farmers are not negatively impacted by these CAO and CAFO planning requirements. Applying the 75% State cost share rate currently proposed for this program, the anticipated government cost per funded plan would be \$840 (\$1,120 total cost, \$840 cost share, \$280 farmer cost).

The Commission anticipates that 65 operations will be eligible annually for the Commission's PDIP. This will equate to a total annual plan development cost share amount from the Commonwealth of \$54,600.

Implementation of OMPs: The final-form regulations authorize funding to offset the implementation of odor BMPs on certain participating operations installing manure storage facilities. This new grant program is proposed to provide support at an 80% State cost share rate. At the anticipated average cost for implementing a Level 2 Odor BMP of \$15,000, the 80% cost share rate would equate to \$12,000 in State cost share funds per operation receiving this assistance (\$15,000 total cost, \$12,000 cost share, \$3,000 farmer cost).

The Commission anticipates that six operations will be eligible (according to the eligibility limitations outlined in the final-form regulations) annually for the Commission's cost share program to support OMP implementation. This will equate to a total annual plan implementation cost share amount from the Commonwealth of \$72,000.

Commission: The Commission will continue to spend approximately \$60,000 per year for Commission staff wages and expenses.

Technical assistance: The Commission will continue to contract with PSU to provide technical and educational assistance in the development and implementation of these new odor management regulations as well as PDA's Odor Management Specialist Certification Program. This project is funded at \$10,000 per year.

3. *Paperwork Requirements*

The final-form regulations have been written to minimize paperwork but still maintain program integrity and tracking. Farmers are required to keep records on their farm, but are not required to submit those documents to the Commission.

G. *Sunset Review*

The Commission will evaluate the effectiveness of these final-form regulations on an ongoing basis. Therefore, no sunset date is being established for the regulations.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 22, 2007, the Commission submitted a copy of the proposed regulations, published at 37 Pa.B. 4780 (September 1, 2007), to IRRC and to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee (Committees). In addition to submitting the proposed regulations, the Commission provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 1, 2008, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 2, 2008, and approved the final-form rulemaking.

I. *Findings*

The Commission 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 regulations promulgated thereunder 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.

(3) These amendments do not enlarge the purpose of the proposal published in 37 Pa.B. 4780.

(4) This rulemaking is necessary and appropriate for administration and enforcement of the authorizing laws identified in section C of this order.

J. *Order*

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 25 Pa. Code Chapter 83 are amended, by adding §§ 83.701—83.707, 83.711, 83.721, 83.731, 83.741, 83.751, 83.761, 83.762, 83.771, 83.781—83.783, 83.791, 83.792, 83.801, 83.802, 83.811 and 83.812 to read as set forth in Annex A.

(b) The Chairperson of the Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(d) The Chairperson of the Commission shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

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

(f) This order shall take effect February 27, 2009.

JOHN HANGER,
Acting Chairperson

(Editor's Note: The addition of § 83.742, included in the proposal at 38 Pa.B. 4780 has been withdrawn by the Commission.)

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

Fiscal Note: 7-418. (1) Nutrient Management and General Funds:

| | <i>Nutrient Management Fund Planning, Loans, Grants and Technical Assistance</i> | <i>General Fund General Government Operations</i> |
|------------------------------------|--|---|
| (2) Implementing Year 2007-08 is | \$10,000 | \$60,000 |
| (3) 1st Succeeding Year 2008-09 is | \$30,000 | \$60,000 |
| 2nd Succeeding Year 2009-10 is | \$141,640 | \$60,000 |
| 3rd Succeeding Year 2010-11 is | \$141,640 | \$60,000 |
| 4th Succeeding Year 2011-12 is | \$131,140 | \$60,000 |
| 5th Succeeding Year 2012-13 is | \$118,540 | \$60,000 |
| (4) 2006-07 Program— | \$1,861,000 | \$29,642,000 |
| 2005-06 Program— | \$1,600,000 | \$29,451,000 |
| 2004-05 Program— | \$3,016,000 | \$31,017,000 |

(7) Nutrient Management Fund and General Fund; (8) recommends adoption. The distribution of funding for the grant programs will be provided to the extent funds are available.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

**Subpart C. PROTECTION OF NATURAL
RESOURCES**

ARTICLE I. LAND RESOURCES

**CHAPTER 83. STATE CONSERVATION
COMMISSION**

**Subchapter G. FACILITY ODOR MANAGEMENT
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- 83.702. Scope.
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- 83.704. Relation to Subchapter D (relating to nutrient management regulations).
- 83.705. Preemption of local ordinances.
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- 83.711. Applicant eligibility.

FINANCIAL ASSISTANCE FOR PLAN IMPLEMENTATION

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MANAGING ODORS

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ODOR BMPs

- 83.781. Identification of Odor BMPs.
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- 83.791. General documentation requirements.
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- 83.801. Initial plan review and approval.
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PLAN AMENDMENTS AND TRANSFERS

- 83.811. Plan amendments.
- 83.812. Plan transfers.

GENERAL PROVISIONS

§ 83.701. Definitions.

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

AEU—Animal equivalent unit—One thousand pounds live weight of livestock or poultry animals, on an annualized basis, regardless of the actual number of individual animals comprising the unit.

Act—3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Agricultural operations—The management and use of farming resources for the production of crops, livestock or poultry.

Animal housing facility—A roofed structure or facility, or any portion thereof, used for occupation by livestock or poultry.

CAFO—Concentrated animal feeding operation—An agricultural operation that meets the criteria established by the Department in regulations under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.1001), found in Chapter 92 (relating to National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance).

CAO—Concentrated animal operation—Agricultural operations with eight or more animal equivalent units where the animal density exceeds two AEUs per acre on an annualized basis.

Commission—The State Conservation Commission established by the Conservation District Law (3 P. S. §§ 849—864).

Conservation district—A county conservation district established under the Conservation District Law.

Construction or construction activities—The act or process of systematically building, forming, assembling or otherwise putting together a facility or parts of a facility.

(i) The terms do not include any of the following, when used in relation to the following activities at animal housing facilities:

(A) Replacement of existing equipment at an existing animal housing facility.

(B) Replacement of an existing animal housing facility in existence as of February 27, 2009, that has been destroyed by fire, flooding, wind, or other acts of God, vandalism, or other similar circumstances beyond the operator's control, with a facility that is of similar animal capacity.

(ii) The terms do not include any of the following, when used in relation to the following activities at manure management facilities:

(A) Improving the integrity of an existing manure storage facility with no more than a 15% increase in manure storage volume as measured from the current storage volume documented in the approved nutrient management plan.

(B) Adding treatment technology, such as solids separation, anaerobic digestion, and composting, and their associated facilities, on agricultural operations in existence as of February 27, 2009, provided that the treatment technology is designed, built and operated consistent with the Commission's current "Odor Management Guidance."

Expand, expansion—Creation of additional space of an animal housing facility by increasing the size of an animal housing facility, or increasing the volume of a manure storage facility by increasing the size of the manure storage facility.

Facility—Refers to the animal housing facility and manure management facility, or portion of a facility, which are required to be, or are voluntarily subject to this subchapter.

Farming resources—The animals, facilities and lands used for the production or raising of crops, livestock or poultry. The lands are limited to those located at the animal facility which are owned by the operator of the facility, and other owned, rented or leased lands under the management control of the operator of the facility that are used for the application, treatment or storage of manure generated at the facility.

Fund—The Nutrient Management Fund established under section 512 of the act (relating to nutrient management fund).

Impacts—

(i) Conflicts arising from the offsite migration of the odors from agricultural facilities.

(ii) The term does not include mental or physical health affects, or changes in property values.

Livestock—

(i) Animals raised, stabled, fed or maintained on an agricultural operation with the purpose of generating income or providing work, recreation or transportation.

(ii) Examples include: dairy cows, beef cattle, goats, sheep, swine and horses.

(iii) The term does not include aquatic species.

Manure—

(i) Animal excrement, including poultry litter, which is produced at an agricultural operation.

(ii) The term includes materials such as bedding, washwater and other materials which are commingled with that excrement.

Manure management facility—

(i) A manure storage facility, including a permanent structure or facility, or a portion of a structure or facility, utilized for the primary purpose of containing manure.

(ii) The term includes liquid manure structures, manure storage ponds, component reception pits and transfer pipes, containment structures built under a confinement building, permanent stacking and composting facilities and manure treatment facilities.

(iii) The term does not include the animal confinement areas of poultry houses, horse stalls, free stall barns or bedded pack animal housing systems.

OMP—Odor management plan—Plan—

(i) A written site-specific plan identifying the Odor BMPs to be implemented to manage the impact of odors generated from animal housing and manure management facilities located or to be located on the site.

(ii) The term includes plans approved for VAOs and facilities not required to submit a plan under this subchapter.

(iii) The term includes plan amendments required under this subchapter, except when otherwise stated.

Odor BMP—Odor best management practice—A practice or combination of practices, technologies, standards and strategies to manage the potential for odor impacts from animal housing facilities and manure management facilities that are subject to this subchapter.

Odor management specialist—A person satisfying the certification requirements of the Department of Agriculture's proposed Odor Management Certification Program in 7 Pa. Code Chapter 130f (relating to odor management certification).

Odor Site Index—The field evaluation methodology developed specifically for this Commonwealth and approved by the Commission, which applies site-specific factors such as proximity to adjoining landowners, land use of the surrounding area, type of structures proposed, species of animals, local topography and direction of the prevailing winds, to determine the potential for odor impacts.

Offsite migration—The airborne movement of odors past the property line of an agricultural operation.

Public use facility—Public schools, hospitals, public nursing homes/elder care facilities and apartment buildings with greater than four dwelling units.

VAO—Voluntary agricultural operation—

(i) Any operation that voluntarily agrees to meet the requirements of this subchapter even though it is not otherwise required under the act or this chapter to submit an odor management plan.

(ii) The term includes agricultural operations applying for financial assistance under the act.

§ 83.702. Scope.

This subchapter specifies the criteria and requirements for:

(1) Odor management planning required under the act for certain facilities at CAOs and CAFOs.

(2) Voluntary OMPs developed for VAOs and facilities not required to submit a plan under this subchapter, that are submitted to the Commission or delegated conservation district for approval under the act.

(3) The construction, location and operation of animal housing facilities and animal manure management facilities, and the expansion of existing facilities, as part of a plan developed under the act.

(4) The awarding of financial assistance under the act for the development and implementation of OMPs for existing agricultural operations.

§ 83.703. Purpose.

The purposes of this subchapter are as follows:

(1) To provide for the management of odors generated only from animal housing facilities and manure management facilities on certain CAOs and CAFOs, considering the following:

- (i) Site-specific factors.
- (ii) Reasonably available technology, practices, standards and strategies.
- (iii) The practical and economic feasibility of installation and operation of the technology, practices, standards and strategies.

(iv) The potential impacts from the facilities that may lead to conflicts between the agricultural operation and neighbors, arising from the offsite migration of the odors.

(2) To apply scientific information on odor management that is current at the time of plan approval, using the factors in paragraph (1), and recognizing the limitations of that scientific information and the subjective nature of identifying and managing odor impacts from agriculture.

(3) OMPs are intended to address the potential for odor impacts. The plans are not required to completely eliminate the potential for odor impacts.

(4) To encourage the management of odors generated from any VAOs and facilities, not required to submit a plan under this subchapter, consistent with paragraphs (1)—(3).

§ 83.704. Relation to Subchapter D (relating to nutrient management regulations).

This subchapter may not be construed as modifying, rescinding or superseding applicable manure management requirements for water quality protection contained in Subchapter D (relating to nutrient management).

§ 83.705. Preemption of local ordinances.

(a) The act and this subchapter are of Statewide concern and occupy the whole field of regulation regarding odor management to the exclusion of all local regulations.

(b) No ordinance or regulation of a political subdivision or home rule municipality may regulate the management of odors generated from animal housing or manure management facilities regulated by this chapter if the municipal ordinance or regulation is in conflict with this chapter and the regulations or guidelines promulgated under it.

(c) Nothing in the act or this subchapter prevents a political subdivision or home rule municipality from adopting and enforcing ordinances or regulations which are consistent with and no more stringent than the requirements of the act and this subchapter.

(d) A penalty may not be assessed under any valid local ordinance or regulation for any violation for which a penalty has been assessed under the act or this subchapter.

§ 83.706. Limitation of liability.

If an operator for an agricultural operation is fully and properly implementing and maintaining an OMP approved by the Commission or a delegated county conservation district under the act and this subchapter, the implementation shall be given appropriate consideration as a mitigating factor in any civil action for penalties or damages alleged to have been caused by the odor impacts.

§ 83.707. Compliance assistance and enforcement.

(a) The Department of Agriculture will assist the Commission in developing programs to assist those engaged in production agriculture to comply with the act and this subchapter.

(b) The Department of Agriculture will act as an ombudsman to help resolve issues related to county conservation district implementation of the act and this subchapter for those conservation districts delegated odor management program responsibilities under § 83.731 (relating to delegation to conservation districts).

(c) The Commission will be responsible for taking enforcement actions under the act and this subchapter. In the exercise of its enforcement authority, the Commission will be assisted by the staff of the Departments of Agriculture and Environmental Protection.

FINANCIAL ASSISTANCE FOR PLAN DEVELOPMENT

§ 83.711. Applicant eligibility.

Agricultural operations existing as of February 27, 2009, which are subject to this subchapter under § 83.741(b) (relating to general) or § 83.741(g), are eligible to receive funding under this program.

FINANCIAL ASSISTANCE FOR PLAN IMPLEMENTATION

§ 83.721. Applicant eligibility.

An owner of an agricultural operation existing as of February 27, 2009, may apply for financial assistance for the implementation of OMPs developed under the act only when the Commission requires construction of a manure management facility as part of the nutrient management program requirements, as determined under Subchapter D (relating to nutrient management). The owner shall have legal and financial responsibility for the agricultural operation during the term of the financial assistance provided by the Commission.

DELEGATION TO CONSERVATION DISTRICTS**§ 83.731. Delegation to conservation districts.**

(a) The Commission may by written agreement delegate to a conservation district one or more of its administrative or enforcement authorities under the act.

(b) The delegation of administrative or enforcement authority may be made to a conservation district when the district demonstrates it has or will have an adequate program and sufficient resources to accept and implement the delegation.

(c) To the extent delegated by the agreement, the delegations may include the authority to enforce the act and this subchapter and to exercise other powers and duties otherwise vested in the Commission to implement the act.

(d) A delegation agreement will:

(1) Specify the powers and duties to be performed by the delegated district.

(2) Provide for the commitment of sufficient trained staff and resources to perform the powers and duties to be delegated.

(3) Require the delegated conservation district to maintain records of activities performed under the delegation.

ODOR MANAGEMENT PLANS**§ 83.741. General.**

(a) OMPs submitted under this subchapter must meet the requirements in this section and §§ 83.751, 83.761, 83.762, 83.771 and 83.781—83.783.

(b) *Applicability.* Agricultural operations that meet the criteria of paragraphs (1) and (2) shall develop and implement an OMP:

(1) *Types of operations.* Operations that meet one of the following:

(i) CAOs and CAFOs existing as of February 27, 2009.

(ii) Agricultural operations existing on February 27, 2009, which, because of an increase, resulting from expansion in the number of animals maintained at the operation, will become regulated as either a CAO or CAFO.

(iii) Agricultural operations existing on February 27, 2009, which, because of a decrease in lands available for manure application, will become regulated as either a CAO or CAFO.

(iv) New agricultural operations after February 27, 2009, which will be regulated as either a CAO or CAFO.

(2) *Types of activities.* Operations that meet one of the following:

(i) Constructing a new animal housing facility or a new manure management facility after February 27, 2009.

(ii) Constructing an expansion of an animal housing facility or a manure management facility after February 27, 2009.

(c) *Transition.* Agricultural operations that initiate facility construction prior to February 27, 2009, are not required to develop and implement an OMP.

(d) *Scope of plan.*

(1) The OMP for activities under subsection (b)(2)(i) are only required to be developed and implemented with respect to the new facility.

(2) The OMP for activities under subsection (b)(2)(ii) are only required to be developed and implemented with respect to the newly constructed portion of the facility.

(e) *Schedule to obtain plan approval.* Operations required to have an OMP under this subchapter shall obtain approval of their OMP prior to the commencement of construction of new or expanded facilities.

(f) *Implementation of plans.*

(1) Operations required to have an OMP under this subchapter shall fully implement the approved plan prior to commencing use of the new or expanded animal housing facility and manure management facility.

(2) A plan is considered fully implemented when the Odor BMPs in the plan are being implemented in compliance with the schedule of Odor BMPs.

(g) *Voluntary plans.* An agricultural operation which is not required to comply with this subchapter may voluntarily submit a plan any time after February 27, 2009.

(h) *Qualifications.* Plans shall be developed by odor management specialists certified in accordance with the Department of Agriculture's odor management certification requirements in 7 Pa. Code Chapter 130f (relating to odor management certification). The specialists shall certify that the plans are in accordance with the act and this subchapter.

(i) *Signature requirements.* Plans shall be signed by the operator of the agricultural operation indicating concurrence with the information in the plan and acceptance of responsibilities under the plan. The following signature requirements apply:

(i) For sole proprietorships, the proprietor.

(ii) For partnerships, a general partner.

(iii) For corporations, a vice president, president or authorized representative. The plan must contain an attachment executed by the secretary of the corporation which states that the person signing on behalf of the corporation is authorized to do so.

(j) *Penalties.* Operators and odor management specialists who sign plans may be subject to penalties for any false information contained in the plans.

CONTENT REQUIREMENTS FOR ALL PLANS**§ 83.751. Content of plans.**

(a) A plan must follow the standardized plan format provided by the Commission, unless otherwise approved by the Commission.

(b) The operator shall be involved in the development of the plan.

(c) The Odor BMPs listed in the plan must be consistent with the management practices listed in other relevant plans required by State regulations administered by the Commission or the Department, such as the nutrient management plan and Agriculture Erosion and

Sedimentation Control plan developed for the operation, unless otherwise approved by the Commission or delegated conservation district.

PLAN SUMMARY INFORMATION

§ 83.761. Identification of agricultural operations and regulated facilities.

(a) *Agricultural operation identification sheet.* The plan must include an agricultural operation identification sheet that contains the following information:

(1) The operator name, address and telephone number, and the address for the regulated facilities if that address is different from the operator's address.

(2) A description of the operation for both the existing and proposed facilities, clearly indicating the regulated facilities or portions thereof, or both, identifying how the odor will be addressed through the plan, including the following:

(i) Animal types and numbers included on the agricultural operation.

(ii) Types of structures proposed.

(3) The signatures and documentation as required by § 83.741 (relating to general).

(4) The counties and municipalities where land included in the plan is located.

(5) The name, odor management certification program identification number and signature of the odor management specialist that prepared the plan and the date of plan preparation.

(b) *Maps.* The plan must include a topographic map drawn to scale identifying the lands where the facilities that are addressed in the plan are located. The map must clearly identify the following:

(1) The location and boundaries of the agricultural operation.

(2) The location of the neighboring homes, businesses, churches and public use facilities in the evaluation distances as determined by § 83.771(b)(1)(i) (relating to managing odors).

(3) Local topography.

(4) The location of proposed and existing animal housing and manure management facilities.

§ 83.762. Operator commitment statement.

The plan must include a statement, signed by the operator, committing to the following:

(1) Implementation of the Odor BMPs.

(2) Maintaining the Odor BMPs consistent with the operation and maintenance criteria contained in the plan.

(3) Keeping documentation of plan implementation activities, as described in the plan, and to allow access by the Commission or delegated conservation district to the documentation needed to determine compliance status.

(4) Allowing access to the agricultural operation by the Commission or delegated conservation district needed for status reviews and inspections for complaints.

(5) Providing operator's biosecurity protocols to the Commission or a delegated conservation district, if requested.

MANAGING ODORS

§ 83.771. Managing odors.

(a) *General.* OMPs must address the offsite migration of odors generated from facilities, as described in subsections (b) and (c). OMPs are intended to address the potential for odor impacts. The plans are not required to completely eliminate the potential for odor impacts.

(b) *Evaluation.* The plans must include an evaluation of the potential impacts according to the following:

(1) The evaluation must address proximity to neighboring landowners, land use of the surrounding area, type of structures proposed, species of animals, local topography and direction of the prevailing winds, according to the following:

(i) To establish the extent of the surrounding area to be included in this evaluation, an evaluation distance from the proposed facility shall be established. The number of AEU's on the agricultural operation shall be used as the primary factor in determining this evaluation distance.

(ii) The types of neighboring land owners and land uses that shall be assessed in this evaluation include homes, businesses, churches and public use facilities existing at the time of the submission of the plan.

(iii) The geographic center of a facility may be used as the starting point for the evaluation distance and for determining proximity to neighboring homes, businesses, churches and public use facilities.

(iv) Prevailing winds are presumed to be coming from the West and Northwest.

(2) The criteria and procedures in the current "Odor Management Guidance" (Guidance) issued by the Commission, and in effect at the time of plan submission, may be used to comply with this paragraph, including the use of an Odor Site Index contained in the Guidance. If the criteria and procedures in the Guidance issued by the Commission are not followed, an alternative method must be approved by the Commission.

(c) *Odor BMPs.* Based on the evaluation in subsection (b), the plan must include Odor BMPs that are necessary, if any, to address the potential for offsite migration of odors to meet the purposes of this subchapter, and as described in § 83.781 (relating to identification of Odor BMPs).

(d) *Time period to implement.* If construction activities of the new or expanded facility do not commence within 3 years of the date of plan approval, a new plan shall be submitted and approved prior to construction of the facility subject to this subchapter. The Commission may allow for extensions of the 3-year time frame, not to exceed an additional 2 years, when the agricultural operation was not able to obtain the necessary permits and approvals in time to initiate construction activities within the 3-year time frame due to circumstances beyond the reasonable control of the operation.

ODOR BMPs

§ 83.781. Identification of Odor BMPs.

(a) *General.* A plan must identify all existing and planned Odor BMPs used to address the potential for odor impacts from the facilities covered by the plan.

(b) *Odor BMPs.* Odor BMPs are only required if they are necessary to address the potential for impacts, and installation and operation of the BMPs are feasible from a practical and economic perspective. The Commission

may require the agricultural operation to demonstrate why a particular Odor BMP is not feasible from a practical and economic perspective for the given operation.

(c) *Level of Odor BMPs.*

(1) Based on the evaluation in § 83.771(b) (relating to managing odors), and the criteria in subsection (b), determine the Odor BMPs which need to be included in the plan, if any. If Odor BMPs are needed, the BMPs must meet one of the following levels:

(i) *Level 1 Odor BMPs.* Basic management-oriented Odor BMPs that are applicable to the operation according to the species of animals, such as dust management, moisture control and facility sanitation, and that manage odors according to the purposes of this subchapter.

(ii) *Level 2 Odor BMPs.* Specialized nonmanagement oriented Odor BMPs that are applicable to the type of operation, such as windbreak shelterbelts, biofilters and manure storage covers, that are in addition to the Level 1 Odor BMPs, and that manage odors according to the purposes of this subchapter.

(2) The criteria and Odor BMPs contained in the current "Odor Management Guidance" issued by the Commission, and in effect at the time of plan submission, may be used to comply with this subsection. If the criteria and Odor BMPs contained in the current "Odor Management Guidance" issued by the Commission are not followed, an alternative method must be approved by the Commission.

(d) *Description of Odor BMPs.* The plan must list the Odor BMPs, their general construction and implementation criteria, and their operation and maintenance requirements.

(e) *Implementation of supplemental Odor BMPs.* Supplemental Odor BMPs may be implemented in addition to the approved Odor BMPs in the plan, on a temporary or permanent basis, without approval by the Commission or a delegated conservation district.

(1) Plan updates to address operational changes of these supplemental Odor BMPs shall be:

(i) Retained at the operation.

(ii) Submitted to the Commission or delegated conservation district for inclusion in the approved OMP within 30 days after the end of the calendar year in which they are implemented.

(2) Inspection reports, as provided for in § 83.802(b) (relating to plan implementation), may be used as documentation for plan updates.

§ 83.782. Implementation schedule.

(a) OMPs must contain a schedule that identifies all Odor BMPs with the corresponding time frames that each Odor BMP will be implemented.

(b) Odor BMPs that involve planting of vegetation such as a shelterbelt are considered fully implemented if the planting satisfies the criteria in the OMP.

(c) Prior to utilizing a new or expanded facility that is required to implement an OMP under this subchapter, the operation must receive written approval from the Commission, or a delegated conservation district, confirming implementation of the plan.

(1) The operation shall provide the Commission, or a delegated conservation district, with written notification provided by certified mail, of the intent to utilize the facility.

(2) If the Commission, or a delegated conservation district, fails to act within 10 business days of the notification to utilize the facility, it will be deemed approved.

§ 83.783. Operation and maintenance schedule.

OMP must contain a schedule that identifies all operation and maintenance procedures, the time frames that the operation and maintenance procedures will be conducted and the lifespan for each Odor BMP listed in the plan.

DOCUMENTATION REQUIREMENTS

§ 83.791. General documentation requirements.

Unless otherwise specified in the plan, documentation required under this subchapter is not required to be submitted to the Commission or delegated conservation district, but shall be retained by the agricultural operation for at least 3 years from the date they are prepared.

§ 83.792. Documentation relating to plan implementation.

Written documentation to demonstrate implementation of the OMP must be appropriate to the types of Odor BMPs required by the plan, including documentation of installation, operation and maintenance activities relating to the approved Odor BMPs consistent with the documentation requirements included in the approved plan, and shall be completed and maintained at the operation.

PLAN REVIEW AND IMPLEMENTATION

§ 83.801. Initial plan review and approval.

(a) Plans shall be submitted for initial review and approval to the Commission, or alternatively to delegated conservation districts, for agricultural operations located in counties delegated administrative authority under § 83.731 (relating to delegation to conservation districts). A person performing the plan review shall be certified in accordance with the Department of Agriculture's odor management certification requirements in 7 Pa. Code Chapter 130f (relating to odor management certification).

(b) The Commission or a delegated conservation district will, within 10 days from the date of receipt of the plan, provide notice to the operator indicating whether all of the required plan elements have been received.

(c) The Commission or a delegated conservation district will approve or disapprove the plan or plan amendment within 90 days of receipt of a complete plan or plan amendment. The Commission or a delegated conservation district may confer with experts in odor management, such as those at Pennsylvania State University, Natural Resources Conservation Service, and with others having knowledge of the local community in which the agricultural operation is located.

(d) If the Commission or delegated conservation district does not act on the plan within the 90-day period, the agricultural operation that submitted the plan is authorized to implement the plan and the plan will be deemed approved.

(e) The notice of determination to disapprove a plan will be provided in writing to the operator submitting the plan, and include an explanation specifically stating the reasons for disapproval. If a plan is disapproved, the operator submitting the plan shall have 90 days after receipt of the notice of disapproval to resubmit a revised plan.

(f) Approvals will be granted only for those plans that satisfy the requirements of this subchapter.

§ 83.802. Plan implementation.

(a) The plan shall be fully implemented in accordance with the implementation schedule included as part of the approved plan.

(b) Periodic inspections and review of the agricultural operation, the plan and the plan implementation documentation will be conducted by the Commission or a delegated conservation district at least annually to determine the status of the operation's compliance and whether a plan amendment is required.

PLAN AMENDMENTS AND TRANSFERS

§ 83.811. Plan amendments.

(a) A plan amendment is required if the operation expects to make a significant change in any animal housing and manure management facilities subject to this subchapter, prior to those changes being implemented.

(b) Any of the following are presumed to be a significant change in the operation which will require a plan amendment:

(1) A net increase of equal to or greater than 25% in AEU's, as measured from the time of the initial plan approval.

(2) If calculations in the plan as originally submitted are in error, or if figures used in the plan are inconsistent with this subchapter, and adequate justification has not been given in writing for the inconsistency.

(c) Any operation which would be required to submit a plan amendment under subsection (b) may avoid that requirement if it can demonstrate that there will not be an increase in the potential for offsite migration of odors under § 83.771 (relating to managing odors).

(d) Any operation that is required to implement Odor BMPs under § 83.781 (relating to identification of Odor BMPs), may submit a plan amendment requesting to change the Odor BMPs that are to be implemented, without conducting a new evaluation of the potential offsite migration of odors as described in § 83.771(b), if the following applies:

(1) Supporting documentation is submitted, such as the implementation, operation and maintenance schedule, to demonstrate compliance with § 83.771(c).

(2) The operation is not making a significant change in the operation as described in subsection (b).

(3) The operator will continue to implement the original Odor BMPs until the Commission has approved the requested amendment.

(e) A plan amendment shall be developed and certified by an odor management specialist and be submitted to the Commission or delegated conservation district for approval under this subchapter.

§ 83.812. Plan transfers.

(a) An approved OMP may be transferred to a subse-quent owner or operator of an agricultural operation by notification of the transfer to the Commission or a delegated conservation district, unless the transfer results in operational changes requiring a plan amendment under § 83.811 (relating to plan amendments). However, any new signatures required under § 83.741(i) (relating to general) must be obtained before a plan is transferred to any new operator.

(b) If the transfer of the approved plan results in operational changes requiring a plan amendment under § 83.811, the plan amendment shall be submitted for approval of the Commission or a delegated conservation district along with, or before, the notification required under subsection (a).

[Pa.B. Doc. No. 08-2143. Filed for public inspection November 28, 2008, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF CHIROPRACTIC

[49 PA. CODE CH. 5]

Reactivation of Lapsed License

The State Board of Chiropractic (Board) amends § 5.17 (relating to biennial registration; unregistered status and inactive status; failure to renew; address of record) to read as set forth in Annex A.

Description and Need for the Rulemaking

Under section 501(b) of the Chiropractic Practice Act (act) (63 P. S. § 625.501(b)), a chiropractor's license must be renewed biennially, and a licensee "who has failed to renew his license for a period of longer than five years shall be required to apply for a license in accordance with subsection (a) if he desires to resume practicing chiropractic." Currently, § 5.17(m) requires a licensee whose license has been inactive for more than 5 years to apply for licensure in accordance with §§ 5.12 or 5.13 (relating to licensure by examination; and licensure by reciprocity). In addition to the current two bases to reactivate a license that has been lapsed for more than 5 years, this regulation will permit the licensee to demonstrate competence to resume practice by showing at least 5 years of continuous licensed practice of chiropractic in another jurisdiction immediately preceding application for reactivation or by successfully completing, within 6 months prior to applying for reactivation, the Special Purpose Examination in Chiropractic and the Pennsylvania Jurisprudence Examination.

Summary of Comments and Responses to Proposed Rule-making

The Board published a notice of proposed rulemaking at 37 Pa.B. 4627 (August 25, 2007) with a 30-day public comment period. The Board received no written comments from the public. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rule-making under the Regulatory Review Act (RRA) (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of proposed rulemaking under the act.

The HPLC first questioned the option to show continuous licensed practice in jurisdictions that do not offer reciprocity and might not have equivalent standards of

practice. It is important to note that the licensee seeking to reactivate a lapsed license previously demonstrated that the licensee met the Commonwealth's standards for licensure. By comparison, a Commonwealth-licensed chiropractor who continued to renew the chiropractor's license would not have been required to demonstrate any standard of professional practice. The Board concludes that, regardless of the scope or standard of practice in another jurisdiction, active practice of chiropractic, coupled with completion of the required amount of continuing education and the Pennsylvania's Jurisprudence Examination as discussed as follows, is adequate to demonstrate current competence to resume practice in this Commonwealth.

The HPLC also questioned the option for a licensee to complete the Pennsylvania Chiropractic Law Examination, noting that this examination does not focus on the ability to practice as a chiropractor. The Board intended to require this examination in addition to the Special Purpose Examination in Chiropractic to demonstrate current competence to resume the practice of chiropractic in this Commonwealth. Accordingly, the Board has revised § 5.17(m)(4) to clarify the requirement to successfully complete both examinations. In light of this comment, the Board reconsidered the value of requiring the Jurisprudence Examination and concluded that it is an appropriate requirement for reactivation when the licensee has not practiced in this Commonwealth for more than 5 years. Notably, under the existing regulations for reactivation based upon either taking the licensure examinations or qualifying for licensure by reciprocity, successful completion of the Pennsylvania's Jurisprudence Examination is required. Accordingly, the Board also revised § 5.17(m)(3) to require successful completion of the Pennsylvania's Jurisprudence Examination, in addition to continuing practice of chiropractic in another jurisdiction, to reactivate a license that has been lapsed for more than 5 years.

IRRC commented that the option to reactivate a license that has been lapsed for more than 5 years based upon practice in another jurisdiction should explicitly state that completion of the continuing education requirement is required. Section 5.17(f)(3) requires a licensee renewing a current license to provide proof of attendance at continuing education courses during the previous biennial renewal period; and § 5.17(j) requires a licensee applying to reactivate a lapsed license (without reference to the period of lapse) to submit evidence of compliance with the continuing education requirements. The Board agrees with IRRC that explicitly stating this requirement in § 5.17(m) would improve the clarity of the rulemaking. Accordingly, the Board has revised § 5.17(m) to explicitly require compliance with all other requirements for reactivation, including the continuing education requirement.

Fiscal Impact and Paperwork Requirements

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

Statutory Authority

The final-form regulation is authorized under sections 302(3) and 501(b) of the act.

Regulatory Review

Under section 5(a) of the RRA (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. 4627, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the RRA, 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 regulation, 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 RRA (71 P. S. § 745.5a(j.2)), on September 17, 2008, the final-form regulation was approved by the HPLC. On October 15, 2008, the final-form regulation was deemed approved by the SCP/PLC. Under section 5.1(e) of the RRA, IRRC met on October 16, 2008, and approved the final-form regulation.

Additional Information

Persons who require additional information about the final-form regulation should submit inquiries to Deborah Smith, Administrator, State Board of Chiropractic, by mail to P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7155 or st-chiro@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) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 37 Pa.B. 4627.
- (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 5, are amended by amending § 5.17, to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.
- (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*.

JONATHAN W. MCCULLOUGH, DC,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 6123 (November 1, 2008).)

Fiscal Note: Fiscal Note 16A-4314 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 5. STATE BOARD OF CHIROPRACTIC

Subchapter B. LICENSURE, CERTIFICATION, EXAMINATION AND REGISTRATION PROVISIONS

§ 5.17. Biennial registration; unregistered status and inactive status; failure to renew; address of record.

* * * * *

(m) To reactivate a license that has been inactive for more than 5 years, the licensee shall satisfy all other requirements for reactivation required by this section, including the continuing education requirements, and establish current competence to practice by at least one of the following:

(1) Successful completion of the examinations required under § 5.15(a) (relating to licensure examinations) within 1 year prior to application for reactivation.

(2) Compliance with § 5.13 (relating to licensure by reciprocity).

(3) Proof of continuous licensed practice of chiropractic in one or more other jurisdictions of the United States or Canada for at least 5 years immediately preceding application for reactivation and successful completion of the examination required by § 5.15(a)(2) (relating to licensure by examination).

(4) Successful completion of both of the following examinations within 6 months prior to application for reactivation:

(i) The examination required by § 5.15(a)(2).

(ii) The Special Purpose Examination in Chiropractic administered by the National Board of Chiropractic Examiners.

[Pa.B. Doc. No. 08-2144. Filed for public inspection November 28, 2008. 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 75]

Implementation of Act 35 of 2007; Net Metering and Interconnection

The Pennsylvania Public Utility Commission (Commission) on May 22, 2008, adopted a final-omitted rulemaking order which amends the net metering regulations required by the Alternative Energy Portfolio Standards Act (act) (73 P. S. §§ 1648.1—1648.8) to be consistent with Act 35 of 2007 (Act 35).

Executive Summary

On June 23, 2006, at Docket No. L-00050174, the Commission entered a final-form rulemaking order regarding net metering of customer-generators. This final-form rulemaking became effective upon publication in the *Pennsylvania Bulletin* on December 16, 2006. On July 17,

2007, Governor Edward Rendell signed Act 35 into law, which became effective immediately. This law amended portions of the Alternative Energy Portfolio Standards Act. On October 4, 2007, the Commission issued a Secretarial Letter seeking comments on how the Act 35 amendments should be reflected in the Commission's regulations in 52 Pa. Code §§ 75.1—75.51. Thirteen comments and six reply comments were submitted. On July 2, 2008, the Commission entered an order at the previously-captioned docket finalizing the regulations.

The Commission has adopted amendments to its Alternative Energy Portfolio Standards regulations, 52 Pa. Code Chapter 75, to make the regulations consistent with Alternative Energy Portfolio Standards Act, as amended by Act 35. Specifically, under the general provisions of Chapter 75, the Commission revised the definitions of "alternative energy credit," "customer-generator," "force majeure," and "tier I alternative energy source" § 75.1 to mirror the same definitions contained in the amended Act 35.

In addition, the Commission amended portions of the net metering provisions in Subpart B of Chapter 75, to make them consistent with the language of the act as amended by Act 35. Specifically, the Commission revised the definitions "net metering," and "virtual meter aggregation," contained in § 75.12, so that they reflect the changes contained in the Act 35 amendments. The Commission also deleted the definition of "avoided cost of wholesale power" as that term is no longer used in the regulations and added "year and yearly" to provide clarity. The Commission also revised § 75.13(c), (d) and (f) to reflect the Act 35 amendment's requirement that customer-generators be compensated at the full retail value for excess generation produced on an annual basis, as opposed to compensation at the avoided cost of wholesale power on a monthly basis. Finally, the Commission revised § 75.14(e), such that this regulation matches the definition of virtual meter aggregation contained in the Act 35 amendments.

Public Meeting held
May 22, 2008

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Tyrone J. Christy; Kim Pizzigrilli, Dissenting Statement Follows

*Implementation of Act 35 of 2007;
Net Metering and Interconnection;
Doc. No. L-00050174*

Final-Omitted Rulemaking Order

By the Commission:

The Commission is adopting this Final-Omitted Rulemaking Order in order to amend the net metering regulations required by section 5 of the act (73 P. S. § 1648.5) to be consistent with Act 35. A final form net metering rulemaking was approved by the Commission in 2006, and delivered to the Independent Regulatory Review Commission (IRRC). Final Rulemaking Re Net Metering for Customer-generators pursuant to section 5 of the (73 P. S. § 1648.5) (act), Docket No. L-00050174 (Order entered June 23, 2006). The rulemaking was approved by IRRC on November 2, 2006, and was then approved by the Pennsylvania Attorney General on December 1, 2006. The final-form rulemaking was legally effective upon publication in the *Pennsylvania Bulletin* on December 16, 2006.

On July 17, 2007, Governor Edward Rendell signed Act 35 of 2007 into law. Act 35 became effective immediately. Act 35, § 4. This law amends a number of provisions of the aforementioned act, including those relating to the definition of customer-generators, the reconciliation mechanism for surplus energy supplied through net metering and the price to be paid for such surplus energy. These changes include:

- Revising the definition of “customer-generator” to increase the capacity limit on nonresidential projects from 1 to 3 megawatts generally, and from 2 to 5 megawatts for those projects that operate in parallel with the grid;
- Revising the definition of “net metering” to include a restriction on virtual meter aggregation; and,
- Revising section 1648.5 to require that customer-generators be compensated for excess generation on an annual basis at the full retail value for energy, as opposed to the current monthly standard at the avoided cost of wholesale power.

These statutory changes require corresponding revisions to the following sections of our Alternative Energy Portfolio Standard regulations.¹ The definitions in § 75.1 of “Act,” “Alternative energy credit,” “Customer-generator,” “Force majeure” and “Tier I alternative energy source” will be revised to reflect Act 35’s amendments of those terms. The definitions in § 75.12 of “Net metering” and “Virtual metering aggregation” will be revised to conform to Act 35’s amendment of the term “Net metering.” Section 75.13(c), (d) and (f), will be revised to conform to Act 35’s amendment of section 5 of the act (73 P. S. § 1648.5). The amendment to section 5 also requires deletion of the term “Avoided cost of wholesale power” in § 75.12. The definition for the terms “Year and Yearly” was added to § 75.12 to clarify that these terms correspond with the planning year as determined by the PJM Interconnection, LLC regional transmission organization. Additionally, § 75.12 dealing with “physical meter aggregation” and § 72.13(c) will be revised to correct printing errors.

On October 4, 2007, the Commission issued a Secretarial Letter seeking comments on how the Act 35 amendments to the act should be reflected in the regulations at 52 Pa. Code § 75.1, et seq. This Secretarial Letter noted that while a majority of the changes merely involve replacing existing language with language contained in Act 35, some of the amendments raise new issues that had not been previously considered. The Secretarial Letter specifically pointed out several issues related to the requirement that “excess generation from net metered customer generators shall receive full retail value for all energy produced on an annual basis.” The Commission requested comments on the following issues:

- What is the meaning of “full retail value for all energy produced”? Act 35 does not specifically define this term. The term could be interpreted as meaning the fully bundled retail rate for generation, transmission, distribution, and any applicable transition charges. Alternatively, given the Legislature’s use of the terms “excess generation” and “energy” it also could be interpreted as being limited to the generation component of the retail rate.
- What are the projected costs associated with these competing interpretations, i.e., given a projected level of net metered generation (kwh), what are the projected

¹ We are also taking the opportunity to make several non-substantive changes to the regulations such as correcting capitalization errors in Sections 75.12 and 75.13(c). In addition we are adding a definition of “year and yearly” to reinforce that those terms refer to the planning year of PJM Interconnection, L.L.C.

costs to the remaining customers of an EDC if net metered customer generators receive x cents per kwh versus y cents per kwh?

- How should any residual stranded cost charges be treated in the annual reconciliation?
- Are there any additional issues to be addressed by moving the reconciliation of excess energy from a monthly to an annual basis?
- Act 35 does not define the phrase “annual basis.” Does this phrase mean a calendar year, fiscal year or does it correspond with the act compliance period of June 1 through May 31?
- Should demand charges for distribution, transmission and generation services paid by net metered customers be adjusted? If so, should each component of the demand charge be adjusted to reflect the net flow of energy through a net meter? How should the adjustments be calculated?
- Should the Commission provide monthly credits for net metered accounts, and carry over monthly excess generation to the next billing month, with any remaining excess energy (where total annual generation of energy exceeds total annual usage) cashed out at the end of the year? Alternatively, do the metering regulations only provide for annual compensation for excess generation in any month?

The Commission received comments and reply comments related to these and other issues regarding the effect Act 35 amendments have on the Commission’s existing regulations. Comments have been filed by the following parties: the Citizens for Pennsylvania’s Future (PennFuture); the Energy Association of Pennsylvania (EAP); Heat Shed, Inc. (Heat Shed); the Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Interveners, Met Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, Penn Power Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Interveners (collectively, IECPA, and others); the Mid Atlantic Solar Energy Association and Solar Alliance (collectively MSEIA); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); the Pennsylvania Department of Environmental Protection (DEP); PECO Energy Company (PECO); the Pennsylvania Farm Bureau (Farm Bureau); the Pennsylvania Waste Industries Association (PWIA); the Retail Energy Supply Association (RESA); and Vogel Holding, Inc. (Vogel). Reply comments were filed by the following parties: PennFuture; EAP; IECPA, and others; DEP; PWIA; and Vogel.

Discussion

The Commission has reviewed each of the comments filed in this proceeding. We will address each of them in *seriatim*.

Section 75.1. Definitions.

The definitions revised by this rulemaking merely mirror the changes in the same definitions contained in Act 35. As indicated previously, the specific definitions in § 75.1 that were revised are “Act,” “Alternative energy credit,” “Customer generator,” “Force majeure” and “Tier I alternative energy source.”

Position of the Parties

The Commission received few comments regarding the definitions in this section. PWIA supported the change in the definition of "customer generator," as it would allow more customer generators to participate in net metering. PWIA requested that the Commission add wastewater treatment systems used to treat landfill leachate to the list of critical infrastructure that permits generators with a nameplate capacity of between 3 megawatts (Mw) and 5 Mw to participate in net metering.

The DEP asserts that the definition of alternative energy credit should be amended to be consistent with the amendment in Act 35 relating to ownership of the credits. The DEP also asserts that the amendments in Act 35 to the definitions of "customer-generator" and "net metering" delete the requirement that the primary purpose of the generation system must be to offset part or all of the customer generator's electricity needs. The DEP also notes that the amendments raised the capacity limits for generation systems at nonresidential customer service locations.

Disposition

The Commission declines to expand the definition for "customer generator" as requested by PWIA. The Act 35 amendments did not change or expand the list of critical infrastructure facilities that qualify as distributed generation systems with a nameplate capacity between 3 Mw and 5 Mw for net metering; as such, this Commission declines to change or expand the list of qualifying facilities in this proceeding. The Commission agrees with the DEP that the definition of "alternative energy credit" must be revised to conform to the Act 35 amendments and has done so. Finally, the Commission agrees with the DEP that the definitions of "customer generator" and "net metering" must also be revised to conform to the Act 35 amendments and has done so.

*Section 75.12. Definitions.**Avoided Cost of Wholesale Power*

The amendment to section 5 of the act (73 P.S. § 1684.5), adds the following sentence at the beginning of the section: "Excess generation from net metered customer-generators shall receive full retail value for all energy produced on an annual basis." This language clearly changes the Commission's present net metering regulation, which states as follows:

At the end of each billing period, the EDC shall compensate the customer generator for kilowatt hours generated by the customer generator over the amount of kilowatt hours delivered by the EDC during the billing period at the EDC's avoided cost of wholesale power.

52 Pa. Code § 75.13(d)

As there being no other reason for the phrase "avoided cost of wholesale power" within these regulations, the Commission is deleting this definition from these regulations.

Position of the Parties

PennFuture believes that customer-generators should be compensated for excess generation at the end of the annualized year at the avoided cost of wholesale power as currently defined in these regulations. They assert that any excess power at the end of the annualized period should be treated as power sold to the grid by an independent power producer. PennFuture references New Jersey's net metering regulation at N.J.A.C. 14:4-9.2, as a model.

The DEP asserts that the Commission should follow New Jersey's lead and require EDC's to compensate customer generators at the avoided cost of wholesale power. The DEP supports this assertion by noting that Act 35 did not change the requirement that Pennsylvania's net metering rules must be consistent with the net metering rules in other MISO and PJM states.

OCA submits that the Commission should follow the New Jersey rules and compensate customer generators for excess generation at the end of the annual period at the avoided cost of wholesale power. RESA submits that customer generators should be credited at the locational marginal price (LMP) for generation sales and charged the bundled full retail price for electricity consumed.

Disposition

We disagree with PennFuture, the DEP and RESA. The language found in Section 5 of Act 35 clearly addresses the compensation to be paid to customer generators for any excess generation produced over a 1 year period. This language directly addresses the Commission's current regulation regarding compensation on a monthly basis for excess generation at 52 Pa. Code § 75.13(d). It specifically directs that "[e]xcess generation from net metered customer generators shall receive full retail value for all energy produced on an annual basis," not the avoided cost of wholesale power or the LMP on a monthly basis. While the act also directs this Commission to develop net metering interconnection rules consistent with the rules defined in other states served by PJM and MISO, 73 P. S. § 1648.5, the Commission cannot disregard the clear words of the statute, 1 Pa.C.S. § 1921(b), and must, if possible, interpret the statute in a way to give effect to all provisions of the statute, 1 Pa.C.S. § 1921(a). The application of the phrase "full retail value for all energy produced on an annual basis" within these regulations is addressed later in this Order when we discuss changes to § 75.13.

Net Metering

The definition of "net metering" in these regulations has been revised to conform to the definition as amended by Act 35. Specifically, the Commission has deleted the requirement that the system be intended to primarily offset the customer's electricity requirements and added language noting that net metering is available when any portion of the electricity generated is used to offset the customer's electricity requirements.

Position of the Parties

The DEP noted that the Act 35 amendment to the definition of "net metering" deleted the requirement that the primary purpose of the generation system must be to offset part or all of the generator's need for electricity. The DEP asserts that while these changes will increase the number of customer generators eligible to participate in net metering, and resolve disputes between customers and EDCs, they do not believe that any other changes are required in relation to the definitions.

Disposition

The Commission agrees with the DEP that the Act 35 amendments only require a change to the definition of net metering in the regulation such that it conforms to the language in the amended statutory definition.

Physical Meter Aggregation

The Commission is simply correcting a capitalization error in this definition. The current definition capitalizes OF in the phrase “all meters regardless OF rate class. . . .” This phrase should now be as follows: “all meters regardless of rate class. . . .”

Virtual Meter Aggregation

Again the definition of “virtual meter aggregation” in these regulations has been revised to conform to the definition as amended by Act 35. Specifically, the Act 35 amendments added language limiting the geographic boundary for virtual meter aggregation to properties owned or leased and operated by customer generators that are within two miles of the boundaries of that customer generator’s property and within a single EDC’s service territory. The Commission added similar language to the definition of virtual meter aggregation in this section.

Position of the Parties

MSEIA agrees that the virtual net metering application should stay within the bounds of a given EDC, but were puzzled as to why there is a two mile radius limit. MSEIA states that this two mile restriction limits the ability of customer generators in less developed areas to take advantage of virtual net metering. MSEIA asks this Commission to extend the virtual net metering boundary to the full extent of the EDC’s regional boundary. The DEP simply notes that the Act 35 amendments codify the concept of virtual meter aggregation found in this Commission’s regulations.

Disposition

The Commission must decline to adopt MSEIA’s request as this Commission is bound by the requirement to promulgate regulations that do not conflict with the statute the regulations are implementing. See *Popowsky v. Pa. PUC*, 589 Pa. 605, 910 A.2d 38 (2006) and *Commonwealth v. Colonial Nissan, Inc.*, 691 A.2d 1005, 1009 (Pa. Commw. Ct. 2007). The Pennsylvania General Assembly specifically directed that for a customer to be eligible for virtual meter aggregation, the generator must be “located within two miles of the boundaries of the customer generator’s property . . .” 73 P. S. § 1648.2. We cannot disregard the Legislature’s clear direction under the pretext of pursuing its spirit, 1 Pa.C.S. § 1921(b).

Furthermore, as this Commission indicated in its previous final rulemaking order for net metering, we modified “the language in § 75.14(e) from ‘contiguous and adjacent properties owned and operated by the customer generator’ to owned and/or leased parcels within two miles of the customer generator’s property lines to allow customer generators to participate in net metering on a better economic footing.” See p. 22 of Final Rulemaking Order at L-00050174 entered on June 23, 2006. This change was prompted by the Farm Bureau’s comment indicating that the proposed definition did not fit the reality of a typical farm operation that would operate an anaerobic digester.

Thus, this Commission had previously adopted this definition for meter aggregation by specifically considering the ability of customer generators in less developed areas to take advantage of net metering. As pointed out by the DEP, the Act 35 amendment simply codifies this Commission’s previous rulemaking. As such, this Commission is unable to expand the definition of virtual meter aggregation as requested by MSEIA.

Year and Yearly

The act and the Act 35 amendments reference annual requirements but do not define what these annual periods consist of. As these regulations relate to the act, this Commission has added a definition for year and yearly to clarify the time period covered where the statute uses the term “annual.” This Commission has defined year and yearly as being the PJM planning year as it corresponds with the act compliance reporting year.

Position of the Parties

EAP, OSBA and PECO all agree that the term “annual basis” should conform to the act compliance reporting period, which is based on the PJM planning year. The DEP, MSEIA and PennFuture all agree that the term “annual basis” should be defined as a calendar year as it provides a simple and uniform tracking mechanism for EDCs and customer generators. PennFuture and MSEIA further indicate that they would support an alternative definition as long as it was fair and convenient to customer generators and consistent throughout the state. OCA also comments that this term should be defined in a way that provides the greatest administrative ease for customer generators and EDCs.

Disposition

The Commission agrees with EAP, OSBA and PECO that since these regulations are intended to implement portions of the act, as amended, any reference to an annual period should conform to the AEPS compliance reporting period of June 1 through May 31, which is the PJM planning year. This Commission believes that keeping any references to annual periods consistent throughout these regulations will eliminate confusion and provide the greatest administrative ease for all involved.

*Section 75.13. General provisions.**Section 75.13(c)*

The Commission is modifying the language in this section to clarify the meaning of “full retail rate.” The Commission is also adding language to establish an appropriate monthly billing period credit system for excess generation to meet the Act 35 amendment’s requirement for compensation of excess generation on an annual basis. In addition, the Commission is correcting capitalization errors in this subsection. The current subsection of this regulation has the following phrase in the first sentence: “Tier I or tier ii resource” The capitalization in this phrase is changed as follows: “Tier I or Tier II resource”

Monthly Credits

With these amendments to § 75.13(c), the Commission is reiterating that customer generators are to be credited at the fully bundled rate, to include generation, transmission and distribution, for all energy produced up to the level of energy used during a billing period. Furthermore, the Commission believes that, due to the Act 35 amendment’s requirement for annual compensation for excess generation, customer generators should receive a kilowatt hour per kilowatt hour credit applied to their next billing period, for any excess energy produced by the customer generator during any billing period. These credits are to continue to accumulate until they are exhausted or the end of the year, as defined previously.

Position of the Parties

EAP and PECO comment that to be consistent with the plain language of the amendments, the regulations should only provide for annual compensation of excess monthly generation. EAP and PECO further assert that the value of excess energy should be carried forward and any excess value at the end of the annual period is to be paid to the customer. IECPA also comments that there should be monthly credits based on the retail generation component with any excess generation compensated based upon the EDC's avoided cost of power. OSBA comments that under the Act 35 amendments, compensation is no longer to be paid on a monthly basis. OSBA further comments that applying a kilowatt hour credit to the next billing period would in effect compensate the customer generator at the fully bundled retail generation rate. OSBA asserts that such a crediting scheme would be contrary to the apparent intent of Act 35, which they assert was to require compensation for excess generation at the retail rate rather than the wholesale generation rate.

PWIA and Vogel suggest that any excess generation in a billing period should be credited on a kilowatt hour per kilowatt hour basis at the full retail rate and carried over in successive billing periods. The customer generator is then compensated at the full retail rate for any remaining credits at the end of the annual period. PWIA and Vogel both point out that the purpose of the act is to increase the use of alternative energy sources. PWIA and Vogel both assert that by compensating the customer generator at the fully bundled retail rate will further the intent of the act.

The DEP, OCA and PennFuture comment that the language of the Act 35 amendment clearly dictates that customer generators are to be credited at the fully bundled rate during each monthly billing period and that any excess credits are to be carried forward to subsequent monthly billing periods. The DEP, OCA and PennFuture assert that such a crediting scheme furthers the goal of the act to promote alternative energy sources. PennFuture further asserts that most alternative energy projects must reduce their monthly electric bills to cover debt servicing and achieve a rate of return that will encourage further investment in developing alternative energy sources.

MSEIA comments that the preferred method would be to automatically carrying over monthly excess generation as a full retail value credit into the next billing period. The Farm Bureau stated that customer generators should be compensated at the full retail value, meaning that if it costs 10 cents to buy electricity from a utility they should be credited 10 cents for excess energy. RESA comments that customer generators should be credited for their generation in a timely manner and not have to wait for an annual true up. RESA asserts that such a mechanism would further the intent of the act to encourage the use of alternative energy sources.

Disposition

The Commission agrees with the DEP, OCA, MSEIA, PennFuture, PWIA and Vogel in that the clear intent of the Act 35 amendment was to facilitate the research, development and deployment of small alternative energy resources by providing monthly credits consistent with the full retail value for the kilowatt hours generated by the renewable resource. As such, this Commission believes that for energy produced from a renewable resource up to the level of monthly energy usage by a customer generator should include the fully bundled charges for

generation, transmission and distribution service. To be consistent, any excess kilowatt hours from any monthly billing period is to be carried forward and credited against the customer generator's usage during subsequent billing periods at the full retail rate then in effect, until the excess kilowatt hours are exhausted or the end of the compliance year. The Commission further agrees with PennFuture's observation that adoption of the model advocated by EAP, IECPA, OSBA and PECO would create a financial impediment to further investment in research, development and deployment of alternative energy sources, thus frustrating the intent of the act.

To properly implement the previously conclusions, the Commission has added language to § 75.13(c) that clarifies that the phrase "full retail rate" shall include generation, transmission and distribution charges. In addition, language was added that provides for giving a kilowatt hour credit to the customer's next billing cycle for any excess generation, in any one billing cycle, at the same full retail rate. Finally, language was added noting that these excess kilowatt hours shall continue to accumulate until the end of the compliance year.

Full Retail Value for all Energy Produced on an Annual Basis

This Commission believes that by adding the sentence "Excess generation from net metered customer generators shall receive full retail value for all energy produced on an annual basis," the Act 35 amendments intended to shift compensation for excess energy from a monthly to an annual basis. While this added language did not define what rate customer generators should receive, this Commission believes that compensating customer generators for any unused credits at the end of the compliance year at the price to compare rate, as defined in 52 Pa. Code § 54.182, is the most reasonable approach to achieve the intent of the act as amended. Such an approach is also in the public interest as it balances the laudable goal of increasing the research, development and deployment of alternative energy with the costs to be born by the ratepayers. Consequently, this Commission has revised § 75.13(d) such that it conforms to this interpretation of the Act 35 amendments. Specifically, language was added directing EDCs to compensate customer generators at the price to compare rate for any credits remaining at the end of the compliance year.

Position of the Parties

Heat Shed, MSEIA, PWIA and Vogel all advocate for defining full retail value as the fully bundled rate that includes generation, transmission, distribution and transition charges. Heat Shed supports this position by asserting that solar production would provide a savings to utilities as solar generators would be producing energy during the utilities' highest peak demand periods. MSEIA asserts that by using the term "full" the Legislature intended to include the fully bundled rate. MSEIA also asserts that no state defines excess generation as only the decoupled generation component. PWIA and Vogel assert that because the legislature replaced avoided cost of wholesale power with full retail value, the customer generator must be paid a complete retail price that contains all of the possible components. PWIA and Vogel further assert that the Act requires compensation at the fully bundled retail rate for excess generation regardless of whether the customer generator is compensated on a month to month or annual basis.

The DEP, PennFuture, OCA and RESA all assert that customer generators should be compensated at the avoided cost of wholesale power or LMP for any excess generation credits remaining at the end of the year. The DEP asserts that the legislature did not intend to compensate customer generators at the fully bundled retail rate because there would have been no need to codify virtual meter aggregation, as compensating credits remaining at the fully bundled retail rate would have accomplished the same purpose. The DEP and OCA assert that the Act 35 amendments did not alter the requirement that our regulations conform to net metering rules of other states within PJM. PennFuture asserts that the intent of net metering was to promote the development of technologies such as solar, biodigesters and small scale wind. RESA asserts that the term full retail value should be interpreted to mean the customer generator is credited at the LMP for excess generation and charged the full retail price, to include generation, transmission and distribution, for electricity consumed. RESA supports this argument by noting that the customer generator is basically selling its electricity into the wholesale spot market; as such, the customer generator should be compensated for excess generation at the LMP grossed up for losses.

EAP, IECPA, OSBA and PECO all contend that full retail value should be interpreted to mean only the generation component of a retail rate. EAP and PECO believe that the use of the terms "excess generation" and "energy produced" define the words "full retail value." EAP also notes that the Act 35 amendments use the term value instead of full retail price or rate. EAP and PECO further comment that EDCs should be fully compensated for the use of their system; pointing out that customer generators use the EDC's system to receive electricity and to distribute excess generation. IECPA supports its assertion by noting that EDCs will not avoid distribution nor transition costs associated with customer generators. IECPA further notes that including charges other than the generation component could result in unjust and unreasonable cost shifts to other customers of the EDC.

OSBA comments that as the legislature is presumed to have been aware of the use of avoided cost of wholesale power in the current regulation, its use of full retail value evidences its intent that customer generators be compensated at a retail rate rather than a wholesale rate. OSBA further notes that by substantially increasing the eligible output of qualifying customer generators, the legislature was aware that such a change would increase the potential compensation afforded customer generators and the corresponding costs to non customer generators. OSBA asserts that without clear statutory language to the contrary, the lesser cost alternative should be adopted. Finally, EAP, IECPA, OSBA and PECO note that allowing customer generators to bypass transition charges directly contradicts the Electric Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2808.

Disposition

The Commission agrees with DEP, Heat Shed, MSEIA, OCA, PennFuture, PWIA, RESA and Vogel to the extent that customer generators must receive annual compensation for excess generation in a manner that encourages research, development and deployment of alternative energy systems, which is the clear intent of the act, as amended. However, the Commission disagrees with the above referenced parties as to the amount of such compensation.

Specifically, the Commission must disagree with the DEP, OCA, PennFuture and RESA that these regulations must follow other PJM state regulations and compensate customer generators at the avoided cost of wholesale power rate for any remaining generation credits at the end of the compliance year. It is clear that the Act 35 amendments replaced the Commission's use of avoided cost of wholesale power with full retail value in relation to EDC compensation for excess generation.

Furthermore, the Commission must also disagree with Heat Shed, MSEIA, PWIA and Vogel, all of whom assert that customer generators must be compensated at the fully bundled rate for any excess generation credits remaining at the end of the compliance year. MSEIA's assertion that no state defines excess generation as only the decoupled generation component, implying that they receive greater compensation, is less than accurate. This Commission is aware of three states that provide compensation for excess energy at the generation rate.² This Commission is also aware of three states, Arizona,³ Massachusetts⁴ and New Jersey,⁵ that provide for compensation at the avoided cost of wholesale power or equivalent rate, which only involves the energy component. Furthermore, this Commission is aware of 11 states⁶ that do not compensate customer generators for excess energy. As such, this Commission believes that providing compensation equal to the price to compare rate, which includes the unbundled generation and transmission rates, is more than reasonable in that it provides greater compensation than the states listed previously.

The Commission must disagree with EAP, IECPA, OSBA and PECO that full retail value should be interpreted to mean only the generation component of a retail rate. This Commission believes that such an interpretation would unreasonably frustrate the clear intent of the act, which is to promote the research, development and deployment of distributed alternative energy systems. Under these circumstances, it would be unreasonable to limit customer generator's annual compensation to just the unbundled generation rate.

Furthermore, this Commission does not agree with EAP, IECPA, OSBA and PECO who assert that compensation at any rate other than the unbundled generation rate would directly conflict with the Electric Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2808. While the Commission agrees with IECPA's assertion that section 2808(a) directs that customer generators' share of transition or stranded costs be recovered through a competitive transition charge, the Commission does not

² Colorado, 4 C.C.R. 723-3, rule 3664(b) (any excess energy at the end of the calendar year is to be compensated at the EDC's average hourly incremental cost of electricity supply); Ohio, O.A.C. Ann. 4901:1-10-28(e)(3) (only the excess generation component can be accumulated as a credit); and New Mexico, 17.9.570.10 N.M.A.C. (energy delivered by a customer-generator is to be purchased at the EDC's applicable time-of-use or single period energy rate) and 17.9.571.11 N.M.A.C. (when a customer leaves the system the customer-generator is compensated for excess energy at the EDC's energy rate).

³ A.A.C. § R14-2-1801

⁴ 220 C.M.R. 8.05(2)(d)

⁵ N.J.A.C. 14:8-1.2

⁶ Arkansas, 126 03 C.A.R.R. 023 Rule 2.04(e) (customer shall not receive any compensation for excess energy delivered during billing period); Delaware, 26 Del. C. § 1014(e) (any unused credits at the end of the 12-month period shall be forfeited to EDC); Florida, 25-6.065, F.A.C. (in no event shall customer be paid for excess energy delivered to EDC at end of 12-month period); Illinois, 220 I.L.C.S. 5/16-107.5(d)(3) (at the end of the year any remaining credits shall expire); Indiana, 170 I.A.C. 4-4.2-7(3) (when customer leaves system any unused credits shall revert to the EDC); Maine, C.M.R. 65-407-313(d)(3) (customer will receive no compensation for unused kilowatt-hour credits); Maryland, Md. P.U.C. Code Ann. § 7-306(6) (any remaining generation credits at the end of the 12-month period shall revert to the EDC); New Hampshire, N.H. Admin. Rules, P.U.C. 903.02(j) (when customer leaves system there shall be no payment or credit to customer for any remaining excess generation); Oregon, Or. Admin. R. 860-39-0055 (unused kilowatt-hour credits at end of year will be transferred to customers enrolled in the low-income program); Vermont, C.V.R. 30-000-048, 5.104(A)(4) (any kilowatt-hour credits not used within 12 months shall revert to EDC without any compensation); and Virginia, V.A.C. 5-315-50 (customer shall receive no compensation unless they have a purchase power contract).

agree that compensating these same customers at a rate equal to the price to compare rate conflicts with this provision. Section 2808(a) addresses the recovery of stranded costs, including the stranded costs from customers that install on site generation which operates in parallel with the utility's system and which significantly reduces purchases of electricity from the grid. Section 2808 does not address in any way the rate at which customer generators should be compensated for their excess generation.

However, the Commission does agree with IECPA that as customer generators will continue to use an EDC's distribution systems, it would be unreasonable to allow them to use those systems free of charge by shifting the costs for their use of those systems onto other customers. Thus, this Commission believes that it would be unreasonable and not in the public interest to include distribution and transition charges within the compensation provided to customer generators for any remaining excess generation credits at the end of the compliance year. It is presumed that the legislature intends to favor the public interest as opposed to private interest. 1 Pa.C.S. § 1922.

To summarize, the Commission is amending 52 Pa. Code § 75.13(d) such that, for any unused kilowatt hours accumulated at the end of the annualized period, compensation to the customer generator shall equal the price to compare rate, as defined in 52 Pa. Code § 54.182, which includes the retail generation and transmission components of the retail rate, and which consumers also utilize when choosing whether or not to obtain supply service from an EGS. Since the EDC's retail generation and transmission rates may fluctuate during a year, such compensation shall be calculated by using the weighted average generation and transmission rates, with the weighting based on the rates in effect when the monthly excess generation actually was delivered by the customer generator to the EDC. If the transmission or generation rate designs incorporate time of use rates, the weighted average rates should reflect the rates in effect during the time that the customer generator delivered its generation to the EDC.

Furthermore, this Commission believes that in interpreting the act as amended by Act 35, it is essential to capture the intent of Act 35 by providing a reasonable value to customer generators to encourage and facilitate the deployment of renewable distributed resources. These modifications should provide for the flexibility to enable customers to capture this value, and further to enable Pennsylvania to attract developers to the state for this purpose.

Section 1204 of Pennsylvania Statutes

The Commission has determined that a final-omitted rulemaking may be in its best interest for revising our regulations at 52 Pa. Code § 75.1 et seq. Section 1204 of the Pennsylvania Statutes, 45 P. S. § 1204, states:

Except as otherwise provided by regulations promulgated by the joint committee, an agency may omit or modify the procedures specified in sections 201 and 202, if:

- (1) The administrative regulation or change therein relates to: (i) military affairs; (ii) agency organization, management or personnel; (iii) agency procedure or practice; (iv) Commonwealth property, loans, grants, benefits or contracts; or (v) the interpretation of a self-executing act of Assembly or administrative regulation; or
- (2) All persons subject to the administrative regulation or change therein are named therein and are either

personally served with notice of the proposed promulgation, amendment, or repeal or otherwise have actual notice thereof in accordance with law; or

(3) The agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary, or contrary to the public interest.

45 P. S. § 1204.

Based upon the circumstances of this situation, specifically, that Act 35 effectively amends the provisions of the act, as well as our ensuing regulations at 52 Pa. Code § 75.1, et seq., that were adopted to conform with the Act 213 of 2004, the exception at § 1204(3) is, in our opinion, applicable. Indeed, section 1204(3) provides that an exception to routine notice requirements is permissible if the agency finds for good cause that notice is, inter alia, "impracticable, unnecessary or contrary to the public interest." Clearly, good cause exists for the Commission to conform its regulations at 52 Pa. Code § 75.1 et seq., to comply with a valid statutory amendment that substantively changes our regulations. This action by the Commission merely carries out the intention of Act 35 by making changes to our regulation limited to those required to be consistent with the new act. To open a complete de novo rulemaking proceeding to effectuate a statutory amendment would be clearly redundant, unnecessary, and not in the public interest.

Furthermore, the Commission has sought and received comments and reply comments regarding the issues to be addressed to bring the regulations into conformity with the amendments. This modified rulemaking procedure ostensibly meets the intent of the de novo rulemaking procedure while expediting the process. The Commission believes that such an expedited proceeding is prudent based on the fact that certain of the amendment's provisions require immediate action by public utilities.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745a(c)), the Commission submitted a copy of the final-omitted rulemaking, served on September 25, 2008, to the IRRC, the Chairperson of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure (Committees), the Office of Attorney General and the Office Budget.

This final-omitted rulemaking was deemed approved by the House and Senate Committees and was approved by IRRC on november 6, 2008, in accordance with section 5.1(e) of the act.

Dissenting Statement of Commissioner Kim Pizzingrilli

The most significant and contentious issue addressed by the revision of the net metering rule is the compensation standard for excess generation at the end of each annual period. Act 35 revised the act to require that:

Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis.

73 P. S. § 1648.5.

The Commission requested comments and reply comments in 2007 regarding the implementation of this language.

Two different interpretations of this provision were provided by the commenting parties. Representatives of distributed generation interests asserted that customer-generators must be compensated at the fully bundled retail rate, including transmission, distribution and generation components, for all excess kilowatt hours at the end of the annual period. The other stakeholders, including the Office of Consumer Advocate, the Office of Small Business Advocate, the Department of Environmental Protection, the Energy Association of Pennsylvania and its member companies, commented that customer-generators may only be paid the generation component for their excess generation at the end of the annual period. There was a difference of opinion among the second group of stakeholders as to whether the generation component should be the unbundled, retail generation rate as reflected in the tariff, or alternatively, based on the avoided wholesale cost of power.

Instead of adopting one of these positions, the majority finds that customer-generators should be compensated at the price-to-compare, which is defined as the sum of all unbundled transmission and generation related charges associated with providing default service to retail customers. While I appreciate the public policy argument advanced to support this interpretation, I do not believe it is reasonably consistent with the plain language of the statute. Legislative intent should control. 1 Pa.C.S. § 1921.

Therefore, I dissent.

KIM PIZZINGRILLI,
Commissioner

For the previous reasons, the exceptions to the notice of proposed rulemaking requirements enunciated in section 1204(3) are applicable in the instant case. Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501, section 204 of the Act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5, the Commission adopts the regulations at 52 Pa. Code § 75.1 et seq., as set forth in Annex A; therefore,

It Is Ordered That:

1. This order, together with Annex A, be published as final in the *Pennsylvania Bulletin*.
2. The Secretary shall submit this order and Annex A to the Attorney General for review and approval and to the Governor's Budget Office for fiscal review.
3. The Secretary shall submit this order and Annex A to the legislative standing committees and to the IRRC for review and approval.
4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for final publication upon approval by the IRRC.
5. A copy of this order and Annex A be served upon the Department of Environmental Protection, all jurisdictional electric distribution companies, licensed electric generation suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate and all Parties who filed comments at this docket number.
6. The regulations of the Commission, 52 Pa. Code Chapter 75, are amended by amending §§ 75.1 and 75.12—75.14 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
7. These amendments become effective upon publication in the *Pennsylvania Bulletin*.

8. The contact person for this order is Kriss E. Brown, Law Bureau, (717) 787 4518.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 6429 (November 22, 2008).)

Fiscal Note: 57-264. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 75. ALTERNATIVE ENERGY PORTFOLIO STANDARDS

Subchapter A. GENERAL PROVISIONS

§ 75.1. Definitions.

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

Act—The Alternative Energy Portfolio Standards Act (73 P. S. §§ 1648.1—1648.8).

Alternative energy credit—A tradable instrument that is used to establish, verify and monitor compliance with the act. A unit of credit must equal 1 megawatt hour of electricity from an alternative energy source. An alternative energy credit shall remain the property of the alternative energy system until the alternative energy credit is voluntarily transferred by the alternative energy system.

* * * * *

Customer-generator—A nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or not larger than 3,000 kilowatts at other customer service locations, except for customers whose systems are above 3 megawatts and up to 5 megawatts who make their systems available to operate in parallel with the electric utility during grid emergencies as defined by the regional transmission organization or where a microgrid is in place for the primary or secondary purpose of maintaining critical infrastructure, such as homeland security assignments, emergency services facilities, hospitals, traffic signals, wastewater treatment plants or telecommunications facilities, provided that technical rules for operating generators interconnected with facilities of an EDC, electric cooperative or municipal electric system have been promulgated by the institute of electrical and electronic engineers and the Commission.

* * * * *

Force majeure—

(i) Upon its own initiative or upon a request of an EDC or an EGS, the Commission, within 60 days, will determine if alternative energy resources are reasonably available in the marketplace in sufficient quantities for the EDCs and the EGSs to meet their obligations for that reporting period under the act. In making this determination, the Commission will consider whether EDCs or EGSs have made a good faith effort to acquire sufficient

alternative energy to comply with their obligations. Evidence of good faith efforts include:

- (A) Banking alternative energy credits during transition periods.
- (B) Seeking alternative energy credits through competitive solicitations.
- (C) Seeking to procure alternative energy credits or alternative energy through long-term contracts.
- (D) Other competent evidence the commission credits as demonstrating a good faith effort.

(ii) In further making its determination, the Commission will assess the availability of alternative energy credits in the Generation Attributes Tracking System (GATS) or its successor, and the availability of alternative energy credits generally in this Commonwealth and other jurisdictions in the PJM Interconnection, LLC regional transmission organization (PJM) or its successor. The Commission may also require solicitations for alternative energy credits as part of default service before requests of force majeure may be made.

(iii) If the Commission determines that alternative energy resources are not reasonably available in sufficient quantities in the marketplace for the EDCs and EGSs to meet their obligations under the act, the Commission will modify the underlying obligation of the EDC or EGS or recommend to the General Assembly that the underlying obligation be eliminated. Commission modification of the EDC or EGS obligations under the act will be for that compliance period only. Commission modification may not automatically reduce the obligation for subsequent compliance years.

(iv) If the Commission modifies the EDC or EGS obligations under the act, the Commission may require the EDC or EGS to acquire additional alternative energy credits in subsequent years equivalent to the obligation reduced by a force majeure declaration when the Commission determines that sufficient alternative energy credits exist in the marketplace.

* * * * *

Tier I alternative energy source—Energy derived from:

- (i) Solar photovoltaic and solar thermal energy.
- (ii) Wind power.
- (iii) Low-impact hydropower.
- (iv) Geothermal energy.
- (v) Biologically derived methane gas.
- (vi) Fuel cells.
- (vii) Biomass energy.
- (viii) Coal mine methane.

* * * * *

Subchapter B. NET METERING

§ 75.12. Definitions.

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

Base year—For customer-generators who initiated self generation on or after January 1, 1999, the base year will be the immediate prior calendar year; for all other customer generators, the base year will be 1996.

Billing month—The term has the same meaning as set forth in § 56.2 (relating to definitions).

Customer-generator facility—The equipment used by a customer-generator to generate, manage, monitor and deliver electricity to the EDC.

Electric distribution system—That portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises.

Meter aggregation—The combination of readings from and billing for all meters regardless of rate class on properties owned or leased and operated by a customer-generator for properties located within the service territory of a single EDC. Meter aggregation may be completed through physical or virtual meter aggregation.

Net metering—The means of measuring the difference between the electricity supplied by an electric utility or EGS and the electricity generated by a customer-generator any portion of the electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator's requirements for electricity.

Physical meter aggregation—The physical rewiring of all meters regardless of rate class on properties owned or leased and operated by a customer-generator to provide a single point of contact for a single meter to measure electric service for that customer-generator.

Virtual meter aggregation—The combination of readings and billing for all meters regardless of rate class on properties owned or leased and operated by a customer-generator by means of the EDC's billing process, rather than through physical rewiring of the customer-generator's property for a physical, single point of contact. Virtual meter aggregation on properties owned or leased and operated by a customer-generator and located within 2 miles of the boundaries of the customer-generator's property and within a single electric distribution company's service territory shall be eligible for net metering.

Year and yearly—Planning year as determined by the PJM Interconnection, LLC regional transmission organization.

§ 75.13. General provisions.

(a) EDCs shall offer net metering to customer-generators that generate electricity on the customer-generator's side of the meter using Tier I or Tier II alternative energy sources, on a first come, first served basis. EGSs may offer net metering to customer-generators, on a first come, first served basis, under the terms and conditions as are set forth in agreements between EGSs and customer-generators taking service from EGSs.

(b) An EDC shall file a tariff with the Commission that provides for net metering consistent with this chapter. An EDC shall file a tariff providing net metering protocols that enable EGSs to offer net metering to customer-generators taking service from EGSs. To the extent that an EGS offers net metering service, the EGS shall prepare information about net metering consistent with this chapter and provide that information with the disclosure information required in § 54.5 (relating to disclosure statement for residential and small business customers).

(c) The EDC shall credit a customer-generator at the full retail rate, which shall include generation, transmission and distribution charges, for each kilowatt-hour produced by a Tier I or Tier II resource installed on the

customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during the billing period. If a customer generator supplies more electricity to the electric distribution system than the EDC delivers to the customer-generator in a given billing period, the excess kilowatt hours shall be carried forward and credited against the customer-generator's usage in subsequent billing periods at the full retail rate. Any excess kilowatt hours shall continue to accumulate until the end of the year. For customer-generators involved in virtual meter aggregation programs, a credit shall be applied first to the meter through which the generating facility supplies electricity to the distribution system, then through the remaining meters for the customer-generator's account equally at each meter's designated rate.

(d) At the end of each year, the EDC shall compensate the customer-generator for any excess kilowatt-hours generated by the customer-generator over the amount of kilowatt hours delivered by the EDC during the same year at the EDC's price to compare.

(e) The credit or compensation terms for excess electricity produced by customer-generators who are customers of EGSs shall be stated in the service agreement between the customer-generator and the EGS.

(f) If a customer-generator switches electricity suppliers, the EDC shall treat the end of the service period as if it were the end of the year.

(g) An EDC and EGS which offer net metering shall submit an annual net metering report to the Commission. The report shall be submitted by July 30 of each year, and include the following information for the reporting period ending May 31 of that year:

- (1) The total number of customer-generator facilities.
- (2) The total estimated rated generating capacity of its net metering customer-generators.

(h) A customer-generator that is eligible for net metering owns the alternative energy credits of the electricity it generates, unless there is a contract with an express provision that assigns ownership of the alternative energy credits to another entity or the customer-generator expressly rejects any ownership interest in alternative energy credits under § 75.14(d) (relating to meters and metering).

(i) An EDC shall provide net metering at nondiscriminatory rates identical with respect to rate structure, retail rate components and any monthly charges to the rates charged to other customers that are not customer-generators. An EDC may use a special load profile for the customer-generator which incorporates the customer-generator's real time generation if the special load profile is approved by the Commission.

(j) An EDC may not charge a customer-generator a fee or other type of charge unless the fee or charge would apply to other customers that are not customer-generators. The EDC may not require additional equipment or insurance or impose any other requirement

unless the additional equipment, insurance or other requirement is specifically authorized under this chapter or by order of the Commission.

(k) Nothing in this subchapter abrogates a person's obligation to comply with other applicable law.

§ 75.14. Meters and metering.

(a) A customer-generator facility used for net metering must be equipped with a single bidirectional meter that can measure and record the flow of electricity in both directions at the same rate. If the customer-generator agrees, a dual meter arrangement may be substituted for a single bidirectional meter.

(b) If the customer-generator's existing electric metering equipment does not meet the requirements in subsection (a), the EDC shall install new metering equipment for the customer-generator at the EDC's expense. Any subsequent metering equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

(c) When the customer-generator intends to take title or transfer title to any alternative energy credits which may be produced by the customer-generator's facility, the customer-generator shall bear the cost of additional net metering equipment required to qualify the alternative energy credits in accordance with the act.

(d) When the customer-generator expressly rejects ownership of alternative energy credits produced by the customer-generator's facility, the EDC may supply additional metering equipment required to qualify the alternative energy credit at the EDC's expense. In those circumstances, the EDC shall take title to any alternative energy credit produced. An EDC shall, prior to taking title to any alternative energy credits produced by a customer-generator, fully inform the customer-generator of the potential value of the alternative energy credits and other options available to the customer-generator for the disposition of those credits. A customer-generator is not prohibited from having a qualified meter service provider install metering equipment for the measurement of generation, or from selling alternative energy credits to a third party other than an EDC.

(e) Virtual meter aggregation on properties owned or leased and operated by a customer-generator shall be allowed for purposes of net metering. Virtual meter aggregation shall be limited to meters located on properties owned or leased and operated within 2 miles of the boundaries of the customer-generator's property and within a single EDC's service territory. Physical meter aggregation shall be at the customer-generator's expense. The EDC shall provide the necessary equipment to complete physical aggregation. If the customer-generator requests virtual meter aggregation, it shall be provided by the EDC at the customer-generator's expense. The customer-generator shall be responsible only for any incremental expense entailed in processing his account on a virtual meter aggregation basis.

[Pa.B. Doc. No. 08-2145. Filed for public inspection November 28, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

Safe Drinking Water (Groundwater Rule)

The Environmental Quality Board (Board) proposes to amend Chapter 109 (relating to safe drinking water). The amendments will provide for increased protection against microbial pathogens in public water systems that use groundwater sources. The Groundwater Rule establishes a risk-targeted approach to identify groundwater sources that are susceptible to fecal contamination. The Department of Environmental Protection (Department) has chosen *E. coli* as the indicator organism for source water monitoring.

The Groundwater Rule builds upon the existing Total Coliform Rule and establishes corrective actions, monitoring and source treatment provisions as part of the risk-based strategy.

This proposal was adopted by the Board at its meeting of August 19, 2008.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information, contact Ronald Furlan, Chief, Division of Planning and Permits, P. O. Box 8774, Rachel Carson State Office Building, Harrisburg, PA 17105-8774, (717) 787-8184 or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The proposal is available electronically through the Department web site www.depweb.state.pa.us.

C. Statutory Authority

The proposed rulemaking is being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-7 and 510-20).

D. Background and Purpose

Groundwater has been traditionally regarded to be safer than surface water due to the natural filtering that occurs as groundwater travels through aquifer media. New evidence suggests that groundwater may be susceptible to viral contamination despite this natural filtering, particularly in karst aquifers where contaminants are more readily transported through conduits and fissures dissolved in the limestone. Groundwater supplies can become fecally contaminated when surface water infiltrates karst aquifers or when high densities of livestock farming operations or on-lot sewage treatment systems overwhelm the natural protective barriers of nonkarst aquifers.

The viral pathogens that may be found in fecally contaminated groundwater sources include enteric viruses such as Echovirus, Coxsackie viruses, Hepatitis A and E, Rotavirus and Noroviruses. Vulnerable groundwater sources have also been found to contain enteric bacterial pathogens such *E. coli*, *Salmonella spp.*, *Shigella spp.* and *Vibrio cholera*. The Centers for Disease Control reports that between 1991 and 2000 groundwater source contamination and inadequate treatment accounted for 51% of all waterborne disease outbreaks in the United States.

Groundwater systems in this Commonwealth are not currently regulated with respect to source water viral contamination. The present regulations require only that community groundwater systems provide continuous disinfection that is detectable throughout the distribution system. Systems, particularly smaller systems, can potentially satisfy this requirement with entry point disinfectant residuals that are too low to effectively inactivate viruses. Thus, community systems meeting the current disinfection requirement may not be providing the public with adequate protection from viral contamination. Noncommunity groundwater systems are not required to provide disinfection; persons consuming water from these systems are not afforded any protection other than that provided by the characteristics of the source aquifer.

This proposed rulemaking package will amend the Department's Safe Drinking Water regulations to: (1) establish a risk-targeted approach to identify ground water systems that are susceptible to fecal contamination; (2) define adequate treatment technique requirements for the inactivation and/or removal of viruses; (3) create guidelines including corrective action alternatives for systems to respond in a timely and appropriate manner to significant deficiencies identified by the Department during inspections; and (4) include additional requirements for notifying the public.

Minor clarifications are being made to the variance and exemption requirements in of Chapter 109, Subchapter I (relating to variances and exemptions issued by the Department) to be consistent with the Federal rule and as a condition of primacy.

The draft proposed amendments were submitted to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on December 13, 2007. The TAC Board commented regarding the recordkeeping requirements stating, "The extensive recordkeeping requirements are unrealistic for small systems." The TAC Board suggested that the Department keep and maintain these records and automatically send them to the owner whenever a system changes ownership.

The recordkeeping requirements contained in § 109.1307(b) (relating to system management responsibilities) are consistent with the Federal requirements, 5 or 10 years for most categories, and these have been long-standing requirements. Further, it should be noted that the Commonwealth must be at least as stringent as the corresponding Environmental Protection Agency (EPA) requirements. In addition, the Department historically has provided authorized representatives with system-specific records upon request, and would continue to do so.

E. Summary of Regulatory Requirements

§ 109.1. Definitions.

The Department has added definitions for the following terms in § 109.1 (relating to definitions): “groundwater,” “log inactivation,” “log removal,” “log treatment” and “microorganism.” These terms are vital to the clear interpretation of the Groundwater Rule and had not been previously defined in Chapter 109.

§ 109.408. Tier 1 public notice form—manner and frequency of notice.

Section § 109.408(a)(8) is added to require Tier 1 public notice for a positive *E. coli* source water sample for systems monitoring under the triggered monitoring requirements (§ 109.1303 (relating to triggered monitoring requirements for groundwater sources)) and the assessment source water monitoring requirements (§ 109.1304 (relating to assessment source water monitoring)).

Section 109.408(a)(9) is added to clarify that, for systems conducting compliance monitoring, a breakdown in treatment requires Tier 1 public notification.

§ 109.409. Tier 2 public notice—form, manner and frequency of notice.

Section § 109.409(a)(1) is amended to include the requirement of Tier 2 public notification for a failure to take corrective action as required in 40 CFR 141.203(a)(4) (relating to tier 2 public notice—form, manner and frequency of notice).

§ 109.417. Special notice for significant deficiencies by noncommunity water systems.

This amendment reflects the Federal requirements found in 40 CFR 141.403(a)(7)(ii) (relating to treatment technique requirements for ground water systems). In addition to other public notification obligations, a noncommunity system is required to provide special notice to the public for significant deficiencies that have not been corrected within 12 months of being notified by the Department.

§ 109.503. Public water system construction permits.

This section was amended to clarify the monitoring requirements by specifying *E. coli* as the fecal indicator for new source sampling.

§ 109.505. Requirements for noncommunity water systems.

To account for new treatment technique requirements, as specified in Subchapter M, this section was amended to clarify the conditions under which noncommunity systems may file a brief description of the system in lieu of obtaining a permit. Prior to the Groundwater Rule, noncommunity water systems were not required to obtain construction and operation permits if they provided treatment no greater than disinfection. The Department has modified this exception. These permits will be required for noncommunity systems providing only disinfection if they are required to meet 4-log treatment of viruses under § 109.1302 (relating to treatment technique requirements). The demonstration of 4-log treatment requires an engineering determination that must be reviewed as part of a permitting process.

This section was also amended to clarify the monitoring requirements by specifying *E. coli* as the fecal indicator for new source sampling for transient noncommunity systems.

§ 109.605. Minimum treatment design standards.

Section 109.605(3) was added to define minimum treatment design standards for new facilities is at least 99.99% (4-log) treatment of viruses.

§ 109.705. Sanitary surveys.

This section was amended to revise the frequency of sanitary surveys conducted by the Department to be consistent with the Federal requirements found in 40 CFR 142.16(o)(2) (relating special primary requirements).

§ 109.901. Requirements for a variance.

This section was amended to incorporate the Federal requirements found in 40 CFR 142.10(d)(2) (relating to requirements for a determination of primary enforcement).

§ 109.903. Requirements for an exemption.

This section was amended to incorporate the Federal requirements found in 40 CFR 141.4(a) and 142.20(b) (relating to variance and exceptions; and State-issued variances and exemptions under section 1415(a) and section 1416 of the act).

§ 109.906. Consideration of a request for a variance or exemption.

This section was amended to incorporate the Federal requirements found in 40 CFR 142.20(b)(1)(ii).

§ 109.907. Disposition of a request for a variance or exemption.

This section was amended to incorporate the Federal requirements found in 40 CFR 142.20(a)(1) and (b)(1).

§ 109.908. Compliance schedules.

This section was amended to incorporate the Federal requirements found in 40 CFR 142.20(a)(2) and (b)(2).

§ 109.1002. MCLs, MRDLs or treatment techniques.

This section was amended to clarify that bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with Subchapter M (relating to additional requirements for groundwater sources).

§ 109.1003. Monitoring requirements.

This section was amended to clarify that bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with the monitoring requirements of Subchapter M.

Subchapter M. Additional requirements for groundwater sources.

This subchapter was added to reflect the Federal requirements in 40 CFR Subpart S and to further clarify requirements for systems using groundwater sources in this Commonwealth. The following is a brief summary of each section including descriptions of where the proposed state requirements are more stringent than Federal regulations.

§ 109.1301. Scope.

This section clarifies that systems using groundwater not combined with surface water or groundwater under the direct influence of surface water prior to treatment are required to comply with the provisions of Subchapter M.

§ 109.1302. Treatment technique requirements.

This section establishes the treatment technique requirements for community and noncommunity systems and includes corrective action alternatives for systems with significant deficiencies or source water *E. coli* contamination.

Section § 109.1302(a)(4) requires all community water systems with groundwater sources to reliably achieve at least 4-log treatment of viruses for those sources. This component of the proposed rulemaking is more stringent than the current Federal requirements found in 40 CFR 141.403(b) (relating to treatment technique requirements for ground water systems).

Under § 109.202(c)(2) (relating to State MCLs and treatment technique requirements), existing requirements for community systems in this Commonwealth are already more stringent than Federal regulations. Unlike the Federal requirements, the Commonwealth mandates that all community water systems provide continuous disinfection. The current State regulations do not, however, require groundwater systems to maintain any minimum measure of disinfectant level or effectiveness at the entry point. The Pennsylvania Groundwater Rule requirement that all community systems maintain at least 4-log treatment of viruses for their groundwater sources is a logical progression of disinfection treatment and will provide additional protection of public health. Most systems are presently capable of providing 4-log treatment of viruses without significant modification. For the remaining systems, this requirement will likely be satisfied by one or more of the following: revising system-specific operational practices, modifying existing storage or adding storage capacity.

This requirement will be phased in based on population served, and is planned to occur in the period from January 1, 2011, to January 1, 2013. All public groundwater systems will need to comply with triggered monitoring requirements from December 1, 2009, until they receive the Department's notification that they are demonstrating at least 4-log treatment and then are directed to begin compliance monitoring.

Section 109.1302(a)(2) establishes a default entry point free chlorine minimum residual of 0.4mg/L or its equivalent for all community systems. Community water systems must maintain the default minimum residual until they successfully demonstrate that an alternative residual can provide at least 4-log treatment of viruses. The default residual is being required to better protect public health during the interim period between the effective date of this rule and the date when the Department has verified that a community groundwater system is providing 4-log treatment of viruses.

The default residual of 0.4mg/L was determined using the accepted calculation for CT. Based on conservative assumptions of groundwater characteristics in Pennsylvania (temperature no less than 5° C and pH less than 9), a CT value of 8 min-mg/L is required to achieve 4-log inactivation of viruses. Further, existing Design Standards in Part II of the Department's "Public Water Supply Manual" require that 20 minutes of contact time with minimal short circuiting be provided prior to each entry point. Assuming the Design Standards are met, a minimum residual of 0.4mg/L multiplied by 20 minutes contact time results in the required CT value of 8 min-mg/L.

Most systems can readily maintain a 0.4mg/L minimum residual prior to each entry point simply by adjusting their level of disinfectant application. Currently 93% of community water systems disinfect with chlorine. Of these systems, at least 60% presently maintain an average residual of 0.4mg/L or greater in the distribution system (based on available compliance data). Because entry point disinfectant residuals are greater than levels in the distribution system, it is expected that the percentage of systems presently maintaining at least 0.4mg/L at the entry point is much higher than 60%.

§ 109.1303. Triggered monitoring requirements for groundwater sources.

This section establishes source water monitoring requirements for systems that have not received confirmation from the Department that they are providing at least 4-log treatment of viruses and thus are not conducting compliance monitoring. In response to a coliform-positive sample collected under 40 CFR 141.21(a) (relating to coliform sampling), the Groundwater Rule requires these systems to collect additional groundwater source samples to be analyzed for the presence of *E. coli*.

The Department will require source samples to be collected prior to any treatment, whereas a sampling location is not specified in 40 CFR 141.402(a) (relating to ground water source microbial monitoring and analytical methods). To eliminate the possibility of source water pathogens being inactivated or removed (thus rendering a sample nonrepresentative of source water quality) the Department will not approve source water sampling locations downstream of any treatment.

The Federal rule, 40 CFR 141.402(a)(2), requires source water samples be collected from "each ground water source in use at the time" the routine total coliform-positive sample was collected. The Department clarifies this requirement by specifying that samples should be collected from each source connected to the distribution system where the total coliform-positive sample was collected. The revised language eliminates confusion regarding which source or sources may have been in use at the time of the positive sample by instead focusing on a source's potential of contributing to the distribution contamination. Prior to sampling, systems may still obtain written approval under § 109.1303(c) to collect samples from representative sources.

In response to any total coliform-positive routine sample that is not invalidated, systems will be required to collect source water samples in accordance with § 109.1303(a). The Federal rule, 40 CFR 141.402(a)(5), allows states the ability to determine if a distribution deficiency or condition caused the total coliform-positive routine sample and, thereby, relieve systems from their obligation to conduct triggered source water monitoring. For systems conducting routine coliform monitoring as prescribed in § 109.301(3), the Department does not believe it is possible to eliminate source water quality as a potential contributor to the distribution contamination without additional sample results.

Under the Federal rule, 40 CFR 141.402(a)(2)(iii), a groundwater system serving less than 1,000 people (and thus required to collect four check samples in response to a routine total coliform positive sample) may also use a source water sample collected to satisfy the triggered monitoring requirements under § 109.1303 as one of the repeat samples under the Total Coliform Rule (TCR). This sample substitution is not permitted in Pennsylvania's Groundwater Rule. The Department believes that source

water samples are not representative of the distribution system and, therefore, should not be used in any analyses designed to draw inferences about distribution system water quality.

§ 109.1304. Assessment source water monitoring.

Under the Federal rule, 40 CFR 141.402(b), assessment source water monitoring is an option for a state to implement. The Department has chosen to adopt assessment source water monitoring to target higher-risk groundwater sources for additional source water monitoring and evaluation. This provision will only apply to noncommunity water systems considering that all community water systems will eventually be required to provide at least 4-log treatment of viruses. In this Commonwealth, systems that draw groundwater from a carbonate aquifer (such as, limestone) are considered susceptible to fecal contamination and therefore must conduct assessment source water monitoring as directed by the Department or install a treatment technology that achieves a minimum 4-log inactivation or removal of viruses. Groundwater sources not developed in carbonate aquifers may also be considered sensitive and targeted for assessment source water monitoring. The Department will consider other factors that identify sources at risk to fecal contamination such as: sensitivity of the source aquifer to fecal contamination, proximity to sources of fecal contamination or microbiological sampling history.

The Federal rule, 40 CFR 141.402(b)(5), allows a state to approve collection of groundwater source samples for assessment source water monitoring at a location after treatment. To eliminate the possibility of source water pathogens being inactivated or removed (thus rendering a sample nonrepresentative of source water quality) the Department will not approve source water sampling locations downstream of any treatment. Prior to sampling, systems may still obtain written approval under § 109.1304(a)(1) to collect samples from representative sources.

§ 109.1305. Compliance monitoring.

This section establishes the monitoring requirements for systems that have demonstrated to the Department that they provide at least 4-log treatment of viruses for their groundwater sources. Upon notification from the Department, a system must begin compliance monitoring to ensure treatment efficacy. Systems conducting compliance monitoring are not subject to the requirements of either triggered monitoring or assessment source water monitoring. This section reflects the Federal requirements found in 40 CFR 141.403(b) (relating to treatment technique requirement for ground water systems).

§ 109.1306. Information describing 4-log treatment and compliance monitoring.

This section establishes requirements for systems electing to or obligated to provide at least 4-log treatment of viruses. This section states that systems shall submit information on forms provided by the Department describing how at least 4-log treatment of viruses is provided. If an engineer's report is required it must be prepared by or under the supervision of a professional engineer registered to practice in this Commonwealth.

In addition to demonstrating that at least 4-log treatment of viruses will be provided, systems shall describe how they will satisfy the compliance monitoring provisions in § 109.1305.

§ 109.1307. System management responsibilities.

This section establishes the reporting and recordkeeping obligations for systems subject to Subchapter M. The

requirements of this section reflect the provisions in 40 CFR 141.405 (relating to reporting and recordkeeping for ground water systems).

For systems conducting compliance monitoring, § 109.1307(a)(1)(ii) requires Tier 1 public notice when a breakdown in treatment occurs for greater than 4 hours, whereas 40 CFR 141.404(c) and (d) (relating to treatment technique violations for ground water systems) mandates Tier 2 public notice. This addition is consistent with Pennsylvania's existing public notification regulations in § 109.408 that necessitates Tier 1 public notice for a failure or significant interruption in key water treatment processes.

F. Benefits, Costs and Compliance

Benefits

The Groundwater Rule establishes monitoring requirements to ensure adequate treatment is provided at groundwater systems and defines a risk-targeted approach to identify groundwater sources that are vulnerable to fecal contamination. Implementation of the Rule will create public health benefits for approximately 7 million Pennsylvanians resulting from the reduction in endemic acute viral illness and death from two groups of viruses. Type A virus, represented by rotavirus, is highly infectious, but generally creates mild health effects. Type B virus, represented by enterovirus, is moderately infectious. Although most illnesses caused by type-B viruses are also mild, they may produce severe health effects in children, the elderly, and those with compromised immune systems.

The EPA has estimated that the Nation may avoid 39,442 illnesses associated with Type A rotavirus, and 2,426 illnesses related to Type B enterovirus. In this Commonwealth, this translates to 2,405 and 148 illnesses avoided respectively.

The EPA has quantified the mean annual cost of illness occurring as a result of viruses in public water supply wells under normal operating conditions. The EPA estimated the National annual benefits from Rule implementation to be \$16 million for community water systems, \$0.9 million for nontransient noncommunity systems and \$2.7 million for transient noncommunity systems. Resulting from illnesses avoided in this Commonwealth this translates to annual benefits of \$632,657, \$54,548 and \$193,321 respectively, totaling \$880,626.

The proposed variance and exemption revisions will ensure that public water systems consider all other options for achieving compliance prior to requesting a variance or exemption from an MCL or treatment technique requirement.

Compliance Costs

The EPA estimated the annual cost to implement the Groundwater Rule for public water systems Nationwide will be approximately \$50 million. It is anticipated that this Commonwealth's public water systems will incur a cost of \$2.9 million annually. The yearly cost for each type of public water systems is projected to be the following:

| <i>System Type</i> | <i>Estimated Annual Cost</i> |
|--|------------------------------|
| Community Water System | \$ 738,627 |
| Transient Noncommunity Water System | \$1,893,114 |
| Nontransient Noncommunity Water System | \$ 298,198 |

Nationwide, the annual cost states will bear are expected to be \$11.8 million as calculated by the EPA. The Groundwater Rule is expected to cost the Commonwealth's government \$708,000 yearly.

The proposed minor clarifications to Chapter 109, Subchapter I, variances and exemptions, primarily address existing requirements. As a result, costs are not expected to substantially increase or decrease.

Compliance Assistance Plan

The Commonwealth's PENNVEST Program offers financial assistance to public water systems that qualify. Eligibility is based upon factors such as public health impact, compliance necessity, and project/operational affordability. Assistance is in the form of a low-interest loan and in hardship cases additional grant funds may be awarded.

The Safe Drinking Water Program will provide training to systems identified to be effected by the Groundwater Rule. To facilitate system compliance, the Bureau of Water Standards and Facility Regulation will send informational documents to groundwater systems prior to the effective date of the regulation to clarify the various provisions of the Rule.

Paperwork Requirements

Systems providing at least 4-log treatment of viruses must submit forms to the Department successfully demonstrating treatment effectiveness to commence conducting compliance monitoring. As a one time cost, systems may prefer to employ a professional engineer to complete any applicable forms or reports.

The requirements of the Groundwater Rule include additional monitoring, recording and reporting. It is anticipated these obligations will require little or no additional paperwork.

G. Sunset Review

This proposed rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 19, 2008, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. 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 regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of these issues by the Department, the General Assembly and the Governor prior to final publication of the regulations.

I. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objection regarding the

proposed regulation to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17105-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions, or objections must be received by the Board by December 29, 2008. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by December 29, 2008. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulations will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by December 29, 2008. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JOHN HANGER,
Acting Chairperson

Fiscal Note: 7-425. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter A. GENERAL PROVISIONS

§ 109.1. Definitions.

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

* * * * *

Groundwater—Water that is located within the saturated zone below the water table and is available to supply wells and springs.

* * * * *

Log inactivation—A measure of the amount of viable microorganisms that are rendered nonviable during disinfection processes and is defined as:

$$\text{Log inactivation} = \log \left(\frac{N_o}{N_D} \right)$$

Where,

N_o = Initial concentration of viable microorganisms

N_D = Concentration of viable microorganisms after disinfection

Log = Logarithm to base 10

Log inactivation is related to percent inactivation, defined as:

$$\text{Percent inactivation} = \left(1 - \frac{N_D}{N_o}\right) * 100$$

Common log-inactivation values and corresponding percent inactivation values include:

| Log Inactivation | Percent Inactivation |
|------------------|----------------------|
| 0.5-log | 68.4% |
| 1.0-log | 90.0% |
| 1.5-log | 96.8% |
| 2.0-log | 99.0% |
| 2.5-log | 99.7% |
| 3.0-log | 99.9% |
| 4.0-log | 99.99% |

Log removal—A measure of the physical removal of a targeted contaminant or disease-causing microorganism (or its surrogate) during water treatment processes and is defined as:

$$\text{Log removal} = \log\left(\frac{N_o}{N_R}\right)$$

Where,

N_o = Initial concentration of targeted contaminant or disease-causing microorganism (or its surrogate)

N_R = Concentration of targeted contaminant or disease-causing microorganism (or its surrogate) after removal

Log = Logarithm to base 10

Log removal is related to percent removal, defined as:

$$\text{Percent removal} = \left(1 - \frac{N_R}{N_o}\right) * 100$$

Common log-removal values and corresponding percent removal values include:

| Log Removal | Percent Removal |
|-------------|-----------------|
| 0.5-log | 68.4% |
| 1.0-log | 90.0% |
| 1.5-log | 96.8% |
| 2.0-log | 99.0% |
| 2.5-log | 99.7% |
| 3.0-log | 99.9% |
| 4.0-log | 99.99% |

Log treatment—A measure of the removal or inactivation, or Department-approved combination of removal and inactivation, of a targeted contaminant or disease-causing microorganism (or its surrogate) during water treatment processes and is defined as:

Log treatment = Log removal + Log inactivation

Or,

$$\text{Log treatment} = \log\left(\frac{N_o}{N_T}\right)$$

Where,

N_o = Initial concentration of a targeted contaminant or disease-causing microorganism (or its surrogate)

N_T = Concentration of a targeted contaminant or disease-causing microorganism (or its surrogate) after treatment

Log = Logarithm to base 10

Log treatment is related to percent treatment, defined as:

$$\text{Percent treatment} = \left(1 - \frac{N_T}{N_o}\right) * 100$$

Common log treatment values and corresponding percent treatment values include:

| Log Treatment | Percent Treatment |
|---------------|-------------------|
| 0.5-log | 68.4% |
| 1.0-log | 90.0% |
| 1.5-log | 96.8% |
| 2.0-log | 99.0% |
| 2.5-log | 99.7% |
| 3.0-log | 99.9% |
| 4.0-log | 99.99% |

* * * * *

Microorganism—Any of a number of unicellular, multicellular or colonial bacteria, fungi, protozoa, archaea or viruses whose individuals are too small to be seen by the human eye without magnification.

* * * * *

§ 109.5. Organization of chapter.

* * * * *

(e) Subchapter M (relating to additional requirements for groundwater sources) applies to all public water systems that use groundwater, excluding those systems that combine all of their groundwater with surface water or with groundwater under the direct influence of surface water prior to treatment.

Subchapter B. MCLs, MRDLs OR TREATMENT TECHNIQUE REQUIREMENTS

§ 109.202. State MCLs, MRDLs and treatment technique requirements.

* * * * *

(c) *Treatment technique requirements for pathogenic bacteria, viruses and protozoan cysts.* A public water system shall provide adequate treatment to reliably protect users from the adverse health effects of microbiological contaminants, including pathogenic bacteria, viruses and protozoan cysts. The number and type of treatment barriers and the efficacy of treatment provided shall be commensurate with the type, degree and likelihood of contamination in the source water.

(1) A public water supplier shall provide, as a minimum, continuous filtration and disinfection for surface water and GUDI sources. The treatment technique [shall] must provide at least 99.9% removal and inactivation of Giardia lamblia cysts, and at least 99.99% removal and inactivation of enteric viruses. Beginning January 1, 2002, public water suppliers serving 10,000 or more people shall provide at least 99% removal of Cryptosporidium oocysts. Beginning January 1, 2005, public water suppliers serving fewer than 10,000 people

shall provide at least 99% removal of Cryptosporidium oocysts. The Department, depending on source water quality conditions, may require additional treatment as necessary to meet the requirements of this chapter and to protect the public health.

* * * * *

(2) A community public water system shall provide continuous disinfection and comply with Subchapter M (relating to additional requirements for groundwater sources) for groundwater sources.

* * * * *

Subchapter C. MONITORING REQUIREMENTS

§ 109.301. General monitoring requirements.

* * * * *

(8) *Monitoring requirements for public water systems that obtain finished water from another public water system.*

* * * * *

(vii) **A public water supplier that obtains finished water from another permitted public water system using groundwater shall comply with Subchapter M (relating to additional requirements for groundwater sources).**

* * * * *

§ 109.304. Analytical requirements.

* * * * *

(c) For the purpose of determining compliance with the monitoring and analytical requirements established under this subchapter [and], Subchapter K and Subchapter M (relating to lead and copper; and additional requirements for groundwater sources), the Department will consider only samples analyzed by a laboratory certified by the Department, except that measurements for turbidity, fluoridation operation, residual disinfectant concentration, temperature, pH, alkalinity, orthophosphates, silica, calcium, conductivity, daily chlorite, and magnesium hardness may be performed by a person meeting the requirements of § 109.704 (relating to operator certification).

Subchapter D. PUBLIC NOTIFICATION

§ 109.407. General public notification requirements.

(a) *Violation categories and other situations requiring a public notice.* A public water supplier shall give public notice for the following circumstances:

* * * * *

(2) Failure to comply with a prescribed treatment technique requirement in Subchapter B, G [or], K or M [relating to MCLs, MRDLs or treatment technique requirements; system management responsibilities; and lead and copper)].

* * * * *

§ 109.408. Tier 1 public notice—form, manner and frequency of notice.

(a) *General violation categories and other situations requiring a Tier 1 public notice.* A public water supplier shall provide Tier 1 public notice for the following circumstances:

* * * * *

(8) **Detection of *E. coli* in source water samples as specified in §§ 109.1303 and 109.1304 (relating to triggered monitoring requirements for groundwater sources; and assessment source water monitoring).**

(9) **A breakdown in treatment for groundwater sources as specified in § 109.1307(a)(1)(ii) (relating to system management responsibilities).**

(10) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure, as determined by the Department on a case-by-case basis.

* * * * *

§ 109.409. Tier 2 public notice—form, manner and frequency of notice.

(a) *General violation categories and other situations requiring a Tier 2 public notice.* A public water supplier shall provide Tier 2 public notice for the following circumstances:

(1) All violations of the primary MCL, MRDL [and], treatment technique requirements and failure to take corrective action in Subchapter B, G [or], K or M [relating to MCLs, MRDLs or treatment technique requirements; system management responsibilities; and lead and copper)], except [where] when a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice) or when the Department determines that a Tier 1 notice is required. The tier assignment for fluoride is not incorporated by reference. Under § 109.202(d) (relating to MCLs, MRDLs or treatment technique requirements), a public water system shall comply with the primary MCL for fluoride of 2 mg/L. As such, a public water supplier shall provide Tier 2 public notice for violation of the primary MCL for fluoride.

(2) Violations of the monitoring requirements in Subchapter C [(relating to monitoring requirements) or], Subchapter K or Subchapter M (relating to monitoring requirements; lead and copper; and additional requirements for groundwater sources), when the Department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.

* * * * *

§ 109.410. Tier 3 public notice—form, manner and frequency of notice.

(a) *General violation categories and other situations requiring a Tier 3 public notice.* A public water supplier shall provide Tier 3 public notice for the following circumstances:

(1) Monitoring violations under Subchapter C [or], Subchapter K or Subchapter M (relating to monitoring requirements; [and] lead and copper; and additional requirements for groundwater sources), except when a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice) or [where] when the Department determines that a Tier 2 notice is required.

* * * * *

§ 109.417. Special notice for significant deficiencies by noncommunity water systems.

(a) **In addition to the applicable public notification requirements of this subchapter, a noncom-**

munity water system that receives notice from the Department under § 109.1302(c)(2) (relating to groundwater systems with significant deficiencies or source water *E. coli* contamination) of a significant deficiency shall inform the public served by the water system in a manner approved by the Department of any significant deficiency that has not been corrected within 12 months of being notified by the Department, or earlier if directed by the Department. The system shall continue to inform the public annually until the significant deficiency is corrected. The information must include:

(1) The nature of the significant deficiency and the date the significant deficiency was identified by the Department.

(2) The Department-approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed.

(3) For systems with a large proportion of non-English speaking consumers specified in § 109.411(c)(2) (relating to content of public notice), information in the appropriate languages regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

(b) If directed by the Department, a noncommunity water system with significant deficiencies that have been corrected in accordance with § 109.1302(c)(1) shall inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction.

Subchapter E. PERMIT REQUIREMENTS

§ 109.503. Public water system construction permits.

(a) *Permit application requirements.* An application for a public water system construction permit shall be submitted in writing on forms provided by the Department and shall be accompanied by plans, specifications, engineer's report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to determine compliance with the act and this chapter. The Department will make available to the applicant the "Public Water Supply Manual", available from the Bureau of Water Supply and Community Health, Post Office Box 8467, Harrisburg, Pennsylvania 17105 which contains acceptable design standards and technical guidance. Water quality analyses shall be conducted by a laboratory certified under this chapter.

(1) *General requirements.* An application [shall] must include:

* * * * *

(iii) *Information describing new sources.* The Department may accept approval of an out-of-State source by the agency having jurisdiction over drinking water in that state if the supplier submits adequate proof of the approval and the agency's standards are at least as stringent as this chapter. Information describing sources [shall] must include:

* * * * *

(B) An evaluation of the quality of the raw water from each new source. This clause does not apply when the new source is finished water obtained from an existing permitted community water system unless the Depart-

ment provides written notice that an evaluation is required. The evaluation [shall] must include analysis of the following:

* * * * *

(V) Total coliform concentration and, if total coliform-positive, analyze for [fecal coliform concentration] the presence of *E. coli*.

* * * * *

§ 109.505. Requirements for noncommunity water systems.

A noncommunity water system shall obtain a construction permit under § 109.503 (relating to public water system construction permits) and an operation permit under § 109.504 (relating to public water system operation permits), unless the noncommunity water system satisfies paragraph (1) or (2). The Department retains the right to require a noncommunity water system that meets the requirements of paragraph (1) or (2) to obtain a construction and an operation permit, if, in the judgment of the Department, the noncommunity water system cannot be adequately regulated through standardized specifications and conditions. A noncommunity water system which is released from the obligation to obtain a construction and an operation permit shall comply with the other requirements of this chapter, including design, construction and operation requirements described in Subchapters F and G (relating to design and construction standards; and system management responsibilities).

* * * * *

(2) A noncommunity water system not covered under paragraph (1) is not required to obtain a construction and an operation permit if it satisfies the following specifications and conditions:

(i) The sources of supply for the system are groundwater sources [requiring treatment no greater than disinfection to provide water of a quality that meets the primary MCLs established under Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).] and:

(A) Require treatment no greater than disinfection to provide water of a quality that meets the primary MCLs established under Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).

(B) The treatment provided is not required under § 109.1302 (relating to treatment technique requirements) to meet at least 4-log treatment of viruses.

* * * * *

(3) A noncommunity water system which satisfies the requirements of paragraphs (1) and (2) shall provide the Department with the following information describing new sources, including an evaluation of the quality of the raw water from each new source. Water quality analyses shall be conducted by a laboratory certified under this chapter. This paragraph does not apply when the new source is finished water obtained from an existing permitted community water system or an existing permitted or approved noncommunity water system unless the Department provides written notice that one or more of the provisions of this paragraph apply.

(i) For transient noncommunity water systems, the evaluation [shall] must include analysis of the following:

* * * * *

(B) Total coliform concentration and, if total coliform-positive, analyze for [fecal coliform concentration] the presence of *E. coli*.

* * * * *

§ 109.507. Permits for innovative technology.

The Department may consider proposals for innovative water treatment processes, methods or equipment and may issue an innovative technology construction or operation permit if the applicant demonstrates to the Department's satisfaction that the proposal will provide drinking water that complies with [Subchapter] Subchapters B and M (relating to MCLs, MRDLs or treatment technique requirements; and additional requirements for groundwater sources). Applications for innovative technology construction permits [shall] must satisfy the requirements of § 109.503 (relating to public water system construction permits). The Department may condition innovative technology operation permits on duration, additional monitoring, reporting or other requirements as it deems necessary to protect the public health. The Department may revoke an innovative technology construction or operation permit if it finds the public water system is not complying with drinking water standards or the terms or conditions of the permit or if there is a significant change in the source water quality which could affect the reliability and operability of the treatment facility. Authorization for construction, operation or modifications obtained under an innovative technology permit will not extend beyond the expiration date of the permit.

Subchapter F. DESIGN AND CONSTRUCTION STANDARDS

§ 109.602. Acceptable design.

(a) A public water system shall be designed to provide an adequate and reliable quantity and quality of water to the public. The design [shall] must ensure that the system will, upon completion, be capable of providing water that complies with the primary and secondary MCLs, MRDLs and treatment techniques established in [Subchapter] Subchapters B and M (relating to MCLs, MRDLs or treatment technique requirements; and additional requirements for groundwater sources) except as further provided in this section.

* * * * *

§ 109.605. Minimum treatment design standards.

The level of treatment required for raw water depends upon the characteristics of the raw water, the nature of the public water system and the likelihood of contamination. The following minimum treatment design standards apply to new facilities and major changes to existing facilities:

* * * * *

(3) For community water systems using groundwater, the minimum treatment design standard for disinfection technologies utilized at the entry point is a total of 99.99% treatment of viruses.

§ 109.611. Disinfection.

Disinfection facilities shall be designed to provide the dosage rate and contact time prior to the first customer sufficient to provide a quality of water that complies with the microbiological MCL and the appropriate MRDL, specified in § 109.202 (relating to State MCLs, MRDLs

and treatment technique requirements) and the treatment technique requirements in § 109.1302 (relating to treatment technique requirements).

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.705. Sanitary surveys.

* * * * *

(b) A community water system which does not collect five or more routine coliform samples per month shall do one of the following:

(1) Undergo a sanitary survey conducted by the Department by June 29, 1994, and thereafter undergo a subsequent sanitary survey conducted by the Department at a minimum frequency of every 3 years [after the initial sanitary survey, depending on the type of source, treatment and population served] or every 5 years if notified by the Department that the system has an outstanding performance record.

(2) Increase the number of routine coliform samples collected to at least five samples per month if the Department does not conduct a sanitary survey by June 29, 1994, or within [3 years] the appropriate frequency as described in paragraph (1) following the initial or a subsequent sanitary survey. This increased sampling frequency shall be in place of the monitoring frequency requirements for coliforms in § 109.301(3)(i) (relating to general monitoring requirements) and shall remain in effect through the month in which the next sanitary survey is conducted by the Department.

(c) A noncommunity water system which does not collect five or more routine coliform samples per month shall do one of the following:

(1) Undergo an initial sanitary survey conducted by the Department by June 29, 1999, and thereafter undergo a subsequent sanitary survey at a minimum of every 5 years after the initial sanitary survey [, except that noncommunity systems using only protected and disinfected groundwater shall undergo subsequent sanitary surveys at a minimum of every 10 years after the initial sanitary survey].

(2) Increase the number of routine coliform samples collected to at least five samples per month if the Department does not conduct a sanitary survey by June 29, 1999, or within 5 [or 10 years using the criteria in paragraph (1),] years following the initial or a subsequent sanitary survey. This increased sampling frequency shall be in place of the monitoring frequency requirements for coliforms in § 109.301(3)(i) and shall remain in effect through the month in which the next sanitary survey is conducted by the Department.

* * * * *

(Editor's Note: The Department will propose to add or delete subsection (d) in the December 13, 2008 Pennsylvania Bulletin.)

(e) Significant deficiencies identified by the Department at public water systems using groundwater shall comply with § 109.1302(c) (relating to groundwater systems with significant deficiencies or source water E. coli contamination).

Subchapter H. LABORATORY CERTIFICATION

§ 109.801. Certification requirement.

A laboratory shall be accredited under Chapter 252 (relating to laboratory accreditation) to perform analyses

acceptable to the Department for the purposes of ascertaining drinking water quality and demonstrating compliance with monitoring requirements established in [Subchapter] Subchapters C and M (relating to monitoring requirements; and additional requirements for groundwater sources).

§ 109.810. Reporting and notification requirements.

* * * * *

(b) [A laboratory accredited under Chapter 252 shall whenever] Whenever an MCL, MRDL or a treatment technique performance requirement under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) is violated [, or]; a sample result requires the collection of check samples under § 109.301 (relating to general monitoring requirements)[:]; or a sample collected under Subchapter M (relating to additional requirements for groundwater sources) is E. coli-positive a laboratory accredited under Chapter 252 shall:

* * * * *

Subchapter I. VARIANCES AND EXEMPTIONS ISSUED BY THE DEPARTMENT

§ 109.901. Requirements for a variance.

(a) The Department may grant one or more variances to a public water system from a requirement respecting a MCL upon finding that:

(1) The public water system has installed and is using the best treatment technology, treatment methods or other means that the Department in concurrence with the Administrator finds are generally available to reduce the level of the contaminant, and has determined that alternative sources of water are not reasonably available.

* * * * *

§ 109.903. Requirements for an exemption.

(a) The Department may exempt a public water system from an MCL or treatment technique requirement upon finding that:

(1) Due to compelling factors, the public water system is unable to comply with the contaminant level or treatment technique requirement, or to implement measures to develop an alternative source of water supply.

* * * * *

(4) Management or restructuring changes, or both, as provided in 40 CFR 142.20(b)(1)(i) (relating to State-issued variances and exemptions) cannot reasonably be made that will result in compliance with the applicable MCL or treatment technique requirement or, if compliance cannot be achieved, improve the quality of the drinking water.

§ 109.906. Consideration of a request for a variance or exemption.

The Department will consider comments received during the comment period and testimony in the record of a public hearing held with respect to the request for a variance or exemption before making a determination. The Department will consider the availability of alternative water sources, risks to the public health from granting the relief requested and other relevant factors including the following considerations:

(1) In its consideration of whether the public water system satisfies the requirements for a variance from a maximum contaminant level under § 109.901(a) (relating to requirements for a variance), the Department will consider whether the public water system has installed and is effectively operating the best treatment technology, treatment methods, or other means that the Department finds in concurrence with the Administrator are generally available to reduce the level of the contaminant for which the variance is requested, and whether the system has evaluated that alternative sources of water are not reasonably available.

* * * * *

(3) In its consideration of whether a public water system satisfies the requirements for an exemption under § 109.903 (relating to requirements for an exemption), the Department will consider factors such as:

* * * * *

(iii) The availability of an alternative source of water, including the feasibility of partnerships with neighboring public water systems, as identified by the public water system or by the Department.

§ 109.907. Disposition of a request for a variance or exemption.

* * * * *

(c) If the Department makes a determination to grant a variance or exemption request, it will document its findings as required under 40 CFR 142.20(a)(1) (relating to State issued variances and exemptions) for granting a variance, and under 40 CFR 142.20(b)(1) for granting an exemption.

§ 109.908. Compliance schedules.

* * * * *

(e) In accordance with 40 CFR 142.20(b)(2) (relating to State issued variances and exemptions), the Department may renew an exemption for a public water system that serves fewer than 3,300 persons and which needs financial assistance for the necessary improvements under the initial compliance schedule, provided the Department establishes that the system is taking all practicable steps to meet the requirements of this subchapter and the established compliance schedule to achieve full compliance with the applicable MCL or treatment technique requirement. The Department must document its findings in granting an extension under this subsection.

Subchapter J. BOTTLED WATER AND VENDED WATER SYSTEMS, RETAIL WATER FACILITIES AND BULK WATER HAULING SYSTEMS

§ 109.1002. MCLs, MRDLs or treatment techniques.

* * * * *

(c) Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with Subchapter M (relating to additional requirements for groundwater sources).

§ 109.1003. Monitoring requirements.

* * * * *

(d) Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with the monitoring requirements under Subchapter M (relating to additional requirements for groundwater sources).

(Editor's Note: The following subchapter is new. It appears in regular text to enhance readability.)

Subchapter M. ADDITIONAL REQUIREMENTS FOR GROUNDWATER SOURCES

Sec.

- 109.1301. Scope.
- 109.1302. Treatment technique requirements.
- 109.1303. Triggered monitoring requirements for groundwater sources.
- 109.1304. Assessment source water monitoring.
- 109.1305. Compliance monitoring.
- 109.1306. Information describing 4-log treatment and compliance monitoring.
- 109.1307. System management responsibilities.

§ 109.1301. Scope.

Beginning December 1, 2009, this subchapter applies to all public water systems that use groundwater excluding those systems that combine all of their groundwater with surface water or with groundwater under the direct influence of surface water prior to treatment under § 109.202(c)(1) (relating to State MCLs, MRDLs and treatment technique requirements). For the purpose of this subchapter, "groundwater system" is defined as any public water system meeting this applicability statement including systems obtaining finished groundwater from another supplier.

§ 109.1302. Treatment technique requirements.

(a) *Community groundwater systems.* Community groundwater systems are required to provide continuous disinfection under § 109.202(c)(2) (relating to State MCLs, MRDLs and treatment technique requirements) and in addition shall:

(1) Comply with triggered monitoring requirements under § 109.1303 (relating to triggered monitoring requirements for groundwater sources) until beginning compliance monitoring under paragraph (5).

(2) Maintain at each groundwater entry point a residual disinfectant concentration no less than 0.4mg/L expressed as free chlorine or its equivalent as approved by the Department, or other minimum residual specified by the Department.

(3) Demonstrate how at least 4-log treatment of viruses will be provided by submitting information as required under § 109.1306 (relating to information describing 4-log treatment and compliance monitoring) when directed by the Department or no later than:

(i) October 1, 2010, for systems serving more than 500 persons.

(ii) October 1, 2011, for systems serving 100 to 500 persons.

(iii) October 1, 2012, for systems serving less than 100 persons.

(4) Provide at least 4-log treatment of viruses prior to each groundwater entry point when directed by the Department or no later than:

(i) January 1, 2011, for systems serving more than 500 persons.

(ii) January 1, 2012, for systems serving 100 to 500 persons.

(iii) January 1, 2013, for systems serving less than 100 persons.

(iv) A Department-approved alternative compliance schedule.

(5) Conduct compliance monitoring as described in § 109.1305 (relating to compliance monitoring) when

directed by the Department following notification of approval by the Department that at least 4-log treatment of viruses has been demonstrated for a groundwater source or sources.

(6) Provide at least 4-log treatment of viruses for new sources permitted after December 1, 2009, and conduct compliance monitoring as described in § 109.1305 beginning the first day the entry point is put into service.

(b) *Noncommunity groundwater systems including bottled water and vended water systems, retail water facilities and bulk water hauling systems.*

(1) Noncommunity groundwater systems may demonstrate at least 4-log treatment of viruses is provided prior to a groundwater entry point by submitting information as required under § 109.1306. Systems demonstrating at least 4-log treatment of viruses under this paragraph shall:

(i) Conduct compliance monitoring as described in § 109.1305 when directed by the Department following notification of approval by the Department that at least 4-log treatment of viruses has been demonstrated for a groundwater source or sources.

(ii) Comply with triggered monitoring requirements under § 109.1303 until beginning compliance monitoring under subparagraph (i).

(2) Noncommunity groundwater systems not demonstrating at least 4-log treatment to the Department shall:

(i) Comply with triggered monitoring requirements under § 109.1303.

(ii) Comply with the requirements of assessment source water monitoring as described in § 109.1304 (relating to assessment source water monitoring) if the Department determines a groundwater source is at risk to fecal contamination. The Department will consider any factors that identify sources at risk to fecal contamination, including one or more of the following:

(A) Sensitivity of the source aquifer to fecal contamination.

(B) Proximity to sources of fecal contamination.

(C) Microbiological sampling history.

(c) *Groundwater systems with significant deficiencies or source water E. coli contamination.*

(1) A groundwater system with a significant deficiency or an *E. coli*-positive groundwater source sample collected under § 109.505(3), § 109.1303(a) or § 109.1304(a) (relating to requirements for noncommunity water systems; triggered monitoring requirements for groundwater sources; and assessment source water monitoring) shall correct all significant deficiencies and, if directed by the Department, shall implement one or more of the following corrective actions:

(i) Provide an alternative source of water.

(ii) Eliminate the source of contamination.

(iii) Submit information required under § 109.1306 and provide treatment that reliably achieves at least 4-log treatment of viruses before or at the first customer for the groundwater source or sources.

(2) A groundwater system with a significant deficiency or an *E. coli*-positive groundwater source sample collected under § 109.1303(a) or § 109.1304(a) will receive one of the following forms of notification:

(i) Written notice from the Department of a significant deficiency.

(ii) Notification from a laboratory under § 109.810(b) (relating to reporting and notification requirements) that a groundwater source sample collected under § 109.1303(a) or § 109.1304(a) was found to be *E. coli*-positive.

(iii) Direction from the Department that an *E. coli*-positive collected under § 109.1303(a) requires corrective action.

(3) Within 30 days of receiving initial notification under paragraph (2), the groundwater system shall consult with the Department regarding the appropriate corrective action unless the Department directs the groundwater system to implement a specific corrective action.

(4) Within 120 days of receiving initial notification under paragraph (2), or earlier if directed by the Department, the groundwater system shall either:

(i) Have completed corrective action in accordance with applicable Department plan review processes or other Department guidance or direction, if any, including Department-specified interim measures.

(ii) Be in compliance with a Department-approved corrective action plan and schedule subject to the following conditions:

(A) The Department must also approve any subsequent modifications to a Department-approved corrective action plan and schedule.

(B) If the Department specifies interim measures for protection of the public health pending Department approval of the corrective action plan and schedule or pending completion of the corrective action plan, the system shall comply with these interim measures as well as with any schedule specified by the Department.

§ 109.1303. Triggered monitoring requirements for groundwater sources.

(a) Groundwater systems not required to conduct compliance monitoring under § 109.1302 (relating to treatment technique requirements), of one or more groundwater sources shall collect a source water sample for *E. coli* within 24 hours of notification of a total coliform-positive sample collected under § 109.301(3) (relating to general monitoring requirements). The system shall collect a sample from each groundwater source that is not provided with at least 4-log treatment of viruses and is connected to the distribution system from which the total coliform-positive sample was collected.

(b) The Department may extend the 24-hour time limit to a maximum of 72 hours if the system adequately demonstrates a logistical problem outside the system's control in having the source sample or samples analyzed within 30 hours of collection. A logistical problem outside the system's control may include a coliform-positive sample result received over a holiday or weekend in which the services of a Department-accredited laboratory are not available within the prescribed sample holding time.

(c) Systems that obtain written approval from the Department may conduct monitoring at one or more sources within the groundwater system that are representative of multiple sources used by that system and draw water from the same hydrogeologic setting.

(d) A groundwater source sample shall be collected at a location prior to any treatment.

(e) A public water system obtaining finished groundwater from another public water system shall notify the supplying system or systems within 24 hours of being notified of a total coliform-positive sample collected under § 109.301(3)(i).

(f) The following apply to an invalidation of an *E. coli* sample for groundwater source sampling:

(1) The Department may invalidate an *E. coli*-positive groundwater source sample collected under this section if:

(i) The system provides the Department with written notice from the laboratory that improper sample analysis occurred.

(ii) The Department determines and documents in writing that there is substantial evidence that the *E. coli*-positive groundwater source sample is not related to source water quality.

(2) If the Department invalidates an *E. coli*-positive groundwater source sample, the groundwater system shall collect a replacement source water sample under subsection (a) within 24 hours of being notified by the Department of its invalidation decision and have the replacement sample analyzed for *E. coli*. The Department may extend the 24-hour time limit on a case-by-case basis to 72 hours.

(g) For an *E. coli*-positive source water sample collected under subsection (a) that is not invalidated under subsection (f):

(1) The Department may require a groundwater system to perform a corrective action as described under § 109.1302 (c) (relating to treatment technique requirements).

(2) If the Department does not require corrective action under § 109.1302(c), the system shall collect five additional source water samples from the same source within 24 hours of being notified of the *E. coli*-positive sample. If one of the additional samples collected under this paragraph is *E. coli*-positive, the groundwater system shall perform a corrective action as described under § 109.1302 (c).

(3) The system shall comply with Tier 1 public notification requirements under § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice).

(h) Systems providing water to another public water system receiving notification under subsection (e) shall comply with subsection (a).

§ 109.1304. Assessment source water monitoring.

(a) To enable the Department to determine if a groundwater system is using fecally-contaminated groundwater source, the Department may require a groundwater system to conduct monitoring for *E. coli*. If directed by the Department, a water supplier shall:

(1) Collect a total of 12 samples from each groundwater source, unless the system obtains written approval from the Department to conduct monitoring at one or more sources within the groundwater system that are representative of multiple sources used by that system and draw water from the same hydrogeologic setting.

(i) For sources providing water to the public 12 months out of the year, groundwater systems shall collect one sample during each month.

(ii) For sources providing water to the public for less than 12 months out of the year, groundwater systems shall collect 12 samples evenly distributed over the operational period.

(iii) Samples collected under § 109.1303(a)(3) (relating to triggered monitoring requirement for groundwater sources) may be used to satisfy the requirements of this subsection.

(iv) If a groundwater system obtains an *E. coli*-positive groundwater source sample, the groundwater system shall perform a corrective action as described under § 109.1302(c) (relating to treatment technique requirements).

(v) The groundwater system may discontinue assessment source water monitoring if the system demonstrates they provide at least 4-log treatment of viruses under § 109.1302(b)(1) or if directed by the Department.

(2) Collect groundwater source samples at a location prior to any treatment of the groundwater source.

(3) Collect a replacement groundwater source sample within 24 hours of being notified by the Department of its decision to invalidate a sample and have the replacement sample analyzed for *E. coli*.

(b) The following apply to an invalidation of an *E. coli* sample for groundwater source sampling:

(1) A groundwater system may obtain a Department invalidation of an *E. coli*-positive groundwater source sample collected under this section as follows:

(i) The system provides the Department with written notice from the laboratory that improper sample analysis occurred.

(ii) The Department determines and documents in writing that there is substantial evidence that the *E. coli* positive groundwater source sample is not related to source water quality.

(2) If the Department invalidates an *E. coli*-positive groundwater source sample, the groundwater system shall collect a replacement source water sample under subsection (a) within 24 hours of being notified by the Department of its invalidation decision and have the replacement sample analyzed for *E. coli*. The Department may extend the 24-hour time limit on a case-by-case basis to 72 hours.

§ 109.1305. Compliance monitoring.

(a) *Chemical disinfection.* Groundwater systems demonstrating at least 4-log treatment of viruses using chemical disinfection shall monitor for and maintain the Department-determined residual disinfection concentration every day the system serves the public from the groundwater source.

(1) A groundwater system serving greater than 3,300 shall:

(i) Continuously monitor the residual disinfectant concentration at the entry point or other location approved by the Department and record the results at least every 15 minutes each day that water from the groundwater source is served to the public.

(ii) Maintain the Department-determined minimum residual disinfectant concentration every day the public water system serves water from the groundwater source to the public.

(iii) Conduct grab sampling every 4 hours until the continuous monitoring equipment is returned to service if there is a failure in the continuous monitoring equipment. The system shall resume continuous residual disinfectant monitoring within 14 days.

(2) A groundwater system serving 3,300 or fewer people shall comply with one of the following subparagraphs:

(i) The groundwater system shall maintain the Department-determined minimum residual disinfectant concentration every day the public water system serves water from the groundwater source to the public. The groundwater system shall take a daily grab sample at the entry point during the hour of peak flow or at any other time specified by the Department. If any daily grab sample measurement falls below the Department-determined minimum residual disinfectant concentration, the groundwater system shall take follow up samples every 4 hours until the residual disinfectant concentration is restored to the Department-determined minimum level.

(ii) Monitor the disinfectant residual concentration continuously and meet the requirements of paragraph (1).

(b) *Membrane filtration.* Groundwater systems demonstrating at least 4-log treatment of viruses using membrane filtration shall monitor the membrane filtration process in accordance with all Department-specified monitoring requirements and operate the membrane filtration in accordance with all Department-specified compliance requirements. A groundwater system that uses membrane filtration is in compliance with the requirement to achieve at least 4-log removal of viruses when the following conditions are met:

(1) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses.

(2) The membrane process is operated in accordance with Department-specified compliance requirements.

(3) The integrity of the membrane is intact.

(c) *Alternative treatment.* Groundwater systems demonstrating at least 4-log treatment of viruses using a Department-approved alternative treatment method, including a combination of treatment methods shall:

(1) Monitor the alternative treatment in accordance with all Department-approved monitoring requirements.

(2) Operate the alternative treatment in accordance with all compliance requirements that the Department determines to be necessary to achieve at least 4-log treatment of viruses.

§ 109.1306. Information describing 4-log treatment and compliance monitoring.

(a) Systems demonstrating at least 4-log treatment of viruses under § 109.1302 (relating to treatment technique requirements) shall submit: information in writing on forms provided by the Department and may include plans, specifications, engineer's report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to evaluate:

(1) Treatment effectiveness.

(2) The methodology the system will use to comply with § 109.1305 (relating to compliance monitoring).

(b) *Plans, specifications and engineer's report.* Plans, specifications and engineer's reports shall comply with the following:

(1) The drawings, specifications and engineer's report shall be prepared by or under the supervision of a professional engineer registered to practice in this Commonwealth or in the state in which the public water system is located.

(2) The front cover or flyleaf of each set of drawings, of each copy of the engineer's report, and of each copy of specifications shall bear the signature and imprint of the seal of the registered engineer. Drawings must bear an imprint or a legible facsimile of the seal.

§ 109.1307. System management responsibilities.

(a) *Reporting.* Groundwater systems shall comply with the following requirements and otherwise comply with § 109.701 (relating to reporting and recordkeeping):

(1) A groundwater system conducting compliance monitoring under § 109.1305 (relating to compliance monitoring):

(i) Shall report to the Department, for each entry point:

(A) The date, time and lowest residual disinfectant concentration each day.

(B) The date, duration and number of periods each day when the residual disinfectant concentration is less than the Department established minimum for more than 4 hours.

(ii) That experiences a breakdown in treatment shall notify the Department within 1 hour after the water system learns of the violation or the situation and provide public notice in accordance with § 109.408 (relating to Tier 1 public notice—form, manner and frequency of notice). A breakdown in treatment occurs whenever the system fails to meet, for greater than 4 continuous hours, any Department-specified requirements relating to:

(A) Minimum residual disinfectant concentration.

(B) Membrane operating criteria or membrane integrity.

(C) Alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within 4 hours.

(2) After completing any corrective action under § 109.1302(c) (relating to treatment technique requirements), a groundwater system shall notify the Department within 30 days of completion of the corrective action.

(b) *Recordkeeping.* Groundwater systems shall comply with § 109.701 and maintain the following information in their records:

(1) *Corrective actions.* Documentation shall be kept for at least 10 years.

(2) *Notice to the public as required under Subchapter D (relating to public notification).* Documentation shall be kept for at least 3 years.

(3) *Records of invalidation of E. coli-positive groundwater source samples under §§ 109.1303(f) and 109.1304(b).* Documentation shall be kept for at least 5 years.

(4) *Records of notification to other public water systems.* For a public water system obtaining groundwater from another public water system, documentation of notification to the supplier of total-coliform positive samples that are not invalidated under § 109.301(3)(iii) (relating to general monitoring requirements). Documentation shall be kept for at least 5 years.

(5) *Compliance monitoring.* For systems, including suppliers providing water to another public water system, that are required to perform compliance monitoring under § 109.1305 (relating to compliance monitoring):

(i) Documentation of the records of the Department-specified minimum disinfectant residual shall be kept for at least 10 years.

(ii) Documentation of the records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Department-prescribed minimum residual disinfectant concentration for more than 4 hours, shall be kept for at least 5 years.

(iii) Documentation of the records of the Department-specified compliance requirements for membrane filtration and of parameters specified by the Department for Department-approved alternative treatment and records of the date and duration of any failure to meet the membrane operating, membrane integrity or alternative treatment operating requirements for more than 4 hours, shall be kept for at least 5 years.

[Pa.B. Doc. No. 08-2146. Filed for public inspection November 28, 2008, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 431a, 435a, 437a AND 451a] Suppliers' Principal Place of Business; Temporary Credentials and Recordkeeping

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. §§ 1311, 1311.1, 1311.2, 1317 and 1322, proposes to amend Chapters 431a, 435a, 437a and 451a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking sets forth requirements for suppliers' principal place of business; extends, from 120 days to 180 days, the time period for which a temporary credential issued to an applicant for a principal or key employee license is valid; corrects wording in § 437a.8 (relating to approved vendors list; prohibited vendors) and adds a process for approving an alternate location for the storage of records.

Explanation of Amendments to Chapters 431a, 435a, 437a and 451a

Section 1317(b)(1.2) of the act (relating to supplier licenses) requires each supplier to establish and maintain a principal place of business in this Commonwealth. There has been some confusion on the part of suppliers as to what constitutes a principal place of business. To eliminate that confusion, the Board is proposing to amend § 431a.4 (relating to responsibilities of a supplier) to establish minimum requirements that must be met by a supplier when it establishes its principal place of business in this Commonwealth.

Currently, under § 435a.8 (relating to temporary credentials for principals and key employees), applicants for a principal or key employee license whose presence is necessary at a licensed facility may be issued a temporary

credential. These temporary credentials are valid for 120 days and may be extended if the Board determines that additional time is needed to complete the investigation of the applicant. While many investigations are completed in 120 days, a significant number are not. This has resulted in the Board having to issue a large number of extensions, which requires the issuance of a new temporary credential.

To reduce the need to issue a large number of new temporary credentials, the Board is amending § 435a.8 to extend the time period for which a temporary credential for an applicant for a principal or key employee license will be valid from 120 days to 180 days.

In § 437a.8(b), the Board is replacing the word "vendor" with "vendors" to make the usage consistent with the rest of this section.

In § 451a.1 (relating to recordkeeping generally), a new subsection (c) is being added which will allow entities required to maintain records in this Commonwealth to seek approval of an alternate storage location from the Bureau of Licensing. While most entities regulated by the Board have a place of business in this Commonwealth, some manufacturers and vendors do not. This will give those entities an opportunity to request approval to store their records outside of this Commonwealth.

Affected Parties

This proposed rulemaking will affect suppliers, applicants for a principal or key employee license, and all regulated entities required to keep records and the Board.

Fiscal Impact

Commonwealth

Under this proposed rulemaking, the Board will have to issue fewer temporary credentials. While this will result in some reduction of costs for the Board, the amount is not anticipated to be significant. The Board issued approximately 300 temporary credentials to principal and key employee applicants last fiscal year. The Board also expects to receive a few requests to approval alternate record retention locations. These will be processed by existing staff and are not expected to have a significant cost impact on the Board.

Political Subdivisions

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

Private Sector

Suppliers will have to meet the proposed minimum standards for their principal place of business in this Commonwealth. Since these requirements are minimal, the Board does not anticipate that they will impose any new significant costs on the four currently licensed suppliers. A few entities may experience some savings from the approval of an alternate location to store their records.

General Public

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

Paperwork requirements

As stated previously, the Board will be less likely to need to issue a second temporary credential.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-95.

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 November 14, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site at www.pgcb.state.pa.us.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the Regulatory Review Criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final 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: 125-95. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 431a. SUPPLIER LICENSES

§ 431a.4. Responsibilities of a supplier.

(a) Within 1 year of the Board's issuance of a supplier license, the supplier shall establish and maintain a principal place of business in this Commonwealth. **The principal place of business must be:**

(1) Owned or leased by the supplier. If leased, the term of the lease must be at least as long as the term of the supplier's license.

(2) Where the supplier maintains all agreements, contracts and records, or copies thereof, pertaining to the supplier's business conducted in this Commonwealth.

(3) Large enough to accommodate all of the materials required under paragraph (2), the employees assigned to this office and the equipment required to carry out the employees' assigned duties.

(4) Equipped with a telephone.

(5) Staffed by at least one person during normal business hours.

(6) Open for inspection by Board personnel during normal business hours.

* * * * *

CHAPTER 435a. EMPLOYEES

§ 435a.8. Temporary credentials for principals and key employees.

* * * * *

(b) A temporary credential issued under this section is void [120] 180 days after the date of its issuance.

* * * * *

CHAPTER 437a. VENDOR CERTIFICATION AND REGISTRATION

* * * * *

§ 437a.8. Approved vendors list; prohibited vendors.

* * * * *

(b) A slot machine licensee or applicant may not enter into an agreement or continue to do business with a vendor on the prohibited [vendor] vendors list.

* * * * *

CHAPTER 451a. RECORDKEEPING REQUIREMENTS

§ 451a.1. Recordkeeping generally.

(a) All manufacturer, supplier, junket enterprise, management company and slot machine licensees and all

registered and certified vendors shall maintain adequate records of business operations which shall be made available to the Board upon request. [These records shall be kept onsite in this Commonwealth in a place secure from theft, loss or destruction or at another secure location approved by the Board.] These records include:

* * * * *

(c) The records required to be maintained under subsection (a) shall be kept onsite in this Commonwealth in a place secure from theft, loss or destruction or at another secure location approved by the Bureau of Licensing. A request to store records at another secure location outside of this Commonwealth may be submitted in writing to the Bureau of Licensing and include:

(1) The reason for the request.

(2) A description and the address of the proposed alternate location.

(d) Approval by the Bureau of Licensing of a request to store records at a location outside of this Commonwealth does not relieve the licensee of its duty to make the records available to the Board upon request.

[Pa.B. Doc. No. 08-2147. Filed for public inspection November 28, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD [4 PA. CODE CH. 9]

Reorganization of the Department of General Services

The Executive Board approved a reorganization of the Department of General Services effective November 5, 2008.

The organization chart at 38 Pa.B. 6500 (November 28, 2008) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 08-2148. Filed for public inspection November 28, 2008, 9:00 a.m.]

PART II. EXECUTIVE BOARD [4 PA. CODE CH. 9]

Reorganization of the Liquor Control Board

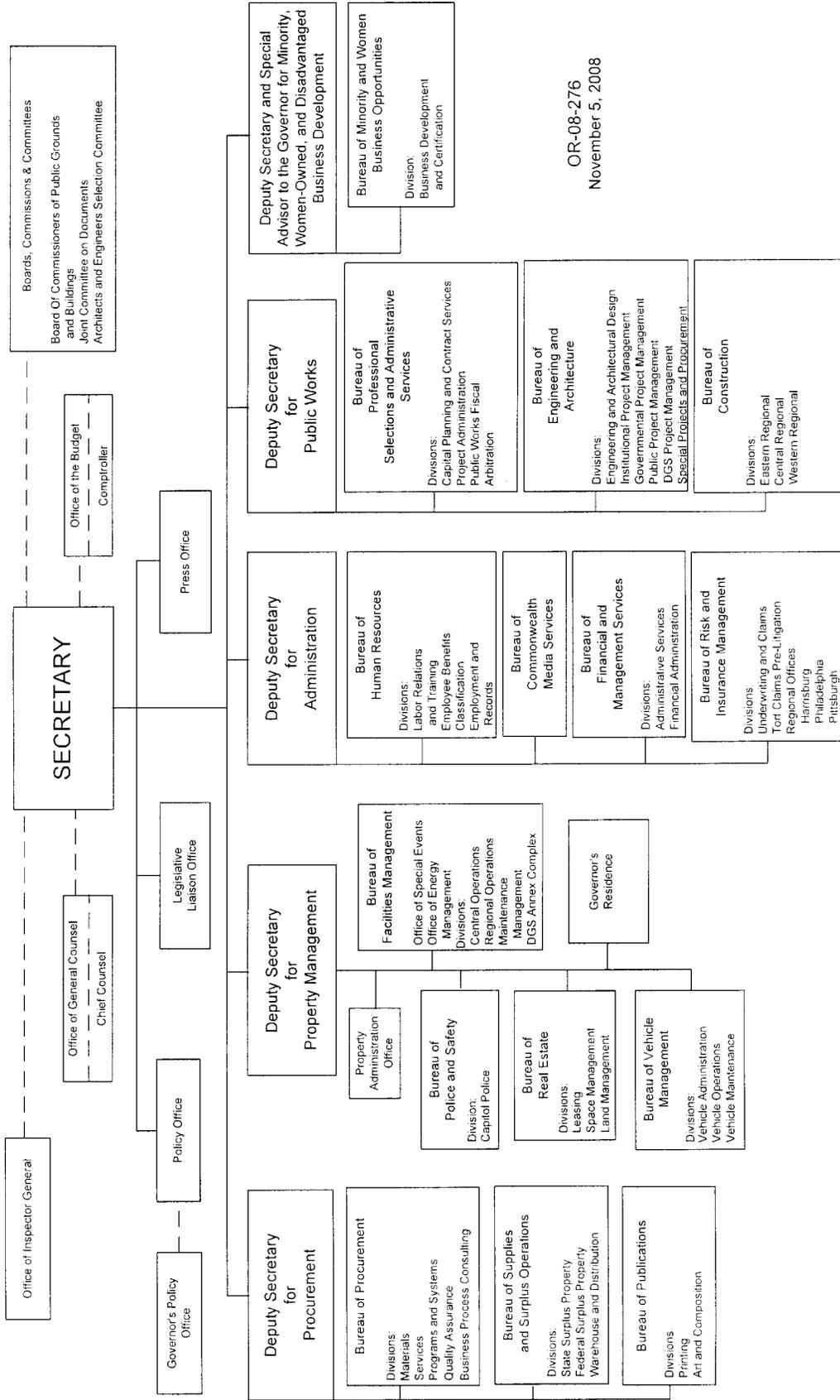
The Executive Board approved a reorganization of the Liquor Control Board effective November 5, 2008.

The organization chart at 38 Pa.B. 6501 (November 28, 2008) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 08-2149. Filed for public inspection November 28, 2008, 9:00 a.m.]

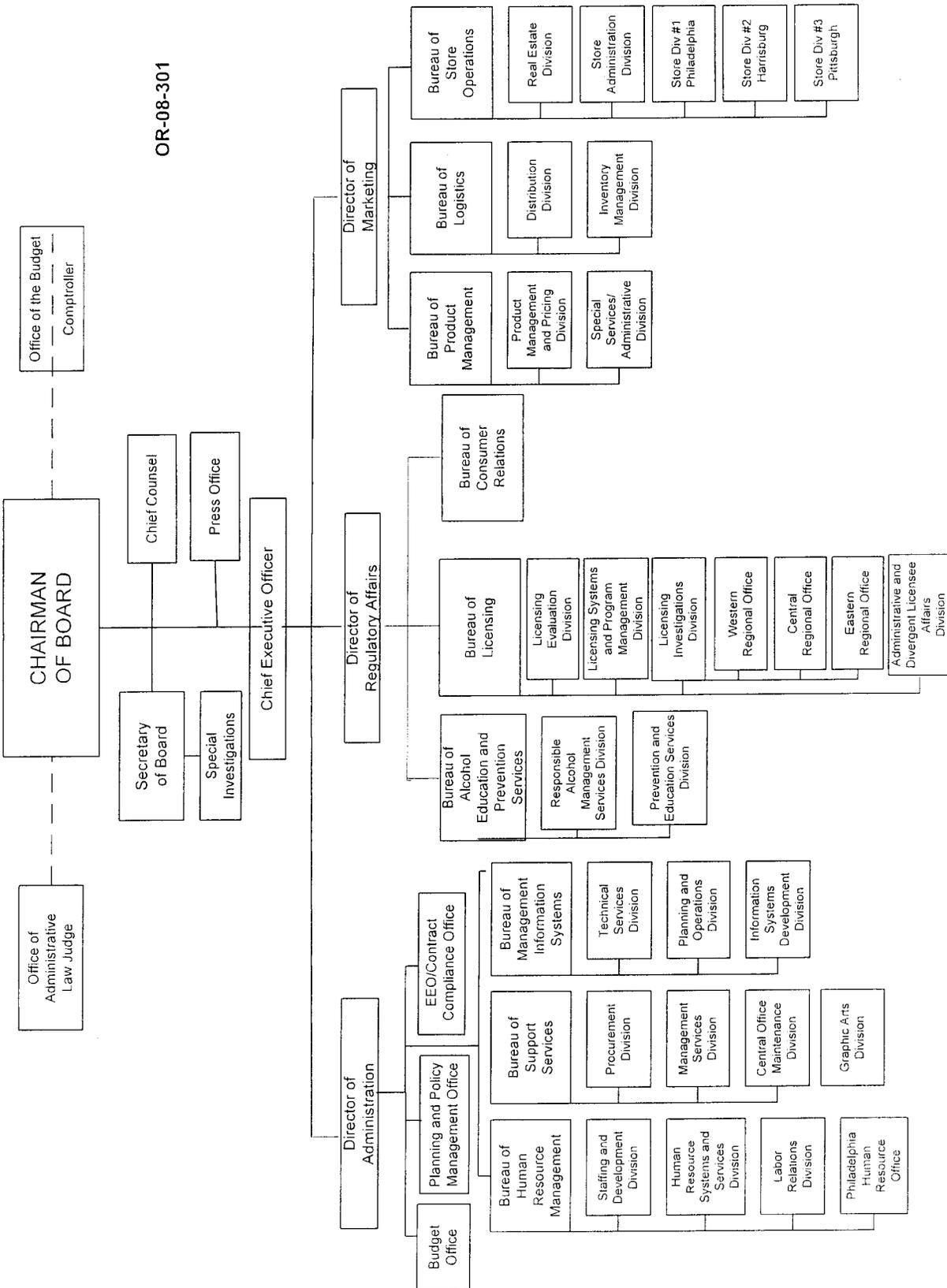
DEPARTMENT OF GENERAL SERVICES



OR-08-276
November 5, 2008

OR-08-301

LIQUOR CONTROL BOARD



Title 101—GENERAL ASSEMBLY

LEGISLATIVE REFERENCE BUREAU

[101 PA. CODE CH. 31]

Right-to-Know Law; Statement of Policy

The Legislative Reference Bureau, under section 504(a) of the Right-to-Know Law, as enacted February 14, 2008 (P. L. 6, No. 3) (65 P. S. § 67.504(a)), adds 101 Pa. Code Chapter 31 to read as set forth at 38 Pa.B. 5755 (October 18, 2008).

Public Comments

Interested parties were invited to submit written comments, objections or suggestions about the proposed statement of policy to the Legislative Reference Bureau. No comments were received.

Effective Date

This statement of policy is effective January 1, 2009.

Title 101 of the Pennsylvania Code is amended by adding §§ 31.1—31.3, 31.11—31.17 and 31.21—31.23 to read as set forth at 38 Pa.B. 5755.

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

Fiscal Note: Fiscal Note 150-1 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 08-2150. Filed for public inspection November 28, 2008. 9:00 a.m.]

LOCAL GOVERNMENT COMMISSION

[101 PA. CODE CH. 431]

Right-to-Know Law; Statement of Policy

The Local Government Commission, under section 504(a) of the Right-to-Know Law, enacted February 14, 2008 (P. L. 6, No. 3) (65 P. S. § 67.504(a)), is adding Chapter 431 (relating to Right-to-Know Law—statement of policy) to read as set forth in Annex A.

Interested parties may submit written comments, objections or suggestions about the statement of policy to Michael P. Gasbarre, Executive Director, Local Government Commission, Open-Records Officer, Local Government Commission, Senate Box 203078, Harrisburg, PA 17120-3078.

This Statement of Policy is effective January 1, 2009.

MICHAEL P. GASBARRE,
Executive Director

(Editor's Note: Title 101 of the *Pennsylvania Code* is amended by adding §§ 431.1—431.3, 431.11—431.18, 431.21 and 431.22 to read as set forth in Annex A.)

Fiscal Note: 151-1. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 101. GENERAL ASSEMBLY

PART III. LOCAL GOVERNMENT COMMISSION

CHAPTER 431. RIGHT-TO-KNOW LAW—STATEMENT OF POLICY

Subch.

- A. PRELIMINARY PROVISIONS
- B. OPEN RECORDS PROCEDURES OF THE COMMISSION
- C. APPELLATE PROCEDURE

Subchapter A. PRELIMINARY PROVISIONS

Sec.

- 431.1. Definitions.
- 431.2. Open-records officer.
- 431.3. Cooperation.

§ 431.1. Definitions.

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

Appeals officer—The individual responsible, under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), for appeals from determinations of an open-records officer.

Commission—The Local Government Commission.

Law—The Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

Legislative record—As defined in section 102 of the law (65 P. S. § 67.102).

Mass request—A number of requests under the law to which all of the following apply:

- (i) Each request is for the same record.
- (ii) Each request is to the Commission.
- (iii) The number exceeds the daily average number of requests to the Commission by at least 200%.
- (iv) The requests are substantially identical in format and language.
- (v) The open-records officer is able to trace the requests to a common source.

Office of Open Records—The Office of Open Records established under section 1310 of the law (65 P. S. § 67.1310).

Open-records officer—The individual responsible for receiving and responding to requests for records of the Commission under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)).

Requester—A person that makes a request for a record from the Commission under the law.

Record—

(i) Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.

(ii) The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

§ 431.2. Open-records officer.

Under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)), and upon publication in the *Pennsylvania Bulletin* in accordance with 101 Pa. Code § 31.2 (relating to open-records officers), the designation of the open-records officer for the Commission will be as follows:

Open-Records Officer
Local Government Commission
Senate Box 203078
Harrisburg, PA 17120-3078
Fax: (717) 772-4524
E-mail: mgasbarre@palegislature.us

§ 431.3. Cooperation.

The Commission may coordinate with the Legislative Reference Bureau for assistance with all of the following:

- (1) Request entries under section 502(b)(2)(i) of the law (65 P. S. § 67.502(b)(2)(i)).
- (2) Time periods under section 502(b)(2)(ii) of the law.
- (3) Interim responses under section 502(b)(1) of the law.
- (4) Final responses under section 502(b)(1) of the law.
- (5) Dispositions under section 502(b)(2)(iii) of the law.
- (6) Implementation of Subchapter C (relating to appellate procedure).

Subchapter B. OPEN RECORDS PROCEDURES OF THE COMMISSION

| Sec. | |
|---------|----------------------------|
| 431.11. | Records of the Commission. |
| 431.12. | Hours of access. |
| 431.13. | Request format. |
| 431.14. | Contact information. |
| 431.15. | Referral. |
| 431.16. | Response to requests. |
| 431.17. | Mass requests. |
| 431.18. | Fee schedule. |

§ 431.11. Records of the Commission.

(a) *Legislative records.* Subject to § 431.17 (relating to mass requests), the Commission will provide a requester access to any of the following legislative records generated by the Commission and not otherwise exempt under the law:

- (1) A financial record.
- (2) The minutes of, record of attendance of members at a public hearing or Commission meetings and all recorded votes taken, if any, at a Commission hearing or meeting.
- (3) The transcript of a public hearing when available.
- (4) Any administrative staff manuals or written policies.
- (5) Final or annual reports required by law to be submitted to the General Assembly.

(6) The results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion funded by the Commission.

(b) *Contracts.* Contracts of the Commission will be available for review electronically from the State Treasurer or for duplication from the Commission.

(c) *Other records.* The Executive Director of the Commission, in his sole discretion, may authorize the open-records officer to provide access to other records of the Commission in accordance with section 506(c) of the law (65 P. S. § 67.506(c)). The Executive Director of the Commission may not authorize access to research work product or correspondence produced at the request of a member of the General Assembly without obtaining prior authorization from the member.

§ 431.12. Hours of access.

The Right-To-Know Office of the Commission will be open from 9 a.m. to 5 p.m. Monday through Friday except for official State and Federal holidays and other days the

Commission is closed by direction of the Commission Chairperson. The Right-To-Know Office will not be open during other hours that the Commission is open for legislative session business, including evenings (after 5 p.m.), Saturdays and Sundays.

§ 431.13. Request format.

The Right-to-Know Office of the Commission will respond to verbal, written or anonymous verbal or written requests for access to records in accordance with the law. If the requester wishes to pursue the relief and remedies provided in the law and Subchapter C (relating to appellate procedure), the request for access to records must be a written request. Written requests must be clearly marked as a right-to-know request and must be submitted in person or by mail, email or facsimile in one of the following manners:

(1) On the form prescribed by the Commission and available for downloading at the Commission web site, www.lgc.state.pa.us.

(2) In a manner so that material requested describes records requested with specificity.

§ 431.14. Contact information.

Right-to-Know requests must be made as follows:

(1) Written requests made by mail:

Open-Records Officer
Local Government Commission
Senate Box 203078
Harrisburg, Pennsylvania 17120-3078

(2) Written requests made by facsimile:

Fax: (717) 772-4524

(3) Written requests made by e-mail:

mgasbarre@palegislature.us

(4) Other requests: In person at the Commission offices, Forum Place Building, the corner of 5th and Walnut Streets, 555 Walnut Street, Harrisburg, PA 17101, or by telephone at (717) 787-7680. Verbal requests must be made to the Commission open-records officer or a designee.

§ 431.15. Referral.

The Commission will accept written requests made for Commission records initially sent to the Legislative Reference Bureau upon forwarding of the request to the Commission by the Bureau.

§ 431.16. Response to requests.

(a) *Response to verbal requests.* Upon receipt of a verbal request, the open-records officer will determine whether the record is subject to access in accordance with § 431.11 (relating to records of the Commission). If the record is subject to access and none of the factors listed in section 902(a) of the law (65 P. S. § 67.902(a)), regarding determination of extension of time, apply, the open-records officer will provide access to the record as follows:

(1) If the record is in paper form, the open-records officer will make the record available for inspection and duplication to the requestor at the Commission offices.

(2) If the record is accessible only in electronic form, the open-records officer will make the record available through any publicly accessible electronic means or convert the record to paper for review at the Commission offices. Under no condition may the requester review records in electronic form on computers of the Commission.

(3) Duplication of Commission records subject to access and maintained in either paper or electronic form will be provided upon request in accordance with § 431.18 (relating to fee schedule).

(4) If the record requested is not subject to access under § 431.11, the open-records officer will so inform the requester. If the record requested is subject to access and if one or more of the factors listed in section 902(a) of the law, regarding determination of extension of time, apply to the record, the open-records officer will so inform the requester, and, if necessary, obtain contact information from the requester for a response from the Commission.

(5) Nothing in this chapter may be construed as authorizing access to any computer, file, office or work station of the Commission or any of its employees.

(b) *Response to written requests.* Subject to § 431.17 (relating to mass requests), the open-records officer will respond to written requests for records in accordance with Chapter 9 of the law (65 P. S. §§ 901—905) regarding agency response.

§ 431.17. Mass requests.

If the open-records officer determines that a mass request places an unreasonable burden on the Commission, in an analogous manner to that described in section 506(a)(1) of the law (65 P. S. § 67.506(a)(1)) for multiple requests by the same requester, the following apply:

(1) The open-records officer will respond to the common source identified by the open-records officer; respond to individual requests submitted in writing; and, if the request is granted, will make the legislative record accessible at the Commission.

(2) If the mass request is in electronic format, each requester will be informed of the action under paragraph (1).

§ 431.18. Fee schedule.

(a) *General rule.* Except as set forth in subsection (b), the following apply:

- (1) The fee for providing a document is \$.25 per page.
- (2) The fee for postage will not exceed actual mailing costs.

(3) The fee for certifying a document is \$5 per document, regardless of the number of pages. Each document requires separate certification and fee.

(4) The fee for redaction of a document is \$1 per page.

(5) The fee for electronic media such as a diskette or compact disc shall be \$1 per diskette or disc.

(b) *Exception.* The Executive Director of the Commission reserves the right to waive a duplication fee if the total amount due under this section does not exceed \$5.

(c) *Payment.*

(1) Except as set forth in paragraph (2), payment arrangements shall be made between the requester and the open-records officer.

(2) Under section 1307(h) of the law (65 P. S. § 67.1307(h)), if the total fee exceeds \$100, payment must be made prior to the initiation of the providing of the document. If prepayment is required, a check, certified check or money order must be made payable to "Local Government Commission" in the total amount of the fee. If the check fails to clear due to insufficient funds, any additional fees incurred by the Commission will be added to the total amount due under this section.

Subchapter C. APPELLATE PROCEDURE

Sec.

431.21. Appeals officer.

431.22. Practice and procedure.

§ 431.21. Appeals officer.

Under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), the Legislative Reference Bureau will provide appeals officers for appeals of determinations relating to written requests for Commission records.

§ 431.22. Practice and procedure.

The provisions of Chapter 31, Subchapter C (relating to appellate procedure), shall govern all appeals from determinations relating to written requests for Commission records.

[Pa.B. Doc. No. 08-2151. Filed for public inspection November 28, 2008, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, December 10, 2008. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ.

The conference among the commissioners and staff will begin at 10:30 a.m. Topics of discussion will include: a presentation on Philadelphia water conservation and stormwater management approaches by a representative from the Philadelphia Water Department; a presentation by University of Pennsylvania students on responses to climate change in the Delaware Basin; a status report by a representative of the Commission and the parties to the 1954 Supreme Court Decree in *New Jersey v. New York*, 347 U.S. 995, 74 S.Ct. 842, concerning the Flexible Flow Management Program (FFMP); and a presentation on the New York City Delaware system tunnel closure by a representative from the New York City Department of Environmental Protection. The Commission will not take action on December 10 to adopt amendments to the Commission *Water Code* to implement the FFMP.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed as follows:

1. *Aqua Pennsylvania, Inc. D-81-61 CP-4*. An application for approval of a groundwater withdrawal project to renew the allocation included in Docket D-81-61 CP-3 and consolidate all other docket approvals for the Fawn Lakes, Woodloch Springs and Masthope water systems, retaining the existing withdrawal from all wells of 18.38 million gallons per 30 days (mg/30 days). Docket D-81-61 CP-4 will consolidate allocations approved in dockets D-81-61 CP-3, D-87-96 Renewal, and D-89-57 CP Renewal. The projects are located in the Catskill Formation in the Westcolang Creek Watershed in Lackawaxen Township, Pike County, PA, within the drainage area to the section of the nontidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

2. *Hercules, Inc. D-87-43-3*. An application to replace the withdrawal of water from Wells PW-4 and PW-10 in the applicant's groundwater remediation system because of diminished yield and inefficiencies. New Wells PW-4R and PW-10R have been drilled as replacements. The applicant requests that the total approved withdrawal for all the wells in the system remain at 18 mg/30 days of water. The existing and replacement wells are located in the Magothy/Raritan and Cape May Aquifers in the Delaware Watershed in Greenwich Township, Gloucester County, NJ.

3. *Lehigh County Authority D-2001-20 CP-4*. An application to replace the withdrawal of water from Well No. WL-12 in the applicant's water supply system because it has become an unreliable source of supply. The applicant requests that the withdrawal from replacement Well No.

WL-12R be limited to 30.240 mg/30 days of water, and that the total withdrawal from all wells in the system remain limited to 256.24 mg/30 days. The project is located in the Allentown Formation in the Little Lehigh Creek Watershed in Lower Macungie Township, Lehigh County, PA. The site is located within the drainage area to the section of the nontidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

4. *Unimin Corporation D-2007-14-2*. An application for renewal of approval to discharge up to 2.275 mgd through existing Outfall 001A to Dividing Creek from a hydraulic dredging operation. The applicant also discharges to an unnamed tributary to Dividing Creek, through Outfall 002A during large storm events. The facility is located in the Dividing Creek Watershed in Commercial and Downe Townships, Cumberland County, NJ.

5. *Borough of Bally D-78-19 CP-2*. An application for approval of a groundwater withdrawal project to supply up to 9.70 mg/30 days of water to the applicant's public water supply system from new Well No. 4 and to increase the existing withdrawal from all wells from 9.70 mg/30 days to 19.42 mg/30 days. The increased allocation is requested to meet projected increases in service area demand. Well No. 4 will replace existing Well No. 3 as a water supply well because Well No. 3 has become an unreliable source due to local groundwater contamination. The applicant requests that the existing allocation for Well No. 3 (9.70 mg/30 days) be continued in conjunction with approval of the requested increase from Well No. 4 (9.70 mg/30) to accommodate continuing remediation of the contaminated portion of the aquifer. The water allocated to Well No. 3 will not be used in the public water system. The project is located in the Leithsville Formation in the Perkiomen Creek Watershed in Bally Borough and Washington Township, Berks County, PA.

6. *Borough of Hopatcong D-92-85 CP-3*. An application for approval of a groundwater withdrawal project to increase the withdrawal from 18.91 mg/30 days to 20.8 mg/30 days of water to the applicant's public water supply distribution system from existing Wells Nos. 1—3, 3A, 4, 5, 8, 12, Squire, River Styx and new Wells Nos. 14—17 in the Precambrian Crystalline Rock Formation. The project is located in the Musconetcong River Watershed in Hopatcong Borough, Sussex County, NJ.

7. *New Jersey American Water Company D-93-28 CP-3*. An application for approval of a groundwater withdrawal project to supply up to 7.7 mg/30 days of water to the applicant's public water supply distribution system from Well Nos. 2 and 3 and to temporarily increase the withdrawal from all wells from 4.7 mg/30 days to 7.7 mg/30 days. The increased allocation is requested to meet projected residential demand until an interconnection is completed. The project is located in the Potomac Formation in the Raccoon Creek Watershed in Logan Township, Gloucester County, NJ.

8. *Sinking Spring Borough Municipal Authority D-94-31 CP-2*. An application for approval of the expansion of the existing wastewater treatment plant (WWTP) of the Sinking Spring Borough Municipal Authority. The application includes a proposed increase in the Authority's allowable discharge from 1.00 million gallons per day (mgd) to 1.25 mgd and related construction to expand the plant's capacity. The plant will continue to discharge to

Cacoosing Creek, a tributary of the Tulpehocken Creek. The facility is located in Spring Township, Berks County, PA.

9. *New Jersey American Water D-95-46 CP-2*. An application for approval of a groundwater withdrawal project to supply up to 255 mg/30 days of water to the applicant's combined public water supply systems. The withdrawal reflects the interconnection of the Mansfield (Docket No. D-95-46 CP-2) and Mount Holly (Docket No. D-94-8 CP) water supply systems. The allocation of water includes withdrawals from existing Well Nos. 1—4 and new Well Nos. 5, 7 and 8 of the Mansfield water supply system and Well Nos. 3R, 4—7 of the Mount Holly water supply system. The allocation increases the existing withdrawal from the Mansfield system from 88.7 mg/30 days to 160 mg/30 days. The allocation of groundwater withdrawal from the Mount Holly system will remain at 108.5 mg/30 days. The allocation increases the existing combined withdrawal from all wells in both systems from 184 mg/30 days to 255 mg/30 days. The increased allocation is requested to meet projected increases in service area demand. The project is located in the Potomac-Raritan-Magothy Aquifers in the Assicunk Creek, Crafts Creek and North Branch Rancocas Creek Watersheds in Mount Holly, Westampton and Mansfield Townships, Burlington County, NJ.

10. *Sanofi Pasteur, Inc. D-99-71-3*. An application for approval of temporary phased increases in the allowable discharge to Swiftwater Creek from Sanofi's industrial wastewater treatment plant (IWTP). Increases from 0.55 mgd to 0.70 mgd and 0.90 mgd are proposed pending construction of a regional interceptor and a regional wastewater treatment plant (WWTP) capable of accepting flows from the Sanofi facility in excess of 0.55 mgd. The interceptor and WWTP projects are expected to be completed in 2010. The applicant also seeks approval for construction to expand its processes and for an increase in its TDS effluent limits similar to the increase granted to the existing facility. Docket No. D-99-71-2 approved the current stream discharge of 0.55 mgd and expansion of the IWTP to 0.95 mgd. The project is located in the Brodhead Creek Watershed in Pocono Township, Monroe County, PA. The Sanofi IWTP currently utilizes land application and will continue to do so in conjunction with its Outfall 001 discharging to Swiftwater Creek. Swiftwater Creek is a tributary of Paradise Creek, which is a tributary of Brodhead Creek, which flows into the Delaware River at River Mile 213.0 - 11.4 - 4.4 - 3.5.

11. *Broad Acres, Inc. D-2000-31*. A modified application for the renewal of a groundwater withdrawal project and to increase the existing allocation from 135.7 mg/30 days to 259 mg/30 days to supply the docket holder's agricultural irrigation project from five existing wells and six new wells. The project is located in the Columbia, Cheswold and Federalsburg Formations in the Leipsic River Watershed in the City of Dover, Kent County, DE. A Notice of Application Received (NAR) for this project was previously published on June 9, 2000.

12. *City of Allentown D-2000-45 CP*. An application to increase the applicant's surface withdrawal allocation of 4 mgd to 5 mgd from Crystal Springs, a tributary of the Little Lehigh River; and to reduce the docket holder's total allocation from all sources from 39 mgd to 20 mgd. The docket holder utilizes four sources for public water supply; Crystal Springs, Schantz Spring, the Little Lehigh River and the Lehigh River. The docket holder will continue to provide water to the City of Allentown,

the Whitehall Township Authority, and portions of Hanover, Salisbury, and South Whitehall Townships, all in Lehigh County, PA.

13. *Audubon Water Company D-2004-4 CP-2*. An application for the renewal of a groundwater withdrawal project to continue withdrawal of 49.79 mg/30 days to supply the applicant's public water supply distribution system from 17 existing wells and new replacement Well AWC-15 in the Locketong Formation. The project is located in the Perkiomen Creek Watershed in Lower Providence Township, Montgomery County, PA, within the Southeastern Pennsylvania Groundwater Protected Area. The Commission staff recommended a reduction in the docket holder's allocation from 49.79 mg/30 days to 45.4 mg/30 days based on the docket holder's 10-year projected total maximum use.

14. *Tidewater Utilities, Inc. D-2004-24-CP-2*. An application for approval of a groundwater withdrawal project to supply up to 88.977 mg/30 days of water to the applicant's water supply system from new and existing Wells Nos. C-01, C-02, RG-01, RG-02, GG-02, GG-03, JL-01, JL-02, JL-03 and WF-01, and to increase the withdrawal from all wells from 18.5055 mg/30 days to 88.977 mg/30 days. Tidewater Utilities, Inc. plans to combine the Camden Park, Generals Green, Jonathan's Landing and Woodfield withdrawal wells under a single groundwater withdrawal docket. The increased allocation is requested to include all current withdrawals under a single docket and to meet projected increases in service area demand. With the exception of the Woodfield Well WF-01, the project wells are located in the Cheswold Aquifer in the St. Jones River Watershed in the Towns of Camden, Dover and Magnolia, Kent County, DE. The Woodfield well is located in the Federalsburg Aquifer in the Town of Woodside, Kent County, DE.

15. *Borough of Bryn Athyn D-2008-13 CP-2*. An application for the approval of a rerate of the existing Borough of Bryn Athyn Academy of the New Church WWTP. The application is for an increase in the WWTP's hydraulic design capacity from 0.065 mgd to 0.080 mgd. The WWTP's existing annual average effluent limitations of 0.065 mgd will remain unchanged. The WWTP will continue to discharge to an unnamed tributary of Huntingdon Valley Creek, itself a tributary of Pennypack Creek. The facility is located in Bryn Athyn Borough, Montgomery County, PA.

16. *Shawnee Country Club D-2008-1-1*. An application for approval of a groundwater withdrawal project to supply up to 5.4308 mg/30 days of water to the applicant's golf course irrigation system from new Wells Nos. 1—4. The project is located in the Columbia Formation in the Mispillion River Watershed in the Town of Milford, Kent County, DE.

17. *Rake Pond Farm LLC D-2008-14 CP-1*. A combined surface water and groundwater withdrawal project to supply a maximum of 11 mg/30 days of water to the applicant's irrigation of approximately 20 acres of cranberries. The water withdrawal is utilized for crop irrigation, frost protection and harvest of cranberry bogs. The applicant's manmade ponds are recharged by groundwater withdrawn from the Kirkwood Cohansey Aquifer in the Rancocas Creek Watershed in Southampton Borough, Burlington County, NJ.

18. *Penn Terminal, Inc. D-2008-19-1*. An application for approval of the construction of a 450-foot extension of the existing wharf. The proposed construction would consist of a line of filled cellular cofferdam bulkheads that would

be driven to sit atop bedrock at 40 feet below mean low water (MLW) by means of dead weight cellular construction. Each cofferdam cell would be 48 feet wide. Approximately 10,400 cubic yards of dry fill material would be placed inside the cofferdam cells, 4,800 cubic yards of which would be below MLW. The project is located in the Borough of Eddystone, Delaware County, PA.

19. *FPL Energy Marcus Hook, L.P. D-2008-21-1.* An application for approval to construct a new 4.32 mgd outfall for the purpose of redirecting processed wastewater. The discharge will consist of cooling tower blowdown and low volume waste streams directed to a newly constructed submerged outfall located along Sunoco's offloading pier. The project will discharge to Zone 4 of the Delaware River. The facility is located in Marcus Hook Borough, Delaware County, PA.

20. *Steven Parisi/Falling Creek Investment, LLC D-2008-22-1.* An application for approval of the construction of The Woods WWTP, a 31,250 gpd facility that is proposed to discharge to a holding pond for spray irrigation. The project is located within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters. The project is located in the Pohopoco Creek Watershed, in Polk Township, Monroe County, PA.

21. *London Grove Township Municipal Authority D-2008-33 CP-1.* An application for the approval of the proposed London Grove Township Municipal Authority Conard Pyle WWTP and effluent disposal system. Treated sewage effluent from the Conard Pyle WWTP will be piped through proposed force mains to three proposed offsite spray irrigation facilities at separate locations throughout London Grove Township. The hydraulic capacity of the proposed WWTP and disposal system is 0.607 mgd. The WWTP is to be located on the east side of Rosehill Road, southeast of its intersection with State Road, in London Grove Township, Chester County, PA. The project is located in the Brandywine-Christina Watershed.

22. *Horsham Water & Sewer Authority D-1997-16 CP-2.* Approval is requested for minor corrections to the pump capacity table in Section A.4.b. of Docket D-1997-16 CP-2, issued to HWSA on July 16, 2008. The table in the docket failed to reflect very small changes to the pump capacities that occurred between 1997, the date of approval of the previous HWSA docket, and July, 2008. A revised docket containing the corrected table is requested. The project wells are located in the Pennypack Creek, Park Creek and Little Neshaminy Creek Watersheds in the Stockton Formation.

The business meeting also will include adoption of the Minutes of the Commission's July 16 and September 24, 2008, business meetings; announcements of upcoming advisory committee meetings and other events; a report on hydrologic conditions in the basin; a report by the Executive Director and a report by the Commission's General Counsel. Additional business meeting items will include the following: a public hearing and consideration by the Commission of a resolution to administratively continue Docket No. D-69-210 CP-12 for the Exelon Limerick Generating Station until December 31, 2009, or completion of the public process on Exelon's pending application for a docket renewal with modifications, whichever occurs first; consideration by the Commission of a resolution adopting proposed amendments to the *Water Code* and *Comprehensive Plan* to implement water auditing to identify and control water loss; a hearing and consideration by the Commission of a resolution to approve the Commission 2009-2014 Water Resources Program; and a hearing followed by consideration of a resolution authorizing the Executive Director to enter into an agreement for a sediment flux study of mercury in Water Quality Zone 5 upon securing funds for such a study. The Commission will hold a public hearing but will not consider for adoption on December 10 a resolution approving the Commission's Fiscal Year 2010 expense and capital budgets. An opportunity for public dialogue will be provided at the end of the meeting.

Draft dockets scheduled for public hearing on December 10, 2008, will be posted on the Commission's web site, www.drbc.net, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Contact William Muszynski at (609) 883-9500, Ext. 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act of 1979 who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Service (TRS) at 711, to discuss how the Commission can best accommodate their needs.

PAMELA M. BUSH,
Secretary

[Pa.B. Doc. No. 08-2152. Filed for public inspection November 28, 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 November 18, 2008.

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

BANKING INSTITUTIONS**Section 112 Applications**

| <i>Date</i> | <i>Name of Individual</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 11-14-2008 | William Kronenberg, III, to acquire up to 16.67% of preferred stock of New Century Bank, Phoenixville | Phoenixville | Filed |
| 11-14-2008 | Kenneth B. and Moira F. Mumma to acquire up to 16.67% of preferred stock of New Century Bank, Phoenixville | Phoenixville | Filed |
| 11-14-2008 | John J. and Doris Sickler to acquire up to 13.33% of preferred stock of New Century Bank, Phoenixville | Phoenixville | Filed |
| 11-14-2008 | T. Lawrence Way to acquire up to 16.67% of preferred stock of New Century Bank, Phoenixville | Phoenixville | Filed |

Holding Company Acquisitions

| <i>Date</i> | <i>Name of Corporation</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 11-10-2008 | NOVA Financial Holdings, Inc., Berwyn, acquired 100% of Pennsylvania Business Bank, Philadelphia | Berwyn | Effective |

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| 11-10-2008 | Pennsylvania Business Bank, Philadelphia, and NOVA Interim Bank, Berwyn Surviving Institution: Pennsylvania Business Bank, Philadelphia | Philadelphia | Effective |
| 11-11-2008 | Embassy Bank for the Lehigh Valley, Bethlehem, and Embassy Interim Bank, Bethlehem Surviving Institution: Embassy Interim Bank, Bethlehem, with the surviving institution continuing under the name "Embassy Bank for the Lehigh Valley" | Bethlehem | Effective |

As a result of the previously mentioned merger, Embassy Bank for the Lehigh Valley, Bethlehem, became a wholly-owned subsidiary of Embassy Bancorp, Inc., Bethlehem.

Branch Applications**De Novo Branches**

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|--|---------------|
| 10-17-2008 | Affinity Bank of Pennsylvania Wyomissing Berks County | 4200 North 5th Street Highway Temple Berks County | Opened |
| 10-21-2008 | Clarion County Community Bank Clarion Clarion County | 592 Main Street Rimersburg Clarion County | Opened |
| 11-3-2008 | Meridian Bank Devon Chester County | 60 East Uwchlan Avenue Lionville Chester County | Opened |
| 11-10-2008 | Luzerne Bank Luzerne Luzerne County | Routes 118 and 415 Dallas Luzerne County | Opened |
| 11-13-2008 | QNB Bank Quakertown Bucks County | 1091 Millcreek Road Allentown Lehigh County | Approved |

Branch Consolidations

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 11-18-2008 | First Columbia Bank & Trust Co. Bloomsburg Columbia County | <i>Into:</i> 232 East Street Bloomsburg Columbia County <i>From:</i> 11 West Main Street Bloomsburg Columbia County | Filed |

Articles of Amendment

| <i>Date</i> | <i>Name of Bank</i> | <i>Purpose</i> | <i>Action</i> |
|-------------|---|---|---------------|
| 11-14-2008 | Public Savings Bank Huntingdon Valley Montgomery County | Articles of Amendment provide for the Articles of Incorporation to be amended and restated in their entirety. | Filed |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Community Charter Conversions**

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 10-23-2008 | Penn Drake Credit Union Karns City Butler County | Karns City | Filed |

The credit union proposes to amend 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 Butler County, in the Commonwealth of Pennsylvania.

Change of Principal Place of Business

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 11-18-2008 | Swindell Dressler Credit Union Pittsburgh Allegheny County | <i>To:</i> 555 Grant Street Suite 375 Pittsburgh, PA 15219 Allegheny County <i>From:</i> 441 Smithfield Street Pittsburgh, PA 15222 Allegheny County | 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. 08-2153. Filed for public inspection November 28, 2008, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Hearing Scheduled

The following hearing has been scheduled, as authorized by 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), in connection with a challenge of the Department of Community and Economic Development's approval of Keystone Opportunity Expansion Zone benefits for tax years 2006-2008 for County View Manors at Dunmore, LP under the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act (73 P. S. §§ 820-101—820.1309).

The Dunmore School District and Country View Manors at Dunmore, LP will appear before a hearing examiner at 11 a.m., December 10, 2008, The Commonwealth Keystone Building, 400 North Street, Plaza Level, Pennsylvania Public Utility Commission, Hearing Room 4, Harrisburg, PA 17120.

The parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. Procedural matters will be in conformance with 1 Pa. Code Part II, unless specific exemption is granted.

JOHN BLAKE,
Acting Secretary

[Pa.B. Doc. No. 08-2154. Filed for public inspection November 28, 2008, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Bureau of Forestry; Commercial Activities Agreement Fee

Under section 314 of the Conservation and Natural Resources Act (71 P.S. § 1340.314), the Department of Conservation and Natural Resources (Department) gives notice of an annual fee for commercial activity agreements issued by the Bureau of Forestry (Bureau). The new fee, which will go into effect on Monday, January 5,

2009, is \$250. The fee will assist the Bureau to offset program administration and facility and trail maintenance costs.

Inquiries may be directed to Matt Beaver, Recreation Section, Operations and Recreation Division, Bureau of Forestry, P. O. Box 8552, Harrisburg, PA 17105-8552, (717) 783-7941, fax (717) 783-5109 or mbeaver@state.pa.us. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD).

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 08-2155. Filed for public inspection November 28, 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> |
|---|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA0063819 (Industrial Waste) | Lafayette College Plant Operations Building Easton, PA 18042 | Easton City Northampton County | Bushkill Creek 01F | Y |
| PA0063011 | Hazleton City Authority—Water Department 400 East Arthur Gardner Parkway Hazleton, PA 18201-7359 | Hazle Township Luzerne County | Dreck Creek Reservoir 2B | Y |
| PA0061255 (Sewage) | Wallace R. McDonald 1647 Forest Acres Drive Clarks Summit, PA 18411-9526 | Lackawanna County Newton Township | Gardner Creek 4G | Y |
| PA-0061417 (Minor Industrial Waste) | Northeast Power Company P. O. Box 7 McAdoo, PA 18237 | Schuylkill County Kline Township | Little Schuylkill River 5E | 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> |
|--------------------------------|---|--|--------------------------------------|-----------------------------|
| PA0009457— Transfer (IW) | Pittsburgh Glass Works, LLC Tipton Plant P. O. Box 307 Tipton, PA 16684-0307 | Blair County Antis Township | Little Juniata River 11-A | Y |
| PA0030911 (SEW) | Eastern Lancaster County School District Caernarvon Elementary School P. O. Box 609 New Holland, PA 17557 | Lancaster County Caernarvon Township | Conestoga River 7-J | Y |
| PA0088676 (SEW) | Creek View Community 493 Potato Road Carlisle, PA 17015 | Cumberland County Upper Frankford Township | Conodoguinet Creek 7-B | Y |
| PA0082481 (SEW) | Municipal Authority of the Borough of Lewistown 70 Chestnut Street Lewistown, PA 17044-2216 | Mifflin County Armagh Township | Laurel Creek 12-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> |
|-----------------------------|---|--------------------------------------|--------------------------------------|-----------------------------|
| PA0228079 SP | Middleburg Municipal Authority 13 North Main Street Middleburg, PA 17842-0415 | Snyder County Franklin Township | UNT to Middle Creek 6A | 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> |
|-----------------------------|--|--------------------------------------|--------------------------------------|-----------------------------|
| PA0005321 | Praxis Companies, LLC 435 Industrial Drive Savannah, TN 38372-5996 | Taylor Township Lawrence County | Shenango River 20-A | Y |
| PA0103829 | Precise Plastics, Inc. 7700 Middle Road Fairview, PA 16415-1703 | Fairview Township Erie County | Trout Run 15-TR | 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.

PA0031747, Sewage, SIC 4952, **Glen Mills School**, P. O. Box 5011, Concordville, PA 19331. This proposed facility is located in Thornbury Township, **Delaware County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge 0.15 mgd of treated sewage.

The receiving stream, Chester Creek, is in the State Water Plan Watershed 3G and is classified for: TSF. The nearest downstream public water supply intake for Media Borough is located on Chester Creek and is 4.10 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 mgd.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|--------------------------------|---|---|
| CBOD ₅ | 25 | 50 |
| Suspended Solids | 30 | 60 |
| Ammonia as N (5-1 to 10-31) | 10 | 20 |
| (11-1 to 4-30) | 20 | 40 |
| Total Residual Chlorine | 0.5 | 1.2 |
| Fecal Coliform | 200 colonies/100 ml | 1,000 #/100 ml |
| Dissolved Oxygen | minimum of 3.0 mg/l at all times | |
| pH | Within limits of 6.0 to 9.0 Standard Units at all times | |
| Phosphorus (0—2 Years) | Monitor | Monitor |
| (3—5 Years) | | |
| (5-1 to 10-31) | 1.0 | 2.0 |
| (11-1 to 4-30) | 2.0 | 4.0 |

PA0028584, Sewage, SIC 4952, **West Goshen Sewer Authority**, 848 South Concord Road, West Chester, PA 19382-5536. This proposed facility is located in West Goshen Township, **Chester County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from West Goshen STP.

The receiving stream, Goose Creek (Chester Creek) is in the State Water Plan Watershed 3G and is classified for: WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA Main System is located on Chester Creek and is 11.1 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 6.0 mgd.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------------------|--|----------------------------------|---------------------------------|---|
| CBOD ₅ (5-1 to 10-31) | 15 | 23 | | 30 |
| (11-1 to 4-30) | 25 | 38 | | 50 |
| Total Suspended Solids | 30 | 45 | | 60 |
| Ammonia as N (5-1 to 10-31) | 2.0 | | | 4.0 |
| (11-1 to 4-30) | 6.0 | | | 12.0 |
| Fecal Coliform | # 200/100 ml | | | # 1,000/100 ml |
| Dissolved Oxygen | Monitor and Report | | | 5.0 (Instantaneous Minimum) |
| pH (Standard Units) | Within limits of 6.0 to 9.0 at all times | | | |
| Copper, Total | Monitor and Report | | Monitor and Report | Monitor and Report |
| Lead, Total | Monitor and Report | | Monitor and Report | Monitor and Report |
| BIS (2-Ethyl Hexyl) Phthalate | 0.003 | | 0.006 | 0.008 |
| N-Nitrosodi-N-Propyl Amine | Monitor and Report | | Monitor and Report | Monitor and Report |

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------|-----------------------------------|----------------------------------|---------------------------------|---|
| Nitrogen, Total | Monitor and Report | | | Monitor and Report |
| Phosphorus, Total | | | | |
| Year 1 | | | | 4.0 |
| (5-1 to 10-31) | 2.0 | | | |
| (11-1 to 4-30) | Monitor and Report | | | Monitor and Report |
| Years 2—4 | | | | |
| (5-1 to 10-31) | 0.5 | | | 1.0 |
| (11-1 to 4-30) | 1.0 | | | 2.0 |
| Year 5 | | | | |
| (5-1 to 10-31) | 0.1 | | | 0.2 |
| (11-1 to 4-30) | 0.2 | | | 0.4 |

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

1. Operator Notification.
2. Average Weekly Definition.
3. Remedial Measures.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Small Stream Discharge.
7. EPA Test Methods.
8. Change of Ownership.
9. Proper Sludge Disposal.
10. TMDL/WLA Analysis.
11. WETT at Renewal.
12. Laboratory Certification.
13. WQBEL for Copper.
14. Operator Certification.
15. I-max Limitations.
16. Fecal Coliform Reporting.
17. Phosphorus Requirements.

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

PA#0029017, Sewage, **Schuylkill Haven Municipal Authority**, 12 West Main Street, Schuylkill Haven, PA 17972-1900. This proposed facility is located in Schuylkill Haven Brough, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge up to 2.8 mgd of treated sewage to the Schuylkill River.

The receiving stream, Schuylkill River, is in the State Water Plan Watershed 3A and is classified for: CWF. The nearest downstream public water supply intake for Pottstown Water Authority is located on the Schuylkill River over 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 2.8 mgd.

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|---|----------------------------------|---|
| CBOD ₅ | 25 | 40 | 50 |
| Total Suspended Solids | 30 | 45 | 60 |
| NH ₃ -N | | | |
| (5-1 to 10-31) | 16 | | |
| Fecal Coliform | | | |
| (5-1 to 9-30) | 200/100 ml as a Geometric Mean | | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Mean | | |
| pH | 6.0 to 9.0 Standard Units at all times. | | |
| Total Residual Chlorine | 0.5 | | 1.76 |

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

1. WETT.
2. Operation/Implementation Pretreatment Program.

PA#0027006, Sewage, **Borough of Tamaqua**, 320 East Broad Street, Tamaqua, PA 18252. This existing facility is located in Walker Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of major NPDES Permit for the discharge of treated wastewater.

The receiving stream, Little Schuylkill River, is in the State Water Plan Watershed 03A and is classified for: CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Pottstown Borough Water Authority is located on the Schuylkill River more than 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 2.6 mgd are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Average Weekly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|---|----------------------------------|---|
| CBOD ₅ | 25 | 40 | 50 |
| Total Suspended Solids | 30 | 45 | 60 |
| NH ₃ -N | | | |
| (5-1 to 10-31) | 6.0 | | 12.0 |
| (11-1 to 4-30) | 18.0 | | 36.0 |
| Fecal Coliform | | | |
| (5-1 to 9-30) | 200/100 ml as a Geometric Mean | | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Mean | | |
| pH | 6.0 to 9.0 Standard Units at all times. | | |
| Total Residual Chlorine | 1.0 | | 2.34 |
| Manganese | Report | | |

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

Combined Sewer Overflow (CSO) requirements for small CSO Systems, operation and implementation of a pretreatment program, Whole Effluent Toxicity Testing (WETT).

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

Application No. PA 0026280, Sewage, **Lewistown Borough**, Two East Third Street, Lewistown, PA 17044-1799. This facility is located in Lewistown Borough, **Mifflin County**.

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

The receiving stream, Juniata River, is in Watershed 12-A, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough is located on the Juniata River, approximately 30 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended.

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 not in effect.

Application No. PA 0261211, CAFO, **Bridge Valley Farm**, 870 Bridge Valley Road, Columbia, PA 17512.

Bridge Valley Farm, LLC has submitted an NPDES permit application for Bridge Valley Farm, a poultry layer operation located in Rapho Township, **Lancaster County**. The CAFO is situated near Chickies Creek (Watershed 7-G), which is classified as a WWF. The CAFO has a target animal population of approximately 1,803 animal equivalent units consisting of 518,000 layers. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

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.

Application No. PA 0024074, Amendment No. 1, Sewage, **Shoemakersville Municipal Authority**, 115 East Ninth Street, Shoemakersville, PA 19555. This facility is located in Shoemakersville Borough, **Berks County**.

Description of activity: The application is for amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Schuylkill River, is in Watershed 3-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Borough of Pottstown Water and Sewer Authority is located on the Schuylkill River, approximately 25 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.75 mgd are:

| Parameter | Average Monthly (mg/l) | Average Weekly (mg/l) | Instantaneous Maximum (mg/l) |
|---|--|--------------------------|---------------------------------|
| CBOD ₅ | 25 | 40 | 50 |
| Total Suspended Solids | 30 | 45 | 60 |
| NH ₃ -N | 20 | | 40 |
| Total Residual Chlorine | 0.5 | | 1.6 |
| Dissolved Oxygen | Minimum of 5.0 at all times | | |
| pH | From 6.0 to 9.0 inclusive | | |
| Fecal Coliform (5-1 to 9-30) (10-1 to 4-30) | 200/100 ml as a Geometric Average 2,000/100 ml as a Geometric Average | | |
| Color | 200 | | 300 |
| Total Dissolved Solids | Report | | |

Schuylkill River TMDL Requirements

| Parameter | Concentration (mg/l) Monthly Average |
|------------|---|
| Total PCBs | Report |

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 not in effect.

Application No. PA 0088714, CAFO, **Pork Champ, LLC**, 572 Waldo-Fulton Road, Waldo, OH 43356. Pork Champ, LLC has submitted an application to renew the existing Individual NPDES permit for an existing CAFO known as the Middle Creek Swine Farm, located in West Cocalico Township, **Lancaster County**.

The CAFO is situated near UNTs of Cocalico Creek, which are classified as HQ-WWF. The CAFO includes two animal housing units designed to maintain an animal population of approximately 729 animal equivalent units consisting of 1,120 gestating sows, 210 sows with litters, 18 boars and 1,200 replacement gilts. Manure is stored in a high-density polyethylene-lined earthen impoundment with a capacity of approximately 3.3 million gallons. Manure produced at the operation is exported to local farmers in accordance with an approved Nutrient Management Plan. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

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 reissue 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.

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

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

Application No. PA 0026191, Sewage, **Borough of Huntingdon**, 530 Washington Street, Huntingdon, PA 16652. This facility is located in Smithfield Township, **Huntingdon County**.

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

The receiving stream, Juniata River, is in Watershed 11-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Dauphin Consolidated Water Company is located on the Susquehanna River, approximately 103 miles downstream. The discharge is not expected to affect the water supply.

The proposed permit amendment revises the interim milestone dates in the schedule for complying with the Chesapeake Bay nutrient cap loads, and clarifies the effective date for compliance with the cap loads. The final date for complying with the nutrient cap loads has not been amended.

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 not in effect.

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

PA0037958, Sewage, **Center Township Sewer Authority**, 224 Center Grange Road, Aliquippa, PA 15001. This application is for renewal of an NPDES permit to discharge treated sewage from Moon Run STP in Center Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority.

Outfall 001: existing discharge, design flow of 0.5 mgd.

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

The EPA waiver is in effect.

PA0025941, Sewage, **Canonsburg-Houston Joint Authority**, 68 East Pike Street, Canonsburg, PA 15317. This application is for renewal of an NPDES permit to discharge treated sewage from Canonsburg-Houston Joint Authority Wastewater Treatment Plant in Cecil Township, **Washington County**.

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

Outfall 001: existing discharge, design flow of 5 mgd.

| Parameter | Concentration (mg/l) | | | |
|-------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | | | | |
| (5-1 to 10-31) | 20 | 30 | | 40 |
| (11-1 to 4-30) | 25 | 37.5 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-30) | 4.0 | 6.0 | | 8.0 |
| (11-1 to 4-30) | 7.0 | 10.5 | | 14.0 |
| 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) | | | | |
| Total Residual Chlorine | 0.6 | | | 2.0 |
| Dissolved Oxygen | not less than 5.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |
| Cyanide, Free | 14 ug/l | | 35 ug/l | |

The EPA waiver is not in effect.

PA0252506, Sewage, **Indiana County Municipal Services Authority**, 602 Kolter Drive, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated sewage from Margaret STP in Cowanshannock Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Huskins 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 Kittanning Suburban Joint Water Authority.

Outfall 001: existing discharge, design flow of 0.0061 mgd.

| Parameter | Concentration (mg/l) | | | |
|-------------------|----------------------|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 4.5 | | | 9.0 |
| (11-1 to 4-30) | 13.5 | | | 27.0 |

| Parameter | Concentration (mg/l) | | | |
|------------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a Geometric Mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Mean | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0252590, Sewage, **Center Township Supervisors**, P. O. Box 435, Rogersville, PA 15359. This application is for renewal of an NPDES permit to discharge treated sewage from Rogersville STP in Center Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as South Fork Tenmile Creek, which are classified as a HQ-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 Tri-County Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.03 mgd.

| Parameter | Concentration (mg/l) | | | |
|---------------------------------|--|----------------|---------------|-----------------------|
| | Average Monthly | Average Weekly | Maximum Daily | Instantaneous Maximum |
| CBOD ₅ | 10 | | | 20 |
| Suspended Solids | 10 | | | 20 |
| Ammonia Nitrogen (5-1 to 10-31) | 1.5 | | | 3.0 |
| (11-1 to 4-30) | 4.5 | | | 9.0 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a Geometric Mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a Geometric Mean | | | |
| Dissolved Oxygen | not less than 5.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

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

PA0263427, Industrial Waste, **Rock Well Petroleum U.S., Inc.**, 2100 West 5th Street, Sheridan, WY 82801-3266. This proposed facility is located in City of Titusville, **Crawford County**.

Description of Proposed Activity: NPDES permit for a new discharge of treated brine water.

The receiving water is Oil Creek. The receiving stream is in State Water Plan 16-E and is classified for the following uses: CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, Emlenton Water Company, is located on Allegheny River and is approximately 59.46 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a maximum design flow of 0.125 mgd.

| Parameters | Loadings | | Concentrations | | Instantaneous Maximum (mg/l) |
|--------------------------|--------------------------|------------------------|--|----------------------|------------------------------|
| | Average Monthly (lb/day) | Maximum Daily (lb/day) | Average Monthly (mg/l) | Maximum Daily (mg/l) | |
| Flow (mgd) | | 0.125 | | | |
| Total Suspended Solids | | | 30 | | 60 |
| Oil and Grease | | | 15 | | 30 |
| Total Iron | | | 3.5 | | 7.0 |
| Benzene | | | 0.57 | | 1.43 |
| Cadmium | | | 0.04 | | 0.10 |
| Acidity | | | Less than Alkalinity | | |
| Alkalinity | | | XX | | |
| Osmotic Pressure (mO/Kg) | | | XX | | |
| Chloride | | | XX | | |
| Phenolics | | | XX | | |
| pH | | | 6.0 to 9.0 Standard Units at all times | | |

XX—Monitor and report.

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)

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

WQM Permit No. 3908404, Sewerage, **Lehigh County Authority**, 1053 Spruce Street, P. O. Box 3348, Allentown, PA 18106-0348. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Action/Activity: This project is for the construction of a new 5.5 mgd wastewater pumping station and approximately 19,000 linear feet of 20-inch ductile iron force main.

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

WQM Permit No. 0703201, Sewage, **Pittsburgh Glass Works, LLC**, Tipton Plant, P. O. Box 307, Tipton, PA 16684-0307. This proposed facility is located in Antis Township, **Blair County**.

Description of Proposed Action/Activity: Transfer of Permit.

WQM Permit No. 3195402, Amendment 08-1, Sewage, **Orbisonia-Rockhill Joint Municipal Authority**, P. O. Box 346, Orbisonia, PA 17243. This proposed facility is located in Cromwell Township, **Huntingdon County**.

Description of Proposed Action/Activity: Upgrade to existing wastewater treatment plant, plus the installation of two new oxidation ditches.

WQM Permit No. 2299404, Amendment 08-1, Sewage, **Middletown Borough Authority**, 60 West Emaus Street, Middletown, PA 17057-1407. This proposed facility is located in Middletown Borough, **Dauphin County**.

Description of Proposed Action/Activity: Upgrades to the existing wastewater treatment plant to comply with the Chesapeake Bay Standards.

WQM Permit No. 6703405, Amendment 08-1, Sewage, **Stewartstown Borough Authority**, 6 North Main Street, Stewartstown, PA 17363. This proposed facility is located in Hopewell Township, **York County**.

Description of Proposed Action/Activity: Upgrades to the existing wastewater treatment plant.

WQM Permit No. 2174406, Amendment 08-1, Sewage, **Carlisle Borough**, 53 West South Street, Carlisle, PA 17013. This proposed facility is located in Carlisle Borough, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for the construction/modifications of a mechanical screen and a grit chamber for the wastewater treatment facility.

WQM Permit No. 2292405, Amendment 08-1, Sewage, **Millersburg Area Authority**, 101 West Street, Millersburg, PA 17061-1321. This proposed facility is located in Millersburg Borough, **Dauphin County**.

Description of Proposed Action/Activity: Seeking approval for the modifications/upgrades/additions and alterations to the existing wastewater treatment plant.

WQM Permit No. 0194403, Amendment 08-1, Sewerage, **Blue Ridge Sportsman Association, Inc.**, 3009 Waynesboro Pike, Fairfield, PA 17320. This proposed facility is located in Liberty Township, **Adams County**.

Description of Proposed Action/Activity: Seeking approval for the modifications of replacing existing sand filter with extended aeration and sedimentation plant at existing wastewater treatment plant.

WQM Permit No. 4495402, Amendment 08-1, Sewerage, **Municipal Authority of the Township of Union**, P. O. Box 5625, Belleville, PA 17004-5625. This proposed facility is located in Union Township, **Mifflin County**.

Description of Proposed Action/Activity: Seeking approval for the modifications of the addition of vertical fine screening facilities and chemical phosphorus removal facilities at existing wastewater treatment plant.

WQM Permit No. 0508403, Sewerage, **Borough of Everett Area Municipal Authority**, 100 Mechanic Street, Everett, PA 15537-1177. This proposed facility is located in Everett Borough, **Bedford County**.

Description of Proposed Action/Activity: Seeking approval for the modifications of demolishing existing sand and plastic filter media sludge drying beds and construct reed sludge drying beds.

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

WQM Permit No. 4108401, Sewage, SIC 4952, **Loyalsock Township**, 2501 East Third Street, Williamsport, PA 17701. This proposed facility is located in Loyalsock Township, **Lycoming County**.

Description of Proposed Action/Activity: The applicant proposes to eliminate a sewer overflow and rehabilitate sewers mains and replace service connections and inceptor mains in eastern Loyalsock Township.

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

WQM Permit No. WQG016170, Sewerage, **Joseph Bauer**, 326 Pine Run Road, Fombell, PA 16123. This proposed facility is located in Marion Township, **Beaver County**.

Description of Proposed Action/Activity: Permit application for the construction and operation of a single-residence sewage treatment plant.

WQM Permit No. 5608405, Sewerage, **Rox Coal, Inc.**, P. O. Box 260, Friedens, PA 15541. This proposed facility is located in Somerset Township, **Somerset County**.

Description of Proposed Action/Activity: Permit application for the construction and operation of a sewage treatment plant for a deep mine and bathhouse.

WQM Permit No. 0276461-A2, Sewerage, **Allegheny Valley Joint Sewage Authority**, 2400 Freeport Road, P. O. Box 158, Cheswick, PA 15024-0158. This existing facility is located in Harmar Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit amendment application for existing STP.

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

WQM Permit No. WQG028316, Sewerage, **Pleasant Township**, P. O. Box 865, Warren, PA 16365. This proposed facility is located in Pleasant Township, **Warren County**.

Description of Proposed Action/Activity: The proposed pump station will replace the ejector station, while performing the same general duty. This project will not change the volume or quantity of waste entering the collection system.

WQM Permit No. 2597423, Sewerage, **Amendment No. 2, Borough of North East**, 31 West Main Street, North East, PA 16428. This proposed facility is located in North East Borough, **Erie County**.

Description of Proposed Action/Activity: The project involves upgrades to the Site I Wastewater Treatment Plant to include a new headworks screening facility, second aeration tank, aerobic digester and centrifuge sludge dewatering system. The proposed project also expands the Site II Wastewater Treatment Plant from 2.1 mgd to 2.9 mgd. Proposed facilities at the Site II Plant include a headworks screening facility, grit chamber, contact stabilization treatment unit with secondary clarifier and aerobic digester, reactor clarifier, upgrades to existing contact stabilization treatment units, expansion of chlorine contact tank and centrifuge sludge dewatering system. The Site II plant discharge location to Sixteen Mile Creek will remain in its present location.

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 0908015 | Penn's Grant Corporation 2005 South Easton Road Suite 307 Doylestown, PA 18901 | Bucks | Milford Township | UNT Unami Creek HQ-TSF |
| PAI01 1508072 | William and Kathleen Waid 216 Nottingham Drive Spring City, PA 19475 | Chester | East Nantmeal Township | March Creek Lyons Run HQ-TSF-MF |
| PAI01 1508073 | West Bradford Development Co. 806 Baltimore Pike Glen Mills, PA 19342 | Chester | East Fallowfield Township | UNT West Branch Brandywine Creek EV-MF |
| PAI01 1508074 | LTK Associates, LP 55 Country Club Drive Suite 200 Downingtown, PA 19335 | Chester | Uwchlan Township | Shamona Creek HQ-TSF-MF |
| PAI01 2308004 Phase IB, 1C | BPG Land Partners VIII Seaport, LLC FC Pennsylvania Stadium, LLC 322 A Street Suite 300 Wilmington, DE 19901 | Delaware | City of Chester | Delaware River WWF, MF |

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

Lehigh County Conservation District: Lehigh Agriculture 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> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI023908025 | Dennis Benner DB3, LLC 2005 Cityline Road Suite 106 Bethlehem, PA 18107 | Lehigh | City of Bethlehem | Monocacy Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI024808020 | Myers Power Products, Inc. Attn: Bruce Steigerwald 2000 Highland Avenue Bethlehem, PA 18020 | Northampton | Hanover Township | Monocacy Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|----------------------------|
| PAI024508014 | Pocono Mountain School District P. O. Box 200 Pocono Mountain School Road Swiftwater, PA 18370 | Monroe | Barrett Township | Brodhead Creek HQ-CWF |

Wyoming County Conservation District: One Hollowcrest Complex, Tunkhannock, PA 18657, (570) 836-2589.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|--|--|
| PAI026608001 | Mehoopany Wind Energy, LLC ATTN: Kevin Davis 310 4th Street NE Suite 200 Charlottesville, VA 22902 | Wyoming | Eaton, Forkston, Mehoopany, Noxen and Washington Townships | Stone Run HQ-CWF Kasson Brook HQ-CWF South Branch Roaring Run CWF Roaring Run CWF Newton Run HQ-CWF Sugar Hollow Creek HQ-CWF Bowman's Creek HQ-CWF Hettesheimer Run HQ-CWF York Run HQ-CWF Bowman Hollow HQ-CWF |

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|-----------------------|---|
| PAI041403017-3 | Ian Salada PSU Office of Physical Plant 113P Physical Plant Building University Park, PA 16802 | Centre | State College Borough | Slab Cabin CWF Thompson Run HQ-CWF |

Lycoming County Conservation District: 542 County Farm Road, Suite 202, Montoursville, PA 17754, (570) 433-3003.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|--------------------------------|---|
| PAI044108001 | Robert Charlebois Laurel Hill Wind Energy, LLC 71 Allen Street Suite 101 Rutland, VT 05701 | Lycoming | Jackson and McIntyre Townships | Blockhouse Creek CWF Little Pine Creek CWF Roaring Branch Run HQ-CWF Gray's Run HQ-CWF Long Run HQ-CWF Frozen Run HQ-CWF Red Run CWF Lycoming Creek CWF Susquehanna River WWF |

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

Butler County Conservation District: 122 McCune Drive, Butler, PA 16001-6501, (724) 284-5270.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI061008003 | The Plantation at Saxonburg Knoch Farms Development, LLC 2121 Old Gatesburg Road Suite 200 State College, PA 16803 | Butler | Clinton Township | UNT Sarver Run HQ-TSF |

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

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

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

ACT 38

NUTRIENT MANAGEMENT PLANS

CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS

| <i>Agricultural Operation Name and Address</i> | <i>County</i> | <i>Total Acres</i> | <i>Animal Equivalent Units</i> | <i>Animal Type</i> | <i>Special Protection Waters (HQ or EV or NA)</i> | <i>New or Renewal</i> |
|--|---------------|--------------------|--------------------------------|---|---|-----------------------|
| Brubaker Farms Partnership 493 Musser Road Mount Joy, PA 17552 | Lancaster | 1,965.4 | 1,736.74 | Dairy Broilers Sheep | NA | Renewal |
| D. Fred Miller & Sons Lester Miller 276 Miller Road New Oxford, PA 17350 | Adams | 1,916.8 | 633.24 | Turkey Brooder, Turkey Finisher, Steers | NA | Renewal |
| Round Hill Dairy Jeremy and Isaac Miller 6105 Carlisle Pike East Berlin, PA 17316 | Adams | 47.5 | 119.25 | Dairy Cows, Dry Cows, calves and heifers | NA | New |
| Brian Blevina Peach Glen Farm, LLC 367 Georgetown Road Gardners, PA 17342 | Cumberland | 42 | 552.2 | Turkey and Swine | NA | New |

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 4008507, Public Water Supply.

| | |
|---------------------------|--|
| Applicant | Pennsylvania American Water Co. Centerpoint East Phase II Jenkins Township Luzerne County |
| Responsible Official | David Kaufman Pennsylvania American Water 800 Hersheypark Drive Hershey, PA 17033 |
| Type of Facility | Public Water System |
| Consulting Engineer | Reilly Associates 49 South Main Street Pittston, PA |
| Application Received Date | November 3, 2008 |
| Description of Action | The construction of a booster pump station, storage tank and distribution system to serve an expanded business park. |

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

Permit No. 2808511, Public Water Supply.

| | |
|--------------|--|
| Applicant | Silver Spring Water Association |
| Municipality | Hamilton Township |

| | |
|---------------------------|--|
| County | Franklin |
| Responsible Official | Steven Mayer, President 9451 Gilbert Road Chambersburg, PA 17201 |
| Type of Facility | Public Water Supply |
| Consulting Engineer | Yves E. Pollart BCEE, P. E. Rettew Associates, Inc. 2500 Gettysburg Road Camp Hill, PA 17011 |
| Application Received | October 30, 2008 |
| Description of Action | Radium removal |
| Permit No. 0608515 | Public Water Supply. |
| Applicant | Reading Area Water Authority |
| Municipality | Ontelaunee Township |
| County | Berks |
| Responsible Official | Dean Miller, Executive Director 815 Washington Street Reading, PA 19601 |
| Type of Facility | Public Water Supply |
| Consulting Engineer | Max C. Kurbjun, Jr., P. E. BCM Engineers 920 Germantown Pike Plymouth Meeting, PA 19462 |
| Application Received | October 28, 2008 |
| Description of Action | Addition of more alum storage facilities and transfer pumps to transfer alum from new storage to existing day tanks with in the existing treatment building. |

MINOR AMENDMENT

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

| | |
|--|--|
| Application No. 6606503MA, Minor Amendment, | |
| Public Water Supply. | |
| Applicant | Aqua Pennsylvania, Inc. Rivercrest Water System Tunkhannock Township Wyoming County |
| Responsible Official | David Quinn Aqua Pennsylvania, Inc. 50 East Woodhaven Drive White Haven, PA |
| Type of Facility | Public Water System |
| Consulting Engineer | CET Engineering Services 1240 Mountain Road Harrisburg, PA |
| Application Received Date | October 7, 2008 |
| Description of Action | The replacement of the roof on the existing finished water reservoir. |

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

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

Northgate, City of Lancaster, **Lancaster County**. GCI Environmental Services, Inc., 1250 East King Street, Lancaster, PA 17602-3236, on behalf of Messner Enterprises Northgate LLP, P. O. Box 333, Landisville, PA 17538, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with leaded gasoline. The site will be remediated to the Site-Specific Standard. Future use of this former gas station is unknown.

Woodland Retirement Center, Cromwell Township, **Huntingdon County**. Herbert, Rowland, & Gubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Presbyterian Homes, Inc., One Trinity Drive East, Suite 201, Dillsburg, PA 17019 submitted a revised Notice of Intent to Remediate site soils, groundwater and surface water contaminated with No. 2 fuel oil from a removed underground storage tank. The property is and will remain a retirement home. The applicant is seeking to remediate to a combination of Statewide Health and Site-Specific Standards.

Former Hanover RUS Facility, Penn Township, **York County**. ARCADIS US, Inc., 6 Terry Drive, Suite 300, Newtown, PA 18940, on behalf of Cintas Corporation, 27 Whitney Drive, Milford, OH 45150, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with solvents from historical dry cleaning operations at the site. The future use of the site will be for industrial laundering operations.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Former Beech Creek Market, Beech Creek Borough, **Clinton County**. ATC Associates, Inc., 101 Allegheny Street, Suite 2B, Hollidaysburg, PA 16648 on behalf of Former Beech Creek Market, 272 Main Street, Beech Creek, PA 16822 has submitted a Notice of Intent to Remediate soil contaminated with 1,3,5-trimethylbenzene and groundwater contaminated with benzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene and MTBE. The applicant proposes to remediate the site to meet the Background Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Lock Haven Express* on October 30, 2008. The future use of the project site is planned for redevelopment as a market and fueling station.

Smooth Landings, Ralpho Township, **Northumberland County**. Brian Snyder, 1387 Airport Road, Paxinos, PA 17860 has submitted a Notice of Intent to Remediate soil contaminated with Chlorinated Solvents. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The News Item* on September 5, 2008.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Application for Determination of Applicability for General Permit received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

General Permit Application No. WMGR053-NWD01. Engineered Plastics, LLC, 1241 Camphausen Avenue, Erie, PA 16511, City of Erie, **Erie County**. The application is for determination of applicability for processing of consumer commodity-type materials in recyclable containers. The application was found to be administratively complete on November 13, 2008. The application for determination of applicability was received by the Northwest Regional Office on November 5, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Withdrawn 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. 101666. Gotta Go Septics, B & R Nauman, Inc., 75 Pocono Heights Road, Tobyhanna, PA 18466. A Permit Renewal/Reissuance application for the continued operation of this municipal waste sewage sludge (septage) transfer facility located in Penn Forest Township, **Carbon County**, and the reissuance of the permit to Gotta Go Septic, B & R Nauman, Inc. The application was withdrawn by the applicant on November 1, 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 operat-

ing permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

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.

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

10-001M: AK Steel Corporation (P. O. Box 832, Butler, PA 16003-0832) for the air permitting associated with the construction of an Electric Arc Furnace (EAF) and a dual station Ladle Metallurgical Facility (LMF) at the Melt Shop facility, Butler Works, in the City of Butler, **Butler County**.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection (Department) intends to issue a plan approval to AK Steel Corporation (P. O. Box 832, Butler, PA 16003-0832). The facility currently has a Title V permit which was issued February 13, 2006. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

This application is for the air permitting associated with the construction of an EAF and a dual station LMF at the Melt Shop facility, Butler Works, in the City of Butler, Butler County. This plan approval is subject to the Prevention of Significant Deterioration and Nonattainment New Source Review requirements for CO, SO₂, VOC, NO_x and NO₂.

Based on the information provided by the applicant and Department's own analysis, the proposed melt shop modernization project would consume the following increments:

| Pollutant | Ambient Air Quality Impact |
|-----------------|--|
| CO | 14,796.79 µg/m ³ (1 hour avg.) and 5,762.76 µg/m ³ (8 hour avg.) |
| NO ₂ | 99.25 µg/m ³ (annual) |
| SO ₂ | 1,323.52 µg/m ³ (3 hour avg.), 273.57 µg/m ³ (24 hour avg.) and 47.25 µg/m ³ (annual) |

Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

The following conditions apply to the sources in the Melt Shop.

1. a. The maximum production rate for No. 5 EAF is 300 tons of liquid steel per hour or the production rate

during compliant stack testing plus 10% of the production rate calculated as a 24-hour average, whichever is lower.

b. The production in the melt shop shall be limited to 2,000,000 tons of liquid steel in any 12-month rolling period.

c. The total steel production from No. 2 EAF shall not exceed 400,000 tons of liquid steel in any 12-month rolling period.

d. The maximum production rate for No. 2 EAF is 50 tph of liquid steel or the production rate during compliant stack testing plus 10% of the production rate calculated as a 24-hour average, whichever is lower.

e. The maximum AOD Reactor throughput is 250 tph of liquid steel or the throughput rate during compliant stack testing plus 10% of the throughput rate calculated as a 24-hour average, whichever is lower.

f. The maximum natural gas usage in the AOD reactor is 18.6 thousand cubic feet per hour.

g. The maximum natural gas usage in No. 5 EAF is 1,500 scfm.

h. If the maximum production rate of liquid steel during the stack test is less than that specified previously, then the production rate of liquid steel during the stack test plus 10% shall become the enforceable production limit for liquid steel until a stack test is performed at a higher production and demonstrates compliance with the emission limits contained in this plan approval.

i. The permittee may conduct stack testing at a higher production rate of liquid steel in order to determine compliance with the emission limits of this plan approval. In no event shall the production rate of liquid steel exceed the production rates specified above during the stack test.

j. The permittee shall follow the applicable conditions for stack testing that are in contained in this plan approval.

2. The allowable emission limits from the No. 3 Baghouse shall be calculated as a 12-month rolling sum:

- PM/PM10—53 tpy.
- CO—2,000 tpy.
- NO_x—350 tpy.
- SO₂—250 tpy.
- VOC—140 tpy.

3. The allowable short-term emission limits from the No. 3 Baghouse are:

- CO—2.4 pounds per ton of liquid steel produced, calculated as a 24-hour average.
- NO_x—0.42 pound per ton of liquid steel produced, calculated as a 24-hour average.
- SO₂—0.3 pound per of ton liquid steel produced, calculated as a 24-hour average.
- VOC—0.18 pound per ton liquid steel produced, calculated as a 24-hour average.

4. Total allowable PM emission concentration for the No. 3 Baghouse (Control No. C17) is 0.0018 gr/dscf.

5. Total allowable PM emission concentration for the No. 1/2 Baghouse (Control No. C17) is 0.002 gr/dscf.

6. The allowable emission limits from the No. 1/2 Baghouse are calculated as a 12-month rolling sum:

- PM/PM10—15 tpy

- b. CO—500 tpy
 - c. NO_x—RACT Limit.
7. The allowable short-term emission limits from the No. 1/2 Baghouse are:
- a. CO—0.6 lb/ton, calculated as a 24-hour average.
 - b. NO_x—RACT Limit.
 - c. VOC—RACT Limit.
8. There shall be no Melt Shop opacity due to fugitive emissions during periods of normal melt shop operation.
9. The opacity from the No. 1/2 Baghouse may not exceed 3% as defined by 40 CFR 60.273a—Emission Monitoring.
10. The opacity from the No. 3 Baghouse may not exceed 3% as defined by 40 CFR 60.273a—Emission Monitoring.
11. The following parameters will be monitored as part of the CAM plan for Baghouses No. 3 and No. 1/2:
- a. Inlet Pressure.
 - b. Visible Observations.
 - c. Preventive Maintenance.
12. Stack Testing Conditions:
- a. The owner or operator shall conduct performance testing to determine the capture efficiencies of the Direct Evacuation Control system (DEC), canopy hood and building/roof monitor within 90 days of the date of issuance of this Plan Approval for the existing sources in the Melt Shop.
 - b. The owner or operator shall perform emission testing for NO_x, CO, SO₂, VOC, PM₁₀, Total PM and Lead simultaneously on Baghouse No. 3 and Baghouse No. 1/2 within 90 days of the date of issuance of this Plan Approval. The testing of the CO and NO_x shall be performed simultaneously.
 - c. The owner or operator shall conduct performance testing to determine the capture efficiencies of the DEC and canopy hood associated with the No. 5 EAF within 180 days of the start-up of the No. 5 EAF and associated LMF or on a schedule approved by the Department.
 - d. The owner or operator shall perform emission testing for NO_x, CO, SO₂, VOC, PM₁₀, Total PM and Lead on Baghouse No. 3 within 180 days of the start-up of No. 5 EAF and associated LMF or on a schedule approved by the Department. The testing of the CO and NO_x shall be performed simultaneously.
 - e. Stack tests shall be performed twice in each calendar year and once between 5 and 7 months following the prior performance test on No. 3 Baghouse when the No. 5 EAF and LMF are operating to determine compliance with the CO, VOC, NO_x, SO₂, PM and PM₁₀ emission rates. The testing of the CO and NO_x shall be performed simultaneously.
 - f. If the production from the No. 2 EAF exceeds 50,000 tons in any 12-month rolling period, stack tests shall be performed when the No. 2 EAF is operating within 60 days and once every 12-months thereafter to determine compliance with the CO, VOC, NO_x, SO₂, PM and PM₁₀ emission rates. The testing of the CO and NO_x shall be performed simultaneously.
 - g. Stack tests shall be performed once a year on the No. 1/2 baghouse when the AOD is operating to determine compliance with the CO, VOC, NO_x, SO₂, PM and

PM₁₀ emission rates. The testing of the CO and NO_x shall be performed simultaneously.

f. After 3 years, the Permittee may petition the Department, in writing, to amend the stack testing requirements.

13. The AOD and No. 2 EAF exhausting to Baghouse No. 1/2 are subject to the provisions in 40 CFR 60, Subpart AA—Standards of Performance for Steel Plants: EAF and Argon-Oxygen Decarburization Vessels Constructed after October 21, 1974, and before August 17, 1983.

14. The No. 5 EAF and the LMF exhausting to Baghouse No. 3 are subject to the provisions in 40 CFR 60, Subpart AAA—Standards of Performance for Steel Plants: EAF and Argon-Oxygen Decarburization Vessels Constructed after August 7, 1983.

15. A properly designed DEC with water-cooled ducts shall be installed on the No. 5 EAF to control CO emissions.

16. Oxyfuel burners with O₂ lances shall be installed on the No. 5 EAF to control NO_x emissions.

17. Any carbon source used in the production of liquid steel in the No. 5 EAF shall be limited to 2.0% sulfur, by weight, to control SO₂ emissions.

18. A scrap management plan shall be implemented to prevent the charging of any scrap into the furnace that is heavily oiled or contains a large amount of combustible, nonmetallic or rubber materials to control VOC emissions.

19. The No. 5 EAF shall only be operated when the DEC system, canopy hoods, ductwork, fans and baghouse are operating properly.

The following conditions apply to the Ladle Preheaters:

1. The Permittee shall maintain, on a monthly basis, records of natural gas usage in each Ladle Preheater.

2. Within 12-months after installation of the Ladle Preheater No. 9, and annually thereafter, the Permittee shall perform NO_x and CO emissions testing using a portable analyzer approved by the Department. The Department may alter the frequency of annual portable analyzer tests based on the results. The Department may also waive all or parts of this requirement if the permittee demonstrates compliance, in lieu of testing, through alternate means satisfactory to the Department.

The following conditions apply to the Emergency Generator:

1. The sulfur content in diesel fuel shall not, at any time exceed 0.3%, by weight.

2. The PM emissions from each engine shall not exceed 0.4 gram per brake hp/hr.

3. The emissions from the diesel engine may not, at any time exceed:

a. Visible emissions equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.

b. Visible emissions equal to or greater than 60% at any time.

c. PM in excess of 0.04 gr/dscf.

d. Odor emissions in such a manner that the malodors are detectable outside the property of the permittee as specified in 25 Pa. Code § 123.31.

4. Total Hydrocarbon (THC) emission standard of 1.0 gram per brake hp/hr.

5. CO emission standard of 2.0 grams per brake hp/hr.
6. NO_x emission standard of 6.9 grams per brake hp/hr.
7. Within 12-months after installation of the emergency generator, and annually thereafter, the Permittee shall perform NO_x emissions using a portable analyzer approved by the Department. The Department may alter the frequency of annual portable analyzer tests based on the results. The Department may also waive all or parts of this requirement if the permittee demonstrates compliance, in lieu of testing, through alternate means satisfactory to the Department.

The following conditions apply to the Cooling Tower:

1. a. The PM from the water-cooling tower shall not exceed 3.96 tpy on a 12-month rolling sum.
- b. The total dissolved/suspended solids shall not exceed 1,000 ppm in the cooling tower water.

The following conditions apply to the Truck Unloading Stations.

1. Total allowable PM emission concentration for the truck unloading stations dust collectors is 0.01 gr/dscf.
2. The allowable fugitive emission limits from the EAF and LMF Alloy truck unloading stations are calculated as a 12-month rolling sum:
 - a. PM—2.57 tpy to be calculated as 0.12 pound per ton of material processed during a consecutive 12-month period.
 - b. PM₁₀—1.29 tpy to be calculated as 0.06 pound per ton of material processed during a consecutive 12-month period.
3. The allowable fugitive emission limits from the West End Hopper House truck unloading stations are calculated as a 12-month rolling sum:
 - a. PM—3.03 tpy to be calculated as 0.12 pound per ton of material processed during a consecutive 12-month period.
 - b. PM₁₀—1.51 tpy to be calculated as 0.06 pound per ton of material processed during a consecutive 12-month period.
4. The owner or operator shall perform emission testing for PM₁₀ and Total PM on one of the unloading station dust collectors within 180 days of the start-up of the first unloading stations or a schedule approved by the Department.

The following conditions apply to the plant roads.

1. The plant entrance road shall be maintained to keep fugitive emissions to a minimum. The road shall be routinely swept or dust suppressant shall be applied on an as needed basis.
2. Speed limits for vehicular traffic shall be posted and enforced.
3. A daily log shall be kept on site documenting road conditions and road maintenance.
4. A daily record of all traffic within the plant shall be kept onsite and shall contain the following information:
 - a. Each make and type of vehicle moving within the plant and the routes used.
 - b. Road miles of each vehicle.

The following condition applies to the entire facility:

1. Within 45 days of acceptance by the Department of the stack test results required to determine the capture efficiencies and emission rates of the current operations prior to the modernization project and the initial stack test results required to determine the capture efficiencies and emission rates after modernization project, the Department will notify the Permittee in writing whether a revised netting analysis is required to be submitted. The information obtained from stack tests will be used to confirm and/or recalculate the baseline actual emissions and to calculate the future actual emissions.

2. If it is determined that the Melt Shop Modernization project has caused a significant net emissions increase (as those terms are defined in 40 CFR 52.21(b)(3)(i) and (23)(ii)) for PM or PM₁₀, the facility will become subject to PSD for PM or PM₁₀ at that time. In the event that a significant net emissions increase occurs, the facility shall obtain a plan approval that demonstrates compliance with the requirements of 40 CFR 52.21 as well as 25 Pa. Code Chapter 127, Subchapter E pertaining to New Source Review requirements and any other applicable regulations.

3. The Permittee shall submit, by March 1 of each calendar year and each subsequent calendar year for 5 years after the No. 5 EAF is operating, a netting analysis comparing the baseline actual emissions, the projected future actual emissions, and the actual emissions that occurred during the past calendar year. The actual emissions shall be derived from the production data and stack test results for the previous calendar year.

4. If it is determined that the Melt Shop Modernization project has caused a significant net emissions increase (as those terms are defined in 40 CFR 52.21(b)(3)(i) and (23)(ii)) for PM or PM₁₀, the facility will become subject to PSD for PM or PM₁₀ at that time. In the event that a significant net emissions increase occurs, the facility shall obtain a plan approval that demonstrates compliance with the requirements of 40 CFR 52.21 as well as 25 Pa. Code Chapter 127, Subchapter E pertaining to New Source Review requirements and any other applicable regulations.

5. The Permittee shall sign a Consent Order and Agreement with the Department within 180 days of issuance of the plan approval that includes:

- a. Submitting revised AIMS reports.
- b. Pay all applicable emission fees, interest and penalties for the following calendar years and pollutants:
 - (i) Calendar years 1990—2004 for NO_x and VOCs.
 - (ii) Calendar years 1995—2004 for CO, PM₁₀ and SO₂.
 - (iii) Calendar years 2001—2004 for PM_{2.5}.
- c. Compliance with the RACT requirements (as defined in 25 Pa. Code § 129.91—Control of Major Sources of NO_x and VOCs).
 - (i) VOC limits for existing sources for the entire facility.
 - (ii) NO_x limit for the AOD.

4. a. The company shall not operate the No. 5 EAF, LMF, No. 9 preheater or the new emergency generator associated with the shop modernization project until the required emission reduction credits are provided to and processed through the ERC registry.

b. The company is required to secure emission offsets in the amount of 178.18 tpy of VOCs to offset emissions of 154.94 tpy of VOCs.

c. The company is required to secure emission offsets in the amount of 142.31 tpy of NO_x to offset emissions of 123.75 tpy of NO_x.

d. If the amount of required emission reduction credits increases, the company shall secure emission offsets according to a schedule determined by the Department.

The Plan Approval and Operating Permit will include conditions that require monitoring, recordkeeping, reporting, work practice standards, and additional requirements for the sources and control devices designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 230 Chestnut Street, Meadville, PA 16335.

Any persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following:

- (i) Name, address and telephone number of the person submitting the comments.
- (ii) Identification of the Proposed Permit No. 10-001M.
- (iii) A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper 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 Carolyn Cooper, P. E., Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

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

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

46-0162A: Hammond Lead Products, Inc. (10 Grosstown Road, Pottstown, PA 19464) for installation of an exhaust point at the existing poly-dispersion process and rail car loading operations at their facility in West Pottsgrove Township, **Montgomery County**. The facility is a lead oxide manufacturing plant. Facility-wide potential to emit for all criteria pollutants is below major facility thresholds for the Philadelphia Consolidated Metropolitan Statistical Area. The plant is therefore a Natural Minor Facility. 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) 826-2507.

64-303-012: Hanson Aggregates Pennsylvania (7660 Imperial Way, Allentown, PA 18195) for modification of an existing asphalt plant to utilize an alternative fuel, onspec waste derived liquid fuel in the process at their facility in Lake Township, **Wayne County**. This facility is not a Title V facility. The company has elected to take a voluntary production restriction of 495,000 tons of asphalt per year. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the asphalt plant 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.

38-05037B: Zimmerman Chair Shop (1486 Colebrook Road, Lebanon, PA 17042-9507) for installation of two coating booths in North Cornwall Township, **Lebanon County**. The wood surface coating and manufacturing operation will be subject to the wood surface coating regulations found in 25 Pa. Code §§ 129.101—129.107 in addition to those found in 25 Pa. Code § 129.52. The facility will not be subject to 40 CFR Part 63, Subpart JJ since potential emissions of VOCs and HAPs will remain below major source thresholds, respectively. Actual VOC and HAP emissions from the proposed installation are not expected to exceed 7.0 and 1.4 tons per 12-month rolling total, respectively. The plan approval and subsequent State-only operating permit will include emission limitations, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

AMS 08179: PaperWorks Industries, Inc. (5000 Flat Rock Road, Philadelphia, PA 19127) to replace two existing boilers and one temporary package boiler with two English Boiler and Tube, Inc., Model DS Boilers in the City of Philadelphia, **Philadelphia County**. Each boiler will be rated 92.27 mmBtu/hr and will burn No. 6 oil and natural gas. The new boilers will have the following combined potential annual emissions: 162.46 tons of NO_x, 270.92 tons of SO₂, 41.20 tons of CO, 2.54 tons of VOCs, 46.66 tons of PM/PM₁₀ and 31.14 tons of PM/PM_{2.5}. The potential emissions of all of these emissions will decrease as a result of the project due to the removal of larger boilers. The plan approval will contain operating, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

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

AR-01-05029: Reliant Energy Wholesale Generation, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) for operation of an electric generating station in Straban Township, **Adams County**. The facility is subject to Title IV (Acid Rain) Phase II for three combined cycle turbines. The proposed permit will be issued with the Title V permit.

22-05013: M. I. Metals, Inc. (1517 Route 209, Millersburg, PA 17061) for operation of a surface coating facility in Millersburg Borough, **Dauphin County**. This is a renewal of the Title V operating permit issued in 2004.

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

V07-002: Naval Surface Warfare Center—Carderock Division (5001 South Broad Street, Code 02, Philadelphia, PA 19112) for operation of research, development, testing, evaluation, fleet support and in-service engineering for surface and undersea naval ships facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include four wall-fired ship boilers, each with a heat input between 200 and 385 mmBtu/hr, five boilers each with a heat input less than 10 mmBtu/hr, 10 heaters each with a heat input less than 3 mmBtu/hr, five emergency generators, three engine test cells, five diesel engines used for testing, 11 gas turbines, a paint spray booth, wood working and parts cleaner. The facility's air emissions control devices include dust collectors, baghouse and filters.

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

Persons wishing to file protest or comments on the previously-listed operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

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

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

09-00154: Bucks County Water and Sewer Authority (1275 Almshouse Road, Warrington, PA 18976) submitted a renewal for a Non-Title V Facility, State-only, Natural Minor Permit in Doylestown Township, **Bucks County** at their facility at Pine Run Road and Old Dublin Pike. Bucks County Water and Sewer Authority is a sewage treatment plant. The sources of emissions include an emergency generator and the wet well controlled by a scrubber. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

06-03038: Stericycle, Inc. (1525 Chestnut Hill Road, Morgantown, PA 19543) for operation of two pet crematoriums in Robeson Township, **Berks County**. This is a renewal of the State-only operating permit issued in 2004.

38-05018: Lebanon Veterans Administration Medical Center (1700 South Lincoln Avenue, Lebanon, PA 17042) for operation of a medical hospital in South Lebanon Township, **Lebanon County**. This is a renewal of the State-only operating permit issued in December 2003.

22-05034: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104-1645) for a renewal of their State-only operating permit for operation of their Hummels-town Quarry crushed and broken limestone quarry and plant in South Hanover Township, **Dauphin County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

36-05069: Fenner, Inc. (311 West Stiegel Street, Manheim, PA 17545) for their polymeric drive belts manufacturing facility in Manheim Borough, **Lancaster County**. This is a renewal of the State-only operating permit issued in October 2003.

36-05120: Nessco Enterprises, LLC, d/b/a Meridian Products (124 Earl Drive, New Holland, PA 17557) for a renewal of their State-only operating permit for operation of their cabinet door manufacturing plant in East Earl Township, **Lancaster County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

67-05102: Aero Energy (149 Bowman Road, York, PA 17404) for operation of their automated propane cylinder filling facility in Jackson Township, **York County**. This is a renewal of the State-only operating permit issued in November 2003.

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

08-00019: Stroehmann Bakeries, LC (P. O. Box 158, Sayre, PA 18840) for renewal of a State-only operating permit for operation of a bakery facility in Sayre Borough, **Bradford County**.

The facility incorporates a bread oven and associated prebake operations, two 3.4 mmBtu/hr natural gas-fired boilers, 10 natural gas-fired air makeup units (with a total combined heat input of 5.76 mmBtu/hr), nine ink jet printers, a solvent parts washer and a painting operation.

The VOC emissions from the bread oven are controlled by a catalytic oxidizer.

The facility has the potential to emit up to 49.99 tons of VOCs, 9.44 tons of NO_x, 7.93 tons of CO, 7.32 tons of PM/PM₁₀ per year as well as negligible amounts of HAPs.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to renew State-only Operating Permit 08-00019. The Department intends to incorporate into the renewal all conditions currently contained in State-only Operating Permit 08-00019 with these additions, changes and exceptions:

1. Source 055 has been removed from the permit as the two boilers previously incorporated in Source 055 no longer exist at the facility and the bread oven burners previously incorporated in Source 055 are actually part of

Source P101, the facility's bread oven, and are therefore more appropriately addressed in the conditions listed for Source P101.

2. Source P105 has been removed from the permit as the prebake operations incorporated in Source P105 are more appropriately addressed in the conditions listed for Source P101, the facility's bread oven.

3. Conditions requiring a weekly inspection of the facility for the presence of excessive visible air contaminant emissions, excessive visible fugitive air contaminant emissions and malodorous air contaminant emissions, and the maintenance of records of these inspections have been removed from the permit as the facility does not incorporate the types of sources that are likely to produce these emissions.

4. A condition requiring malfunctions to be reported to the Department has been revised to exclude the reporting of malfunctions which do not result in, or potentially result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

5. Conditions requiring the maintenance, and semi-annual reporting, of records of the "supporting calculations used to verify compliance" with the applicable annual facility-wide VOC emission limitation have been replaced with a condition requiring the permittee to maintain "such records as are necessary" to demonstrate compliance with the respective limitation.

6. Conditions requiring the maintenance, and semi-annual reporting, of records of the "supporting calculations used to verify compliance" with the applicable VOC emission limitations for the burners associated with the bread oven have been removed from the permit as it is not possible to determine compliance with the applicable emission limitations with "calculations."

7. The stated size of the six burners incorporated in the bread oven has been corrected (1.5 mmBtu/hr each instead of 1.0 mmBtu/hr each).

8. A 3.4 mmBtu/hr natural gas-fired boiler and seven natural gas-fired makeup air units (with a total combined heat input of 1.6 mmBtu/hr) have been added to the permit.

9. A condition has been added to the permit restricting the fuel used in the facility's bread oven and associated catalytic oxidizer to natural gas.

10. A condition requiring the maintenance of records of the "supporting calculations used to verify compliance" with the applicable SO_x, PM and VOC emission limitations for the facility's bread oven has been removed from the permit as it is not possible to determine compliance with the applicable PM and VOC emission limitations with "calculations" and the use of natural gas as fuel in the oven's burners guarantees compliance with the applicable SO_x emission limitation.

11. A condition has been added to the permit requiring VOC stack testing to be performed on the facility's bread oven and associated catalytic oxidizer sometime between November 1, 2012, and March 31, 2013.

12. A condition requiring the maintenance of records of the "supporting calculations used to verify compliance" with the applicable VOC emission limitation for the facility's prebake operations has been replaced with a

condition requiring the permittee to maintain "such records as are necessary" to quantify the VOC emissions from, and determine compliance with the VOC emission limitation specified for, the prebake operations.

13. Three ink jet printers exempted from the 25 Pa. Code § 127.11 plan approval requirement on October 16, 2007, and six ink jet printers exempted from the plan approval requirement on October 15, 2008, have been added to the permit along with conditions limiting the VOC emissions from each of these two groups of ink jet printers to less than 2.7 tons in any 12-consecutive month period, limiting the VHAP emissions from each group to 1.0 or less tons in any 12-consecutive month period and requiring the maintenance of records of the identity and quantity of ink and ink makeup fluid used in each of these two groups each month.

14. The solvent parts washer previously listed in the permit, and all associated conditions, have been removed from the permit as the respective parts washer no longer exists at the facility.

15. A new solvent parts washer exempted from the 25 Pa. Code § 127.11 plan approval requirement on October 15, 2008, has been added to the permit along with conditions specifying the applicable 25 Pa. Code § 129.63 requirements for the parts washer, conditions limiting the VOC emissions from the parts washer to less than 2.7 tons in any 12-consecutive month period and the VHAP emissions to 1.0 or less tons in any 12-consecutive month period, a condition prohibiting the use of solvents in the parts washer which contain halogenated VHAPs as an intentionally-added ingredient and a condition requiring the maintenance of records of the identity and amount of solvent added to the parts washer each month.

16. A condition requiring the maintenance of records of the "supporting calculations used to verify compliance" with the applicable VOC emission limitation for the facility's painting operation has been replaced with a condition requiring the permittee to maintain records of the identity and quantity of each material used in the painting operation each month and a condition requiring the semi-annual reporting of the "supporting calculations" has been removed from the permit.

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

24-00121: Industrial Timber & Lumber Co., Inc.—ITL (54C Montmorenci Road, SR 948, Ridgway, PA 15853) for issuance of a Natural Minor Operating Permit to operate a facility that processes logs into lumber in Ridgway Township, **Elk County**. The facility's primary emission sources include a wood fired boiler, three wood-fired space heaters, miscellaneous woodworking operations and four hardwood drying kilns.

37-00328: Resco Products, Inc.—Shenango Advanced Ceramics (606 McCleary Avenue, New Castle, PA 16101-7502) for issuance of a Natural Minor Operating Permit for a manufacturing facility that produces refractory kiln furniture in the City of New Castle, **Lawrence County**. The facility's primary emissions sources include 11 natural gas fired space heaters, a clay mix line, two kilns, three induction furnaces, six natural gas fired dryers, a clay graphite mixer and a parts washer.

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

S04-019: Clean Earth of Philadelphia (3201 South 61st Street, Philadelphia, PA 19153) for operation of a soil and nonsoil treatment facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include one thermal desorption unit, one thermal oxidizer and cyclone separator, one baghouse, one carbon adsorption unit, one carbon adsorption unit with fabric filter, Pretreated Media Process Building operations, and particulate fugitive sources from plant roadways sweeping, outdoor storage pile, and material transfer operations.

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

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania*

Bulletin and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

| Parameter | 30-Day Average | Daily Maximum | Instantaneous Maximum |
|-------------------|------------------|---------------------------------|-----------------------|
| Iron (Total) | 1.5 to 3.0 mg/l | 3.0 to 6.0 mg/l | 3.5 to 7.0 mg/l |
| Manganese (Total) | 1.0 to 2.0 mg/l | 2.0 to 4.0 mg/l | 2.5 to 5.0 mg/l |
| Suspended solids | 10 to 35 mg/l | 20 to 70 mg/l | 25 to 90 mg/l |
| Aluminum (Total) | 0.75 to 2.0 mg/l | 1.5 to 4.0 mg/l | 2.0 to 5.0 mg/l |
| pH ¹ | | greater than 6.0; less than 9.0 | |

Alkalinity greater than acidity¹

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56663069, NPDES No. PA0120944 and General Permit GP-12-56980103. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552, revision of an existing bituminous surface-auger mine to replace an existing air quality permit for coal processing to coverage under air quality general permit GP-12 in Elk Lick and Summit Townships, **Somerset County**, affecting 3040.0 acres. Receiving streams: UNT to Casselman River, Casselman River, UNT to Elk Lick Creek and Elk Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 27, 2008.

56980108 and NPDES No. PA0234915. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface mine in Milford Township, **Somerset County**, affecting 160.7 acres. Receiving streams: UNTs to Coxes Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received November 6, 2008.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26080105 and NPDES Permit No. PA0251518. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for commencement, operation and

reclamation of a bituminous surface mine, located in North Union Township, **Fayette County**, affecting 56.2 acres. Receiving streams: UNTs to Cove Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received November 6, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33820149 and NPDES Permit No. PA0605551. Strishock Coal Company (220 Hillcrest Drive, DuBois, PA 15801). Renewal of an existing bituminous surface strip and limestone removal operation in Washington Township, **Jefferson County** affecting 54.0 acres. Receiving streams: One UNT of Mill Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only: Application received November 12, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54773223T3. Penn Equipment Corp., (15 Main Street, Port Carbon, PA 17965), transfer of an existing anthracite coal refuse reprocessing operation from Blaschak Coal Corp. in Cass Township, **Schuylkill County** affecting 133.0 acres, receiving stream: none. Application received November 12, 2008.

40980101T. Hazleton Materials, LLC, (2052 Lucon Road, Skippack, PA 19474), transfer of an existing anthracite surface mine operation in Foster Township, **Luzerne County** from No. 1 Contracting Corp. affecting 1261.0 acres, receiving stream: Sandy Run and Buck Mountain Creek, classified for the following use: HQ-CWF. Application received November 14, 2008.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

| <i>Parameter</i> | <i>Table 2 30-day Average</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
|--------------------------------------|---------------------------------------|---------------------------------|----------------------------------|
| Suspended solids | 10 to 35 mg/l | 20 to 70 mg/l | 25 to 90 mg/l |
| Alkalinity exceeding acidity* pH* | | greater than 6.0; less than 9.0 | |

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

61990301. Cooperstown Sand and Gravel (P. O. Box 4, Cooperstown, PA 16317). Renewal of NPDES Permit No. PA0227960, in Jackson Township, **Venango County**. Receiving streams: One UNT to Sugar Creek and Sugar Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is the City of Franklin. NPDES Renewal application received November 12, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58000829. Tammy J. Mosier, (R. R. 2, Box 316, Mehoopany, PA 18629), Stages I and II bond release of a quarry operation in Middletown Township, **Susquehanna County** affecting 3.0 acres on property owned by Dawn Shannon. Application received October 14, 2008.

66060806. Dale Kingston, (R. R. 2, Box 313, Mehoopany, PA 18629), Stages I and II bond release of a quarry operation in Brantrim Township, **Wyoming County** affecting 5.0 acres on property owned by John Parys. Application received November 6, 2008.

48010302T. Delaware Quarries, Inc., (P. O. Box 778, New Hope, PA 18938), transfer of an existing quarry operation from Eastern Industries, Inc. in Lower Mt. Bethel Township, **Northampton County** affecting 101.9 acres, receiving stream: none. Application received November 12, 2008.

45940802. Kuehner Excavation, (3820 Stagecoach Road, West, Palmerton, PA 18071), Stages I and II bond release of a quarry operation in Eldred Township, **Monroe County** affecting 2.0 acres on property owned by Jody Borger. Application received November 13, 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 Floodplain 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

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-452. South Creek Township, P. O. Box 60, Gillett, PA 16925. Water Obstruction and Encroachment Joint Permit Application in South Creek Township, **Bradford County**, United States Army Corps of Engineers, Baltimore District (Gillett, PA Quadrangle N: 41° 59' 10"; W: 76° 46' 24").

To construct, operate and maintain 27,000 feet of sanitary sewer line within the Susquehanna River Watershed (WWF) for the treatment of municipal wastewater. All sewer line crossings shall be constructed with a minimum of 3-feet of cover with concrete encasement beneath the waterways. Trench plugs or clay dikes shall be used at every sewer line crossing and waterway to ensure the hydrology of the streams is not altered. Construction of the treatment plant will require the placement of fill in 0.64 acre of jurisdictional wetlands. The project is located along the eastern and western right-of-way of SR 0014 from the Borough of Gillett to the Borough of Fassett.

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

E11-334. Pennsylvania Game Commission, 4820 Route 711, Boliver, PA 15923-2420. To construct a stream crossing in Chest Township, **Cambria County**, United States Army Corps of Engineers, Baltimore District (Coalport, PA Quadrangle N: 2.9 inches; W: 15.9 inches, Latitude: 40° 38' 31.9"; Longitude: 78° 36' 51.5"). The applicant proposes to construct and maintain a stream crossing consisting of five 17" by 13" by 20' corrugated steel arch culverts across Beaverdam Run (CWF) for the purpose of providing access to portions of State Game Lands. The project is located on approximately 3,400 feet north of Gendale Lake Road on State Game Lands 108.

E30-224. Consol Pennsylvania Coal Co., LLC, 1525 Pleasant Grove Road, Claysville, PA 15323. To restore and maintain creek and wetlands in Richhill Township, **Greene County**, United States Army Corps of Engineers, Pittsburgh District (Wind Ridge, PA Quadrangle N: 9.0 inches; W: 10.6 inches, Latitude: 39° 55' 28"; Longitude: 80° 27' 2" and Wind Ridge, PA Quadrangle N: 10.3; W: 12.0, Latitude: 39° 55' 54"; Longitude: 80° 27' 38"). The applicant proposes to restore and maintain 1,308 feet of Crabapple Creek (WWF) and 3,058 feet of a UNT to Crabapple Creek (WWF); to restore and maintain 0.92 acre of wetlands along the floodplain of Crabapple Creek; to construct and maintain 0.68 acre of wetlands along the floodplain of Crabapple Creek. The project is mitigation for impact to streams and wetlands (0.48 acre) associated with the construction of the Crabapple Overland Conveyor Belt. The impacts to the stream and wetlands are part of a mining permit under review by the Department of Environmental Protection's California District Mining office. The mitigation project on Crabapple Creek is located along the south side of Braddock Run Road (T569) approximately 2,000 feet east of its intersection with Durbin Road (T346). The mitigation project on the UNT to Crabapple Creek is located along the west side of Durban Run Road (T346) approximately 700 feet north of its intersection with Braddock Run Road (T569).

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

E20-572, Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. SR 0018-0010-1442 Channel Cleaning in West Fallowfield Township, **Crawford County**. United States Army Corps of Engineers, Pittsburgh District (Greenville East, PA Quadrangle N: 41° 29' 21.84"; W: 80° 22' 10.65").

To apply stream bank stabilization along approximately 50 feet of the left (north) bank of a tributary to Crooked Creek extending downstream from SR 18 and to abandon fill from channel cleaning remaining along the right (south) bank and within the assumed floodway having a total width of approximately 20 feet and a maximum depth of 2.25 feet extending approximately 200 feet downstream from SR 0018, Segment 0010, Offset 1442 approximately 1.5 miles south of Adamsville.

E42-341, Tuna Valley Trail Association, 300 Campus Drive, Bradford, PA 16701. Bennett Brook Pedestrian Bridge, in the City of Bradford, **McKean County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh, PA Quadrangle N: 42° 57' 23"; W: 79° 38' 50").

The applicant proposes to construct and maintain a pedestrian bridge having a clear span of 24 feet and an underclearance of 7.0 feet across Bennett Brook in the Bradford Federal flood control project approximately 100 feet upstream of the confluence of Bennett Brook and West Branch of Tunungwant Creek. Bennett Brook is a perennial stream classified as a CWF.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D35-015EA. Pennsylvania-American Water Company, 852 Wesley Drive, Mechanicsburg, PA 17055. Spring Brook Township, **Lackawanna County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain overtopping protection and increase spillway capacity at Nesbitt Dam across Spring Brook (HQ-CWF) for the purpose of improving public safety. The dam is located approximately 4,700-feet northwest of the intersection of SR 502 and Kilmer Road (Avoca, PA Quadrangle Latitude: 41° 19' 35"; Longitude: 75° 39' 13"). The project proposes permanent impacts to 0.20-acre of PEM wetland; 265 lineal feet of UNT to Spring Brook (HQ-CWF); and 225 lineal feet of Spring Brook (HQ-CWF); and temporary impacts to 35 lineal feet of Spring Brook. The applicant proposes to create 0.21-acre of replacement wetland.

D10-002EA. Pennsylvania-American Water Company, 852 Wesley Drive, Mechanicsburg, PA 17055. Oakland Township, **Butler County**, United States Army Corps of Engineers, Pittsburgh District.

To construct and maintain overtopping protection and increase spillway capacity at Thorn Run Dam across Thorn Run (WWF) for the purpose of improving public safety. The dam is located approximately 1,800 feet southeast of the intersection of Thorn Run and Hoon Roads (East Butler, PA Quadrangle Latitude: 40° 53' 40"; Longitude: 79° 51' 54"). The project proposes permanent impacts to 165 lineal feet of Thorn Run and 0.01-acre of PEM wetland associated with Thorn Run; and temporary impacts to 175 lineal feet of Thorn Run and 0.04-acre of PEM wetland associated with Thorn Run. Wetland impacts are considered de minimis and replacement is not required.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D56-004C. Cambria Somerset Authority, 244 Walnut Street, Johnstown, PA 15901. To modify, operate and maintain Quemahoning Dam across Quemahoning Creek (CWF), impacting 0 acre of wetlands and 140 feet of stream, for the purpose of changing the operation of the dam to allow periodic, routine releases of up to 500 cubic feet per second from the reservoir (Hooversville, PA Quadrangle N: 10.4 inches; W: 9.5 inches) in Quemahoning Township, **Somerset County**.

D23-042EA. Lansdowne Borough, 12 East Baltimore Avenue, Lansdowne, PA 19050. Project proposes to breach an unnamed dam across Darby Creek (TSF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 600 feet of stream channel. The dam is located approximately 1,500 feet south of the intersection of SR 2016 (Baltimore Avenue) and Eldon Road (Lansdowne, PA Quadrangle Latitude: 39° 55' 54"; Longitude: 75° 17' 00"). Clifton Heights and Lansdowne Boroughs, **Delaware County**.

D48-029EA. Director of Parks and Public Property, City of Bethlehem, 10 East Church Street, Bethlehem, PA 18018-6025. Project proposes to breach and remove Saucon Park Dam across Saucon Creek (HQ-CWF) for the purpose of eliminating a threat to

public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,000 feet of stream channel. The dam is located approximately 2,900 feet northwest of the intersection of SR 412 and US 78 (Hellertown, PA Quadrangle Latitude: 40° 36' 09"; Longitude: 75° 20' 49"). City of Bethlehem, **Northampton County**.

D65-049EA. Dorothy Lutz, 123 Bask Drive, Jeanette, PA 15644. Project proposes to breach and remove Howell

Dam across a tributary to Little Sewickley Creek (TSF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,700 feet of stream channel. The dam is located approximately 250 feet north of the intersection of General Braddock Road (T641) and Reservoir Road (T420) (Irwin, PA Quadrangle Latitude: 40° 17' 09"; Longitude: 79° 42' 31") Sewickley Township, **Westmoreland 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 wastes; discharges to groundwater |
| Section IV | NPDES | MS4 individual permit |
| Section V | NPDES | MS4 permit waiver |
| Section VI | NPDES | Individual permit stormwater construction |
| Section VII | NPDES | NOI for coverage under NPDES general permits |

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|------------------------------|---|--------------------------------------|--------------------------------------|-----------------------------|
| PA-0063797 (Minor Sewage) | Pocono Valley Personal Care R. R. 1 Box 1416 Stroudsburg, PA 18360 | Hamilton Township Monroe County | A tributary to Cherry Creek 1E | Y |

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|---|---|--|--------------------------------------|-----------------------------|
| PA0043044 (Minor Sewage) | Ringtown Sewer Authority P. O. Box 202 Ringtown, PA 17967 | Ringtown Borough Schuylkill County | Dark Run 05E | Y |
| PAS212202 (Industrial Stormwater) | Berks Products Corporation 5050 Crackersport Road Allentown, PA 18104 | South Whitehall Township Lehigh County | Little Cedar Creek 2C | Y |
| PA0061476 (Sewage) | Edgewood MHP 223R Mailie Road Carbondale, PA 18407 | Lackawanna County Glenburn Township | UNT Ackerly Creek 4F | Y |

Chesapeake Bay nutrient monitoring requirements for Ammonia Nitrogen, Kjeldahl Nitrogen, Nitrite-Nitrate as N, Total Nitrogen and Total Phosphorus are being added to this permit.

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|------------------------------|--|---|--------------------------------------|-----------------------------|
| PA0062651 | Suburban Heating Oil Partners—New Milford Bulk Plant P. O. Box 284 New Milford, PA 18834 | Susquehanna County New Milford Borough | Salt Lick Creek 4E | Y |
| PA-0060712 (Sewage) | Grace and Truth Evangelistic Association Rock Mountain Bible Camp P. O. Box 64 South Gibson, PA 18842-0064 | Susquehanna County Gibson Township | UNT Tunkhannock Creek 4F | Y |
| PA-0061611 (Minor Sewage) | Municipal Authority of Westfall Township P. O. Box 235 Matamoras, PA 18336 | Westfall Township Pike County | Delaware River 1D | 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> |
|-----------------------------|--|---|--------------------------------------|-----------------------------|
| PAG2003603062-R | Curt Stumpf 1974 Lincoln Highway East | Lancaster County East Lampeter Township | UNT Mill Creek WWF | Y |
| PAG2003603095-R | Glenn Wissler 355 Clearview Road Ephrata, PA 17522 | Lancaster County Clay Township | Middle Creek WWF | Y |
| PAG2003603111-R | Elm Tree Properties 3121c Mount Joy Road Mount Joy, PA 17552 | Lancaster County Rapho Township | UNT Little Chickies Creek TSF | Y |
| PA0088340 (Sew) | Larry Acchione TJ's Restaurant, Inc. 2620 Susquehanna Trail Newport, PA 17074 | Perry County Buffalo Township | Bucks Run 6-C | 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> |
|-----------------------------|--|--|--------------------------------------|-----------------------------|
| PA0228362 | Former Gateway Restaurant and Apartments 5198 Route 87 Highway Williamsport, PA 17701 | Lycoming County Plunketts Creek Township | Loyalsock Creek SWP 10B | 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> |
|-----------------------------|--|--------------------------------------|--|---------------------------|
| PA0042161 Sewage | James M. Quinn P. O. Box 608 Moon Township, PA 15108 | Beaver County Raccoon Township | Swale to UNT 33578 to Raccoon Creek | Y |

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N</i> |
|---|---|--------------------------------------|--------------------------------------|-----------------------------|
| PA0205575 Sewage | Pleasant Valley Country Club R. D. 2 Box 292 Connellsville, PA 15425 | Fayette County Bullskin Township | Mountz Creek | Y |
| <i>Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.</i> | | | | |
| <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> |
| PA0222801 | Sarah Heinz House Association One Heinz Street Pittsburgh, PA 15212 | Wayne Township Lawrence County | Slippery Rock Creek 20-C | Y |
| PA0239437 | Edgewood Group Home River Road Pulaski, PA 16143 | Pulaski Township Lawrence County | UNT to Shenango River 20-A | 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. PA0055263, Sewage, **Executive Center Condominium Association, c/o B. C. Property Management, Inc.**, 350 South Main Street, Suite 211, Doylestown, PA 18901. This proposed facility is located in Plumstead Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into a UNT No. 02849 to North Branch Neshaminy Creek in Watershed 2F-Neshaminy.

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

NPDES Permit No. PA0027235-A1, Sewage, **Easton Area Joint Sewer Authority**, 50-A South Delaware Drive, Easton, PA 18042. This proposed facility is located in City of Easton, **Northampton County**.

Description of Proposed Activity: Permit amendment for changes to Whole Effluent Toxicity requirements.

NPDES Permit No. PA0065242, Sewage, **Lower Milford Township**, 7607 Chestnut Hill Church Road, Coopersburg, PA 18036-3712. This proposed facility is located in Lower Milford Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit.

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

NPDES Permit No. PA0081817, Amendment No. 1, Sewage, **Juniata County School District, East Juniata High School**, R. R. 2, Box 2411, McAlisterville, PA 17049-9626. This proposed facility is located in Fayette Township, **Juniata County**.

Description of Proposed Action/Activity: Authorization to discharge to Cocolamus Creek in Watershed 12-B.

NPDES Permit No. PA0083135, Amendment No. 1, Sewage, **Mifflin County School District, East Derry Elementary School**, 103 Green Avenue, Lewistown, PA 17044-2320. This proposed facility is located in Derry Township, **Mifflin County**.

Description of Proposed Action/Activity: Authorization to discharge to Jacks Creek in Watershed 12-A.

NPDES Permit No. PA0021890, Amendment No. 1, Sewage, **New Holland Borough**, 436 East Main Street, New Holland, PA 17557. This proposed facility is located in Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 7-J.

NPDES Permit No. PA0261114, Sewage, **McConnellsburg Borough Municipal Authority**, P. O. Box 218, McConnellsburg, PA 17233. This proposed facility is located in Todd Township, **Fulton County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Big Cove Creek in Watershed 13-B.

NPDES Permit No. PAS213506, Sewage, **Eldorado Stone, LLC**, 9156 Molly Pitcher Highway, Greencastle, PA 17225-9712. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to Watershed 13-C.

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

NPDES Permit No. PA0096369-A1, Sewage, **Patrick J. DiCesare**, 116 East Pittsburgh Street, Greensburg, PA 15601. This proposed facility is located in East Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit amendment issuance for increasing discharge rate from 0.006 mgd to 0.02 mgd.

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

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

WQM Permit No. 1308403, Sewerage, **Commonwealth of Pennsylvania, Department of Conservation and Natural Resources**, Bureau of State Parks, 400 Market Street, RCSOB, 8th Floor, Harrisburg, PA 17105. This proposed facility is located in Franklin Township, **Carbon County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for rehabilitation of the sewage treatment plant at Beltzville State Park including the removal and replacement of: 1) the undersized 4,500 gallon flow equalization tank with a new 50,000 gallon cast-in-place concrete flow equalization tank; 2) the existing communitor with a cast-in-place concrete sewage grinder basin and grinder unit; 3) two existing blowers that supply air for extended aeration, the sludge storage tank and air lift pumps; 4) the filter sand in the intermittent sand filters; and 5) the 40-year old pump station with a duplex submersible pump station. A new ultraviolet light disinfection system will also be installed.

WQM Permit No. 6407403, Sewerage, **Central Wayne Regional Authority**, 100 Fourth Street, Suite 8, Honesdale, PA 18431 (formerly Honesdale Borough, 958 Main Street, Honesdale, PA 18431). This proposed facility is located in Honesdale Borough, **Wayne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for expansion of the sewage treatment plant to 2.2 mgd.

WQM Permit No. 6608401, Sewerage, **Factoryville Borough and Clinton Township Joint Municipal Sewer Authority**, P. O. Box 277, Factoryville, PA 18419. This proposed facility is located in Clinton Township, **Wyoming County**.

Description of Proposed Action: This project is for the expansion and upgrade of the wastewater treatment plant to have a capacity of .185 mgd and construction of sanitary sewer extensions in Clinton Township.

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

WQM Permit No. WQG02670802, Sewage, **Jackson Township Sewer Authority**, 439 Roth's Church Road, Spring Grove, PA 17362. This proposed facility is located in Jackson Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of the Independence Warehouse Pump Station.

WQM Permit No. 2282406, Amendment 08-1, Sewage, **Berrysburg Municipal Authority**, P. O. Box 183, Berrysburg, PA 17005. This proposed facility is located in Berrysburg Borough, **Dauphin County**.

Description of Proposed Action/Activity: Amendment approval for the construction of sewerage facilities consisting of: Fine screen and manually cleaned bar screen to replace the existing basket strainer.

WQM Permit No. 3677401, Amendment 08-1, Sewage, **Lititz Sewer Authority**, Seven South Broad Street, Lititz, PA 17543. This proposed facility is located in Warwick Township, **Lancaster County**.

Description of Proposed Action/Activity: Amendment approval for the construction, modification and operation of sewerage facilities consisting of: The conversion of the existing treatment units to anaerobic, anoxic and aerobic zones. Addition of UV disinfection, tertiary filters and side stream Phosphorus removal. Production of Class A biosolids with augmented aerobic, digestion, centrifuge and biosolids drying system.

WQM Permit No. 6708408, Sewerage, **Newberry Township Municipal Authority**, 1915 Old Trail Road, Etters, PA 17319. This proposed facility is located in Newberry Township, **York County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of: 10,375 feet of 18" interceptor from White Oak pump station (abandoned) at White Oak Township Park along Fishing Creek to MH-42 in Fox Farm Interceptor off Pines Road.

WQM Permit No. WQG02210806, Sewage, **Middlesex Township Municipal Authority**, 350 North Middlesex Road, Suite 2, Carlisle, PA 17013. This proposed facility is located in Middlesex Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of the Army Heritage Drive forcemain, extension of sewers on south end of Army Heritage Drive to Trindle Road.

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

WQM Permit No. 1700405-A1, Sewerage 4952, **City of Dubois**, P. O. Box 408, DuBois, PA 15801. This proposed facility is located in the City of Dubois, **Clearfield County**.

Description of Proposed Action/Activity: Replacement of sanitary sewers in Orange Alley and Parkway Drive.

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

WQM Permit No. 0208404, Sewerage, **Findlay Township Municipal Authority**, P. O. Box 409, 1271 Route 30, Clinton, PA 15026. This proposed facility is located in Findlay Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a submersible type wastewater pumping station, force main and gravity sewer collection system.

WQM Permit No. WQG026121, Sewerage, **Hidden Valley Four Seasons Resort**, One Craighead Drive, Hidden Valley, PA 15502. This proposed facility is located in Jefferson Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sewage collection and conveyance and an “e-one” package pump station.

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

WQM Permit No. WQG018654, Sewerage, **Anthony N. Klochak**, 9351 State Road, Cranesville, PA 16410. This proposed facility is located in Franklin Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

WQM Permit No. 6108402, Sewerage, **City of Oil City**, 21 Seneca Street, Oil City, PA 16301. This proposed facility is located in City of Oil City, **Venango County**.

Description of Proposed Action/Activity: Combined Sewer Overflow (CSO) Improvements in accordance with Phase II of the approved long-term CSO management plan. Modifications to the 16 existing CSOs in the City’s sewer collection system adjacent to Oil Creek and the Allegheny River. The modifications to the CSOs include installation of new regulator structures, sewer piping, outfalls, modifications to existing regulator structures and elimination of two CSO overflow points.

WQM Permit No. 1608401, Sewerage, **Paint Elk Joint Sewer Authority**, 22139 Route 66, Shippenville, PA 16254. This proposed facility is located in Paint Township, **Clarion County**.

Description of Proposed Action/Activity: Extend sewage service to the Riverhill area of Paint Township with a low pressure sewer system and a sewage pump station. The low pressure sewer will install grinder pumps near the 62 buildings requiring sanitary sewage service.

WQM Permit No. 4308401, Sewage, **State Regional Correction Center at Mercer**, 801 Butler Pike, Mercer, PA 16137. This proposed facility is located in Findley Township, **Mercer County**.

Description of Proposed Action/Activity: This application proposes the construction of a 250,000 gpd (0.25 mgd) sequencing batch reactor wastewater treatment plant to eliminate the existing 160,000 gpd (0.16 mgd) sewage treatment plant and its pending 60,000 gpd (0.06 mgd) plant expansion to implement the second phase of the associated Planning Module for Land Development, approved by the Department of Environmental Protection on December 27, 2007. Wholesale replacement of the entire system will improve operating efficiency and replace aging equipment. The expansion will continue to utilize the existing plant’s aeration tanks number six and seven and equalization tank number three as sludge holding for subsequent truck hauling to landfill disposal.

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> |
|-------------------------|--|---------------|-----------------------|--|
| PAI09 08009 | Natural Lands Trust, Inc. 1031 Palmers Mill Road Media, PA 19063 | Bucks | Buckingham Township | Paunacussing Creek HQ-CWF |
| PAI01 1506076A-2 | Warwick Township 2500 Ridge Road Elverson, PA 19420 | Chester | Warwick Township | French Creek EV |
| PAI01 1507040 | GenTerra Corporation 68 Dowlin Forge Road Exton, PA 19341 | Chester | Wallace | UNT Marsh Creek HQ-TSF-MF |
| PAI01 1508036 | Conestoga Property, LLC 148 Sugartown Road Devon, PA 19333 | Chester | West Vincent Township | Pine Creek HQ-TSF |
| PAI01 1508039 | Celeste Weyl 2136 Flowing Springs Road Birchrunville, PA 193421 | Chester | West Vincent Township | Birch Run French Creek 9EV |
| PAI01 1508050 | David McElhenny 715 Talbotville Road Honey Brook, PA 19344 | Chester | Honey Brook Township | Tributary East Branch Brandywine Creek HQ-TSF-MF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|-------------------------|--------------------------------|
| PAI026408003 | Central Wayne Regional Authority 100 Fourth Street Suite 8 Honesdale, PA 18431 | Wayne | Honesdale Borough | Lackawaxen River HQ-TSF, MF |
| PAI023908011 | 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, (717) 705-4707.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|----------------------|----------------------------|
| PAI036708001 | Brett Peterson Adhesives Research, Inc. 400 Seaks Run Road Glen Rock, PA 17327 | York | Springfield Township | UNT to Seaks Run HQ-CWF |

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|--------------------------------|-----------------------------------|
| PAI041408009 | Matthew Nixdorf Mixdorf Subdivision 492 Weaver Hill Road Bellefonte, PA 16823 | Centre | Marion and Walker Townships | UNT to Fishing Creek HQ-CWF |

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

Indiana County Conservation District, USDA Service Center, 1432 Route 286 Highway East, Indiana, PA 15701, (724) 463-8547.

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|---------------------|---|
| PAI053208002 | Indiana County Municipal Services Authority 602 Kolter Drive Indiana, PA 15701 | Indiana | Pine Township | Yellow Creek, Leonard Run and North Branch Blacklick Creek CWF Little Yellow Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI062008001 | Vantage Real Estate Investment County, Ltd. 18282 Technology Drive Suite 2 Meadville, PA 16335 | Crawford | City of Meadville | French Creek WWF |

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

| | |
|-------|---|
| PAG-1 | General Permit for Discharges From Stripper Oil Well Facilities |
| PAG-2 | General Permit for Discharges of Stormwater Associated With Construction Activities (PAR) |
| PAG-3 | General Permit for Discharges of Stormwater From Industrial Activities |
| PAG-4 | General Permit for Discharges From Small Flow Treatment Facilities |
| PAG-5 | General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems |
| PAG-6 | General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO) |

| | |
|-------------|--|
| PAG-7 | General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application |
| PAG-8 | General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site |
| PAG-8 (SSN) | Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage |
| PAG-9 | General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site |
| PAG-9 (SSN) | Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage |
| PAG-10 | General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines |
| PAG-11 | (To Be Announced) |
| PAG-12 | Concentrated Animal Feeding Operations (CAFOs) |
| PAG-13 | Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) |

*General Permit Type—PAG-2**Facility Location:*

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|---|--|
| East Rockhill Township Bucks County | PAG200 0908078 | Nancy Courtney P. O. Box 1496 Rutland, VT 05701-5640 | Tohickon Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Dublin Borough Bucks County | PAG200 0907032 | Dublin Technology Enterprises Center, Inc. 123 North Main Street Dublin, PA 18917 | Tohickon Creek and East Branch Perkiomen Creeks CWF, TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Newtown Township Bucks County | PAG200 0907107 | Newtown Township Department of Park and Recreation 100 Municipal Drive Newtown, PA 18940 | UNTs Neshaminy and Newtown Creeks WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Caln Township Chester County | PAG200 1508035 | Creek Road Developers, Inc. 119 John Robert Thomas Drive Exton, PA 19341 | East Branch Brandywine Creek WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Tredyffrin Township Chester County | PAG200 1508048 | W. P. Realty, Inc. 940 Haverford Road Bryn Mawr, PA 19010 | Little Darby Creek CWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| East Bradford Township Chester County | PAG200 1508043 | East Bradford Township 666 Copeland School Road West Chester, PA 19380 | East Branch Brandywine Creek WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Newtown Township Delaware County | PAG200 2308016 | Pennsylvania CVS Pharmacy, LLC 8 Devonshires Court Blue Bell, PA 19422 | Preston Run to Crum and Darby—Crum Creeks CWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Ridley Township Delaware County | PAG200 2308052 | Harper Associates 6 East Hinckley Avenue P. O. Box 384 Ridley Park, PA 19018-0384 | Little Crum Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Cheltenham Township Montgomery County | PAG200 4608108 | Arcadia University 450 South Easton Road Glenside, PA 19038 | UNT Tacony Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |

*Facility Location:
Municipality &
County**Permit No.**Applicant Name & Address**Receiving Water/Use**Contact Office &
Phone No.*

| | | | | |
|--|-------------------|---|--|---|
| Whitemarsh Township Montgomery County | PAG200 4607118 | Southeastern Pennsylvania Transportation Authority 1234 Market Street 18th Floor Philadelphia, PA 19107 | Sandy Run TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| North Wales Borough Montgomery County | PAG200 4608133 | North Penn School District 401 East Hancock Avenue Lansdale, PA 19446 | Wissahickon Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Worcester Township Montgomery County | PAG200 4608118 | PECO Energy Company 2301 Market Street S9-1 Philadelphia, PA 19103 | Zacharias Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Dublin Township Montgomery County | PAG200 4608113 | Dresher Properties, LP 55 Lynn Avenue Oreland, PA 19075 | UNT Sandy Run to Wissahickon Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| City of Allentown Lehigh County | PAG2003908014 | Charles Kirk BCP CRE Holdings, LLC 158 Route 206 North P. O. Box 178 Gladstone, NJ 07934 | Lehigh River WWF | Lehigh County Conservation District (610) 391-9583 |
| Blythe Township Schuylkill County | PAG2005408020 | Thomas Markus 4 Trolley Street Cumbola, PA 17930 | Schuylkill River CWF | Schuylkill County Conservation District (570) 622-3742 |
| Derry Township Dauphin County | PAG2002208032 | Richard Conta The Hershey Company 251 Park Boulevard Hershey, PA 17033 | Spring Creek WWF | Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100 |
| West Lampeter Township Lancaster County | PAG2003608033 | London Croft, LLC 227 Granite Run Drive Suite 100 Lancaster, PA 17601 | UNT to Mill Creek CWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Ephrata Township Lancaster County | PAG2003608047 | Lloyd Z. Nolt 111 Meadow Valley Road Lititz, PA 17543 | UNT to Cocalico Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Ephrata Borough Lancaster County | PAG2003608053 | Lynn R. Zimmerman 101 Napierville Road Ephrata, PA 17522 | Cocalico Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Clay Township Lancaster County | PAG2003608057 | Lincoln Land Group, Inc. 1737 West Main Street Ephrata, PA 17522 | Indian Run—Middle Creek TSF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |

NOTICES

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*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|---|---|
| Sadsbury Township Lancaster County | PAG2003608060 | Michael Eckman P. O. Box 160 Atglen, PA 19310 | East Branch Octoraro Creek TSF-MF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Manor Township Lancaster County | PAG2003608061 | Mike Rohrer 124 Charlestown Road Washington Borough, PA 17582 | Stamans Run WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Ephrata Township Lancaster County | PAG2003608062 | Ken Buckwalter 765 Glenwood Drive Ephrata, PA 17522 | UNT to Conestoga River WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Akron Borough Lancaster County | PAG2003608066 | Haller Builders 307 East Lexington Avenue Lititz, PA 17543 | UNT to Cocalico Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Earl Township Lancaster County | PAG2003608067 | Quality Custom Cabinetry, Inc. P. O. Box 189 New Holland, PA 17557 | UNT to Mill Creek CWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Rapho Township Lancaster County | PAG2003608069 | Kevin Greiner and Harold Weaver 15 Alice Avenue Lititz, PA 17543 | UNT to Little Chickies Creek—Brubaker Run TSF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Earl Township Lancaster County | PAG2003608070 | Robert Berstecher 661 Maple Street East Earl, PA 17519 | Mill Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Salisbury Township Lancaster County | PAG2003608071 | Emanuel K. Stoltzfus 5106 Strasburg Road Kinzers, PA 17535 | Houston Run CWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Penn Township Lancaster County | PAG2003608073 | Red Stag Holding Company, LLC 10 Bentzel Mill Road York, PA 17404 | Chickies Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |
| Manheim Township Lancaster County | PAG2003608073 | JPM Keller, LLC P. O. Box 291 Lititz, PA 17543 | Little Conestoga Creek TSF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5 |

*Facility Location:
Municipality &
County**Permit No.**Applicant Name & Address**Receiving Water/Use**Contact Office &
Phone No.*Brecknock Township
Lancaster County

PAG2003608075

Steven Rohrbaugh
580 Fiverpointville Road
Denver, PA 17517UNT to Muddy
Creek
WWFLancaster County
Conservation District
1383 Arcadia Road
Room 200
Lancaster, PA 17601
(717) 299-5361, Ext. 5Jefferson Township
Berks County

PAG2000608051

Douglas Haring
2120 Hampden Boulevard
Reading, PA 19604Tulpehocken Creek
TSFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA
19533-9710
(610) 372-4657
Ext. 201Dover Borough
York County

PAG2006703122-R

Redevelopment Authority of the
County of York
140 Roosevelt Avenue
York, PA 17405Fox Run
TSFYork County
Conservation District
118 Pleasant Acres
Road
York, PA 17402
(717) 840-7430Maidencreek
Township
Berks County

PAG2000604033-R

John Majewski
Digiorgio Mushroom
Corporation
P. O. Box 96
Temple, PA 19560Willow Creek
CWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA
19533-9710
(610) 372-4657
Ext. 201Ayr Township
Fulton County

PAG2002908002

C. Joyce Engel
182 Oak Shore Drive
Port Townsend, WA 98368UNT to Big Cove
Creek
CWFFulton County
Conservation District
216 North Second
Street
McConnellsburg, PA
17233-1157
(717) 485-3547South Middleton
Township
Cumberland County

PAG2002108028

James Schenck
LIT Industrial, Ltd. Partnership
3141 Hood Street
Suite 700
Dallas, TX 75219Conodoguinet Creek
WWFCumberland County
Conservation District
310 Allen Road
Suite 301
Carlisle, PA 17013
(717) 240-7812Tilden Township
Berks County

PAG2000608032

Jeremy Fogel
Blue Mountain IPG Associates,
LP
70 Portland Road
West Conshohocken, PA 19428Schuylkill River
WWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA
19533-9710
(610) 372-4657
Ext. 201Sinking Spring
Borough
Spring Township
Berks County

PAG2000608050

Brian Kobularcik
Metropolitan Development
Group
1030 Reed Avenue
Suite 100
Wyomissing, PA 19610Little Cacoosing
Creek
CWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA
19533-9710
(610) 372-4657
Ext. 201

NOTICES

6545

*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|---|---|
| Upper Bern Township Berks County | PAG2000608064 | David Moore 71 Riverside Drive Reading, PA 19605 | Irish Creek—Schuylkill River WWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657 Ext. 201 |
| Robeson Township Berks County | PAG2000608066 | Frank Arters 8 Stone Town Road Birdsboro, PA 19508 | Schuylkill River WWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657 Ext. 201 |
| Springettsbury Township York County | PAG2006708060 | Gordon Kauffman 110 North George Street York, PA 17401 | UNT to Kreutz Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Dover Township York County | PAG2006708057 | Glen P. and Bonny K. Myers 4220 Davidsburg Road Dover, PA 17315 | UNT to Little Conewago Creek TSF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Bethel Township Berks County | PAG2000608069 | Joseph Horning 901 South College Street Myerstown, PA 17067 | UNT to Little Swatara Creek CWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657 Ext. 201 |
| Somerset County Somerset Township | PAG2005608005 | Hudson Companies 2460 Shenango Valley Freeway Hermitage, PA 16148 | UNT to East Branch of Coxes Creek TSF | Somerset County Conservation District (814) 445-4652 |
| Washington County Cross Creek and Hopewell Townships | PAG2006308010 | Atlas Energy Resources, LLC 800 Mountainview Drive Smithfield, PA 15478 | Cross and Buffalo Creeks HW-WWF | Washington County Conservation District (724) 228-6774 |
| Westmoreland County Hempfield Township | PAG2006508008 | PHOCC, LLC 210 Culbertson Avenue Greensburg, PA 15601 | Slate Creek WWF | Westmoreland County Conservation District (724) 837-5271 |
| Erie County McKean Township | PAG2002508026 | McKean Township 9231 Edinboro Road P. O. Box 62 McKean, PA 16426-0062 | Lamson Run CW; MF | Erie County Conservation District (817) 825-6403 |

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|----------------------------|---|
| Berks County Kutztown Borough | PAR203569 | East Penn Manufacturing Co. 191 Willow Street Kutztown, PA 19530 | Sacony Creek CWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |

*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|---|--|
| Lebanon County Palmyra Borough | PAR803712 | Leffler Energy Palmyra Bulk Petroleum Storage Plant 301 North Forge Road Palmyra, PA 17078 | UNT to Killenger Creek TSF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Dauphin County Derry Township | PAR123523 | The Hershey Company Recycling Center 515 West Chocolate Avenue Hershey, PA 17033 | Spring Creek WWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Dauphin County Derry Township | PAR123520 | The Hershey Company Hershey Pretreatment Plant North Hockersville Road Hershey, PA 17033 | Spring Creek WWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Franklin County Guilford Township | PAR803713 | CSX Intermodal, Inc. CSXI Chambersburg Terminal 700 Kriner Road Chambersburg, PA 17202 | UNT to Conococheague Creek WWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Blair County Tyrone Borough | PAR233510 | Albemarle Corporation Two Adams Avenue Tyrone, PA 16686-0216 | UNT to Gypsy Run TSF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Berks County Spring Township | PAR203566 | Metropolitan Steel Industries, Inc. 601 Fritztown Road Sinking Spring, PA 19608 | Cacoosing Creek CWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Adams Township Butler County | PAR808378 | Purvis Brothers, Inc. Purvis Brothers—Mars Facility 321 Mars-Valencia Road Mars, PA 16046-0957 | Breakneck Creek | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Slippery Rock Township Butler County | PAG048558 | David and Joseph Schreiner 2106 Vodeli Street Pittsburgh, PA 15216 | UNT to Slippery Rock Creek 20-C | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Franklin Township Erie County | PAG049469 | Anthony N. Klochak 9351 State Road Cranesville, PA 16410 | UNT to Little Elk Creek 15-EC | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

*General Permit Type—PAG-12**Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|--|--|
| Berks County Marion Township | PAG123600 | David L. Weaver Clear Spring Egg Farm 740 Marion Drive Womelsdorf, PA 19567 | UNT Tulpehocken Creek TSF 3-C | DEP—SCRO Watershed 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802 |
| Berks County Bethel Township | PAG123598 | Lloyd Brubaker Farm 561 Brown Road Myerstown, PA 17067 | UNT Crosskill Creek CWF 7-D | DEP—SCRO Watershed 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802 |

STATE CONSERVATION COMMISSION
NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael 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 at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. 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 pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

ACTIONS—NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET
CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS

| <i>Agricultural Operation Name and Address</i> | <i>County</i> | <i>Total Acres</i> | <i>AEU's</i> | <i>Animal Type</i> | <i>Special Protection Waters (HQ or EV or NA)</i> | <i>Approved or Disapproved</i> |
|---|---------------|--------------------|--------------|--------------------|---|--------------------------------|
| Marcus D. Hoover 3229 Hossler Road Manheim, PA 17545 | Lancaster | 0 | 322 | Layers Hogs | NA | Approved |
| Randall R. Brubaker 1908 Valley Road Manheim, PA 17545 | Lancaster | 91.6 | 635.16 | Broilers | NA | Approved |
| Kenneth Loht 250 Road Apple Drive McClure, PA 17841 | Mifflin | 85 | 468.4 | Swine | NA | Approved |
| Lawrence Mummau Tuscarora Swine 15879 Mummau Lane Shirleysburg, PA 17260 | Huntingdon | 199.5 | 727.95 | Hog/Beef | NA | Approved |

PUBLIC WATER SUPPLY (PWS)
PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board

within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 2908501, Public Water Supply.

Applicant **McConnellsburg Borough Municipal Authority**
 Municipality Todd Township
 County **Fulton**
 Type of Facility Approval to use the Stenger Well as a source of supply for the existing authority water system. Permit includes associated treatment equipment including a membrane filtration plant.
 Consulting Engineer James C. Elliot, P. E.
 Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106-7100
 Permit to Construct Issued November 7, 2008

Permit No. 0108510, Public Water Supply.

Applicant **The York Water Company**
 Municipality Berwick Township
 County **Adams**
 Type of Facility Race Track Road standpipe chlorine booster installation.
 Consulting Engineer Mark S. Snyder, P. E.
 The York Water Company
 130 East Market Street
 P. O. Box 15089
 York, PA 17405-7089
 Permit to Construct Issued November 17, 2008

Permit No. 5008503, Public Water Supply.

Applicant **Perry Manor, LLC**
 Municipality Oliver Township
 County **Perry**
 Type of Facility Booster Pump Modifications.
 Consulting Engineer Stephen M. Yingst, P. E.
 Criterium-Yingst Engineers, Inc.
 421 West Chocolate Avenue
 Hershey, PA 17033
 Permit to Construct Issued November 12, 2008

Permit No. 0708507 MA, Minor Amendment, Public Water Supply.

Applicant **Altoona City Authority**
 Municipality Logan Township
 County **Blair**
 Type of Facility Renovation of filter Cells 3 and 4 at the existing Andronic Pappas Treatment Plant.

Consulting Engineer Michael V. Sinisi, P. E.
 Altoona City Authority
 20 Greenwood Road
 Altoona, PA 16602

Permit to Construct Issued November 7, 2008

Permit No. 0608511 MA, Minor Amendment, Public Water Supply.

Applicant **Reading Area Water Authority**
 Municipality Ontelaunee Township
 County **Berks**
 Type of Facility Replace media in Filter Cell 3A at the existing treatment building.
 Consulting Engineer Thomas L. Weld Jr., P. E.
 BCM Engineers
 920 Germantown Pike
 Plymouth, PA 19462
 Permit to Construct Issued November 13, 2008

Operations Permit issued to **Bedford Borough Water Authority**, 4050002, Bedford Borough, **Bedford County** on November 17, 2008, for the operation of facilities approved under Construction Permit No. 0507506 MA.

Operations Permit issued to **Coaldale Six Mile Run Water Corporation**, 4050025, Broad Top Township, **Bedford County** on November 12, 2008, for the operation of facilities approved under Construction Permit No. 0507502.

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

Permit No. 1701503-T1—Operation, Public Water Supply.

Applicant **Township of Sandy**
 Township or Borough Sandy Township
 County **Clearfield**
 Responsible Official Richard Castonguay, Manager
 Township of Sandy
 1094 Chestnut Avenue
 P. O. Box 267
 Dubois, PA 15801
 Type of Facility Public Water Supply—Operation
 Consulting Engineer N/A
 Permit Issued Date November 12, 2008
 Description of Action Operation of the existing water system in Sandy Township, Clearfield County.

Permit No. M.A.—4594-T1—Construction, Public Water Supply.

Applicant **Galeton Borough Authority**
 Township or Borough Galeton Borough
 County **Potter**

Responsible Official Jan G. TaraBori, Chairperson
Galeton Borough Authority
4 Sherman Street
Galeton, PA 16922

Type of Facility Public Water
Supply—Construction

Consulting Engineer John Williams, P. E.
305 Evergreen Road
New Cumberland, PA
17070-2814

Permit Issued Date November 18, 2008

Description of Action Installation of gaseous
chlorination facilities at the slow
sand filter site.

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

Permit No. 3708501, Public Water Supply.

Applicant **Pennsylvania American
Water Company New Castle**

Township or Borough Neshannock Township
County **Lawrence**

Type of Facility Public Water Supply

Consulting Engineer Jerry Hankey, P. E.
Design Engineer
PA American Water Company
1909 Oakland Avenue
Indiana, PA 15701

Permit to Construct Issued November 14, 2008

Permit No. 2493501-MA5, Minor Amendment.

Applicant **Jay Township Water
Authority**

Township or Borough Jay Township
County **Elk**

Type of Facility Public Water Supply

Consulting Engineer Peter Buss, P. E.
Gibson-Thomas Engineering Co.,
Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Permit to Construct Issued November 12, 2008

Permit No. 3381501-T1-MA4, Minor Amendment.

Applicant **Falls Creek Borough
Municipal Authority**

Township or Borough Falls Creek Borough
County **Jefferson**

Type of Facility Public Water Supply

Consulting Engineer Daniel J. Carbaugh, P. E.
Keeller Engineers, Inc.
420 Allegheny Street
P. O. Box 61
Hollidaysburg PA 16648

Permit to Construct Issued November 12, 2008

Operations Permit issued to **Borough of Mars**, PWSID No. 5100049, Mars Borough and Adams Township, **Butler County**, on November 12, 2008, for the operation of the Emergency Interconnection with the Municipal Water Authority of Adams Township, per specifications approved by construction permit 1099501-MA1, issued August 1, 2008.

Transfer of Operations Permit issued to **Ficks Enterprises, LLC**, for **Crestview Estates Mobile Home Park**, PWSID No. 6430002, Jefferson Township, **Mercer County**, on November 14, 2008, for the operation of Well No. 1, per specifications approved by construction permit 4388502, issued September 28, 1990.

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> |
|--------------------------------|---|---------------|
| Bethel Township | 3015 South Pine Grove Street Fredericksburg, PA 17026 | Lebanon |

Plan Description: Approval of a revision to the Official Sewage Plan of Bethel Township, Lebanon County. The proposed Funck Martin subdivision consists of 30 residential lots and three commercial lots with sewage flows of 10,000 gpd tributary to a new municipal pump station and force main with treatment at the Fredericksburg Wastewater Treatment Plant. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal. Any required WQM Permits must be obtained in the name of the authority.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|--------------------------------------|--|---------------|
| Pine Creek Municipal Authority | P. O. Box 608 Avis, PA 17721 | Clinton |

Plan Description: The approved plan provides for the expansion and upgrade of the existing Pine Creek Municipal Authority's Sewage Treatment Plant which serves Avis Borough and portions of Pine Creek, Wayne and Dunnstable Townships. The proposed sewage treatment plant will be designed to treat an average daily flow of 1.6 million gpd and meet the Chesapeake Bay cap loads for nitrogen and phosphorous reduction. The plan includes implementation of an onlot sewage management program in the unsewered portions of Pine Creek, Wayne and Dunnstable Townships. The sewage management programs will be administered by each Township within their respective Townships. 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.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL**Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

Plan Location:

| <i>Borough</i> | <i>Borough Address</i> | <i>County</i> |
|-------------------|---|----------------|
| Borough of Milton | c/o Charles Beck, Jr., Manager 2 Filbert Street Milton, PA 17847 | Northumberland |

Plan Description: The 537 plan was disapproved because it failed to provide: A commitment and schedule to implement the Biological Nutrient Removal upgrade portion of the plan (Phase 2); a cost-effective analysis that includes a comparison of the cost of purchasing nutrient credits to the cost of implementing the Phase 1 and 2; and a contingency financial plan.

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

Plan Location: Located on Blairs Valley Road, Montgomery Township, Franklin County

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|---|---------------|
| Montgomery Township | 12868 Fort Loudon Road Mercersburg, PA 17236 | Franklin |

Plan Description: The Official Plan Revision, entitled Winter Greenes, proposing a new sewage collection, conveyance and treatment system to serve 76 residential dwellings was determined to be incomplete. By letter dated August 29, 2008, the Department of Environmental Protection requested that all necessary information be provided within 60 days. More than 60 days have passed since the request was made. The requested information has not been received and the project is disapproved.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Elizabeth Township | 423 South View Drive Lititz, PA 17543 | Lancaster |

Plan Description: The Stephen F. Stoltzfus proposed plan revision for one residential lot using an onlot sewage system plus a residue lot, was disapproved because (The Preliminary hydrogeologic study did not correctly assess the background nitrate-nitrogen concentration under the proposed subdivision and therefore did not accurately assess the impact of the proposed onlot sewage disposal systems on the groundwater. The three neighboring wells reflect a differing land use and are not within estimated groundwater flow paths from or to the proposed sewage disposal area. The onsite well's location is not ideal, but appears to better represent background nitrates in the groundwater beneath the farm land on which the new lot is proposed. The applicant should consider drilling a shallow test well at the location of the proposed lot to determine background nitrate-nitrogen conditions at the site as explained in section L, item 2.b. of the instructions for completing Component 2. The proposed subdivision is located on the north and south sides of West Brubaker Valley Road 1.43 miles west of Route 501, Lititz Pike. The

Department of Environmental Protection's number is A3-36932-146-2 and the APS number is 657662).

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

The Department has received the following plans and reports:

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

Former SKF USA, Inc., Facility, City of Altoona, Blair County. Environmental Standards, 1140 Valley Forge Road, Valley Forge, PA 19482 on behalf of C. William McGlocklin, SKF USA, Inc., 1111 Adams Avenue, Norristown, PA 19403 and Maurice Lawruk, Sr., 800 Logan Boulevard, LP, P. O. Box 2566, Altoona, PA 16603, submitted a Final Report concerning remediation of separate phase liquid (lubricating oil) on groundwater released during historic manufacturing processes. The site will be remediated to the Residential Statewide Health Standard and will continue to be used for commercial use.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Smooth Landings, Ralpho Township, **Northumberland County**. Brian Snyder, 1387 Airport Road, Paxinos, PA 17860 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Armco Sawhill Tube (John Maneely Company—Sharon Pipe Plant), City of Sharon, **Mercer County**. ENVIRON, 214 Carnegie Center, Princeton, NJ 08540-6284 on behalf of John Maneely Company, 1 Council Avenue, Wheatland, PA 16161 has submitted a Risk Assessment Report concerning remediation of site soil contaminated with ethyl benzene, tetrachlorethene, trichloroethene, xylenes (total), benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, dibenzofuran, naphthalene, N-nitroso-di-n-propylamine, Aroclor-1248, Aroclor-1254, antimony, arsenic, cadmium, chromium (total), cobalt, lead, mercury, selenium, zinc and site groundwater contaminated with 1,2,4-Trichlorobenzene, 1,4-Dichlorobenzene, 2,3,7,8-TCDD equivalent, benzene, chlorobenzene, cis-1,2-dichloroethene, tetrachloroethene, trichloroethene, vinyl chloride, 2-Picoline, benzo(a)pyrene, bis(2-Ethylhexyl)phthalate, dibenz(a,h)anthracene, phenanthrene, Aroclor-1242, Aroclor-1254, Aroclor-1260, antimony, arsenic, barium, beryllium, cadmium, chromium III, chromium VI, copper, lead, manganese, mercury, nickel, selenium, sulfate, thallium, zinc. The Report is intended to document remediation of the site to meet the Site-Specific 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 circum-

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

The Department has received the following plans and reports:

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

Bushkill Gas Mart Convenience Store/Bushkill Corners, 291 Moorestown Road, Bushkill Township, **Northampton County**. Gregg Walters, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 submitted a Final Report (on behalf of his client, Mughal Realty, LLC, P. O. Box 330, Nazareth, PA 18064), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a leaking 550-gallon underground storage tank. The report documented attainment of the Residential Statewide Health Standard and was approved on October 30, 2008. The report was originally submitted within 90 days of the release.

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

Priority Transport/National Guard Armory, City of York, **York County**. Earth Tech AECOM, 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of Priority Transport, c/o XL Environmental, 505 Eagleview Boulevard, Exton, PA 19341 and Department of Military and Veterans Affairs, Fort Indiantown Gap, Environmental Building 11-19, Annville, PA 17003 submitted a Final Report concerning remediation of site soils contaminated with diesel fuel. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on November 7, 2008.

Buckeye Tuckerton Station, Muhlenberg Township, **Berks County**. Groundwater and Environmental Services, 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of Buckeye Partners, LP, 9999 Hamilton Boulevard, TEK Park 5, Breinigsville, PA 18031, submitted a Final Report within 90 days of a release concerning remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on November 17, 2008.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Target Distribution Center, Gregg Township, **Union County**. Pavex Inc., 4400 Gettysburg Road, Camp Hill, PA 17011 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with hydraulic fluid. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on November 14, 2008.

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Hazardous Waste Action

Proposed action on a permit renewal application under the Solid Waste Management Act, P. L. 380, (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste disposal facility.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible, within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department of Environmental Protection will make a final determination regarding the proposed permit and bond actions. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

Intent to Renew Permit

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. PAD004344222, Tecumseh Redevelopment, Inc., Iron Street, Johnstown, PA 15901. Closure and postclosure care of a closed hazardous waste landfill and inactive spent pickle liquor treatment and disposal area. Permit renewal was considered for intent to approve by the Regional Office on November 17, 2008.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permit terminated under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste storage facility.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. PAD980707087, Siemens Water Technologies, Inc., 24th Street and the 31st Street Extension, Beaver Falls, PA 15010. Permit for the storage and treatment of hazardous and residual waste carbon regeneration terminated by the Regional Office on November 13, 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.

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

GP1-28-03053: Cumberland Valley Cooperative Association (908 Mount Rock Road, P. O. Box 350, Shippenburg, PA 17257) on November 12, 2008, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Southampton Township, **Franklin County**.

GP3-05-03014C: WSI Sandy Run Landfill (995 Landfill Road, Hopewell, PA 16650) on November 7, 2008, for a Portable Nonmetallic Mineral Processing Plant under GP3 in Broad Top Township, **Bedford County**.

GP9-05-03014C: WSI Sandy Run Landfill (995 Landfill Road, Hopewell, PA 16650) on November 7, 2008, for a Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in Broad Top Township, **Bedford County**.

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

GP-16-156A: Snyder Brothers, Inc.—Cottage Hill Compressor Station (SR 2003, New Bethlehem, PA 16242) on November 17, 2008, for operation of a natural gas fired compressor engine (BAQ-GPA/GP-5) in Porter Township, **Clarion County**.

GP-42-220A: Dakota Extractions LLC—Bradford Station (Route 219, Bradford, PA 16701) on November 17, 2008, for operation of natural gas fired compressor engines (BAQ-GPA/GP-5) in Foster Township, **McKean County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

67-05115A: Recycling Technologies International, LLC (76 ACCO Drive, York, PA 17404) on November 5, 2008, for installation of five dust collection systems for rubber particulate collection during rubber tire reclamation at their ACCO Drive facility in York Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

PA-30-00173A: Delta-Energy PA No. 1 (350 Hochberg Road, Monroeville, PA 15146-1516) on November 7, 2008, to issue a Plan Approval for construction and temporary operation of a tire pyrolysis plant in Cumberland Township, **Greene County**.

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

24-017B: MorganAdvancedMaterials & Technology (441 Hall Avenue, St. Marys, PA 15857) on November 6, 2008, to replace the existing control devices associated with the gas-fired continuous coking ovens (Source ID 101) with seven new thermal at their facility in the City of St. Marys, **Elk County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0015H: Rohm & Haas Co. (200 Route 413, Bristol, PA 19007) On November 11, 2008, to operate a carbon adsorption system consisting of two sets of three canisters in parallel configuration to replace the existing WWTP Scrubber in Bristol Township, **Bucks County**.

15-0027I: Johnson Matthey, Inc. (456 Devon Park Drive, Wayne, PA 19087) On November 12, 2008, to operate a New Diesel Catalysts Production Line No. 1 in Tredyffrin Township, **Chester County**.

46-0025J: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) on November 13, 2008, to operate seven process tanks and one storage tank in Upper Merion Township, **Montgomery County**.

23-0066B: Pyropure, Inc., a.k.a. Pyromet (5 Commerce Drive, Aston, PA 19014) on November 13, 2008, to operate five existing baghouses with three baghouses in Chester Township, **Delaware County**.

15-0128: Pet Memorial Services Corp. (319 Westtown Road, Suite Q, West Chester, PA 19382) on November 13, 2008, to operate four identical Crawford animal crematoriums in West Goshen Township, **Chester County**.

46-0268: Colorcon, Inc. (275 Ruth Road, Harleysville, PA 19438) for modification of Plan Approval No. 46-0268 in Lower Salford Township, **Montgomery County**. The opening phrase in Condition No. 005(a), Section D, of the Plan Approval, has been changed from “[w]ithin 180 days after the issuance date of this plan approval, the permittee shall perform a stack test for this generator set” to “[w]ithin 180 days after the installation date of this generator set, the permittee shall perform a stack test for the generator set.” Plan Approval No. 46-0268 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and modified in accordance with 25 Pa. Code § 127.13c.

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

24-083J: Carbone of American Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on November 30, 2008, to install a process furnace with appropriate emission control equipment in St. Marys, **Elk County**. This is a Title V Facility.

24-083L: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on November 30, 2008, to construct two new Carbon Baking Kilns No. 36 and No. 37 with associated oxidizer and scrubber in St. Marys City, **Elk County**. This is a Title V facility.

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.

23-00001: Sun, Inc.—R & M—Marcus Hook Refinery (100 Green Streets, Marcus Hook, PA 19061) on November 18, 2008, for a renewal of their Title V Operating Permit in Marcus Hook Borough, **Delaware County**. As a result of potential emissions of each criteria pollutant, 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 renewal/amendment contains all applicable requirements including monitoring, recordkeeping and reporting for the new source numbered 619 (17-2A Reforming Unit). There are no sources at this facility that are subject to CAM (40 CFR 64).

09-00016: Exelon Generating Co.—Croydon Generation Station (955 River Road, Bristol, PA 19007) on November 18, 2008, for renewal of the Title V Operating Permit in Bristol Township, **Bucks County**. There have been no changes since the permit was last issued on July 8, 2008. The facility is primarily used for providing electrical energy for peak demand periods. As a result of potential emissions of NO_x and SO_x, 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 renewal permit contains all applicable requirements including monitoring, recordkeeping and reporting.

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

33-00149: Dominion Transmission, Inc.—Punxsutawney Station (501 Martindale Street, Suite 400, DL Clark Building, Pittsburgh, PA 15212) on October 29, 2008, to modify the Title V Operating Permit to clarify the VOC testing required in the permit. The following condition was added to the site level of the permit to address the VOC emissions and formaldehyde emissions:

a) “Volatile Organic Compounds” and “VOCs” as used in this permit refers to nonmethane, nonethane hydrocarbons as determined by Environmental Protection Agency (EPA) Methods 18/25A (or equivalent).

b) Formaldehyde emissions reported by the facility in accordance with 25 Pa. Code Chapter 135 shall be based on EPA AP-42 emissions factors.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

22-03013: Pinnacle Health Hospital (218 South 2nd Street, Harrisburg, PA 17104-1601) on November 13, 2008, for operation of the boiler plant and emergency equipment at the Harrisburg Hospital in the City of Harrisburg, **Dauphin County**. This is a renewal of the State-only operating permit

34-03003: Empire Kosher Poultry, Inc. (R. R. 5, Box 228, Mifflintown, PA 17059-9419) on November 13, 2008, for the poultry processing operation in Walker Township, **Juniata County**.

36-05096: Pennsy Supply, Inc. (P. O. Box 4688, Lancaster, PA 17604-4688) on November 13, 2008, for operation of an asphalt plant in Paradise Township, **Lancaster County**. This is a renewal of the State-only operating permit.

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

S08-002: Innovation Printing and Communications (11601 Caroline Road, Philadelphia, PA 19154) on November 14, 2008, to operate a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include four nonheatset, sheet-feed lithographic printing presses and a 300,000 Btu/hr space heater firing natural gas.

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.

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

S05-020: Philadelphia Phillies—Citizen's Bank Park (One Citizens Bank Way, Philadelphia, PA 19148) on November 17, 2008, administratively amended to correct the operating permit number. The Synthetic Minor Operating Permit was originally issued on January 19, 2006.

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 Applications Returned

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33050103 and NPDES Permit No. PA0257991. Cookport Coal Co., Inc. (425 Market Street, Kittanning, PA 16201). Revision to an existing bituminous surface strip and auger operation in Perry Township, **Jefferson County** affecting 63.5 acres. Receiving streams: Nicely Run and UNTs, UNT to Mahoning Creek. Revision to add 5.0 acres to the permit. Application received October 9, 2008. Application withdrawn November 14, 2008.

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

32951301 and NPDES Permit No. PA0215821, Rosebud Mining Company. (301 Market Street, Kittanning, PA 16201), to transfer the permit and related NPDES permit for the Toms Run Mine in Burrell Township, **Indiana County** from Penn American Coal, LP and change the operation name from Burrell Mine. No additional discharges. Application received November 13, 2007. Permit issued November 10, 2008.

33971301 and NPDES Permit No. PA0215031, AMFIRE Mining Company. (1 Energy Place, Latrobe, PA 15650), to renew the permit the Dora No. 8 Mine in Perry Township, **Jefferson County** and North Mahoning Township, **Indiana County** and related NPDES permit. No additional discharges. Application received July 27, 2007. Permit issued November 10, 2008.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56060111 and NPDES No. PA0262269. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface mine in Black Township, **Somerset County**, affecting 111.3 acres. Receiving streams: UNT to Coxes Creek/Coxes Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received November 30, 2006. Permit issued November 14, 2008.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

04070102 and NPDES Permit No. PA0251259. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in South Beaver Township, **Beaver County**, affecting 114.5 acres. Receiving streams: UNTs to Brush Run and Brush Run. Application received November 1, 2007. Permit issued November 13, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33-07-11 and NPDES Permit No. PA0258458. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Proposal to enter into a Government Financed Reclamation Construction Contract on an 11.2 acre site in Winslow Township, **Jefferson County**. The proposal includes total reclamation of 4.9 acres of abandoned mine lands as well as 4.9 acres of coal removal incidental and necessary to the reclamation activities. Receiving streams: UNT No. 2 to Soldier Run. Application received October 19, 2007. Contract issued October 22, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17930124 and NPDES No. PA0219649. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Transfer of an existing bituminous surface mine with an Insignificant Boundary Correction, from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Woodward and Decatur Townships, **Clearfield County**, affecting 346.0 acres. Receiving streams: North Branch to Upper Morgan Run, Upper Morgan Run to Clearfield Creek, Clearfield Creek to West Branch Susquehanna River and Little Beaver Run to Beaver Run, Beaver Run to Moshannon Creek, Moshannon Creek to West Branch Susquehanna River, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 3, 2008. Permit issued November 6, 2008.

12060101 and NPDES No. PA0256366. Allegheny Enterprises, Inc. (3563 Roller Coaster Road, Corsica, PA 15829). Commencement, operation and restoration of a bituminous surface mine in Lumber and Shippen Townships, **Cameron County**, affecting 305.5 acres. Receiving streams: Finley Run, Reed Hollow, Portable Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 1, 2006. Permit issued November 10, 2008.

Noncoal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

28010301 and NPDES Permit No. PA0123811. R. A. Hill, Inc., 1364 Lincoln Way East, Chambersburg, PA 17202, renewal of NPDES Permit, Hamilton Township, **Franklin County**. Receiving streams: UNT to Conococheague Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received September 12, 2008. Permit issued November 14, 2008.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26082804. Mon River Energy Corp. (P. O. Box 466, Brier Hill, PA 15415). Permit for a small noncoal surface mine, located in South Union Township, **Fayette County**, affecting 1.72 acres. Receiving stream: Jennings Run. Application received August 13, 2008. Permit issued November 7, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

Final Bond Release

08002803. Richard J. Robinson (1097 Chapman Lake Drive, Jermyn, PA 18433), noncoal mining operation in Stevens Township, **Bradford County**. Restoration of 5.0 acres completed. Receiving streams: Cold Creek, tributary to Wyalusing Creek. Application received November 4, 2008. Final bond release: November 7, 2008.

08060815. Stephen L. Walter (R. R. 1, Box 39B, Sugar Run, PA 18846), noncoal mining operation in Stevens Township, **Bradford County**. Restoration of 2.0 acres completed. Receiving streams: UNT to Cold Creek, tributary to Cold Creek. Application received October 15, 2008. Final bond release: November 7, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54070301. Rolling Rock Building Stone, Inc., (40 Rolling Rock Road, Boyertown, PA 19512), commencement, operation and restoration of a quarry operation in Wayne Township, **Schuylkill County** affecting 71.0 acres, receiving streams: Bear Creek and UNT to Little Swatara Creek. Application received October 9, 2007. Permit issued November 10, 2008.

39870302C8 and NPDES Permit PA0594326. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in South Whitehall Township, **Lehigh County**, receiving stream: Jordan Creek. Application received September 26, 2008. Renewal issued November 13, 2008.

5878SM3C4 and NPDES Permit No. PA0595691. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Penn Forest Township, **Carbon County**, receiving stream: Stony Creek. Application received September 26, 2008. Renewal issued November 13, 2008.

7373SM1C3 and NPDES Permit No. PA0595683. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Penn Forest Township, **Carbon County**, receiving stream: Stony Creek. Application received September 26, 2008. Renewal issued November 13, 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.

21084159. John W. Gleim, Jr., Inc., 625 Hamilton Street, Carlisle, PA 17013-1925, blasting activity permit issued for warehouse development in Dickinson and South Middleton Townships, **Cumberland County**. Blasting activity permit end date is February 15, 2099. Permit issued November 7, 2008.

21084161. John W. Gleim, Jr., Inc., 625 Hamilton Street, Carlisle, PA 17013-1925, blasting activity permit issued for trench and site development in North Middleton Township, **Cumberland County**. Blasting activity permit end date is August 15, 2009. Permit issued November 7, 2008.

21084160. David H. Martin Excavating, Inc., 4961 Cumberland Highway, Chambersburg, PA 17201-9655, blasting activity permit issued for commercial development in Hampden Township, **Cumberland County**. Blasting activity permit end date is November 3, 2009. Permit issued November 7, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08084004. John Brainard (R. R. 1, Box 275, Kingsley, PA 18826), blasting for James Barrett well site located in Asylum Township, **Bradford County**. Permit issued November 17, 2008. Permit expires January 17, 2009.

17084007. Swisher Contracting, Inc. (P. O. Box 1223, Clearfield, PA 16830), blasting on the Sportsman GFCC#-17-07-14 located in Lawrence Township, **Clearfield County**. Permit issued November 13, 2008. Permit expires June 30, 2010.

59084001. Conquest Seismic Services, Inc. (504 IST Center, Horseheads, NY 14845), seismic blasting located in Gaines Township, **Tioga County**. Permit issued November 13, 2008. Permit expires January 30, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

35084123. Resseguie Explosive Services, (1175 Avery Station Road, Factoryville, PA 18419), construction blasting for a single dwelling in Benton Township, **Lackawanna County** with an expiration date of November 30, 2008. Permit issued November 7, 2008.

22084115. John W. Gleim, Jr., Inc., (625 Hamilton Street, Carlisle, PA 17013), construction blasting for Keystone Perto in Lower Paxton Township, **Dauphin County** with an expiration date of December 15, 2008. Permit issued November 10, 2008.

45084148. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Franklin Hill Acres in Smithfield Township, **Monroe County** with an expiration date of November 30, 2009. Permit issued November 10, 2008.

45084149. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Winona Lakes in Middle Smithfield Township, **Monroe County** with an expiration date of November 30, 2009. Permit issued November 10, 2008.

45084150. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Wilderness Acres in Middle Smithfield Township, **Monroe County** with an expiration date of November 30, 2009. Permit issued November 10, 2008.

45084151. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Shawnee Oakdale Subdivision in Smithfield and Middle Smithfield Townships, **Monroe County** with an expiration date of November 30, 2009. Permit issued November 10, 2008.

45084152. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Farms East in Coolbaugh Township, **Monroe County** with an expiration date of November 30, 2009. Permit issued November 10, 2008.

67084132. TJ Angelozzi, Inc., (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Briarcliff Subdivision in Fairview Township, **York County** with an expiration date of December 31, 2008. Permit issued November 10, 2008.

40084123. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Baker Hughes Project in Wright Township, **Luzerne County** with an expiration date of December 31, 2009. Permit issued November 12, 2008.

52084121. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blast-

ing for Milford Heights Development in Milford Township, **Pike County** with an expiration date of November 5, 2009. Permit issued November 12, 2008.

15084004. Explo-Craft, Inc., (P. O. Box 1332, West Chester, PA 19380), construction blasting for Waltz Road Road Expansion in West Bradford Township, **Chester County** with an expiration date of November 15, 2009. Permit issued November 13, 2008.

35084124. Austin Powder Company, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for a pipeline in Falling Spring Development in Ransom Township, **Lackawanna County** with an expiration date of November 17, 2009. Permit issued November 13, 2008.

36084113. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in Rapho Township, **Lancaster County** with an expiration date of December 30, 2008. Permit issued November 14, 2008.

36084114. Abel Construction Co., Inc., (P. O. Box 476, Mountville, PA 17554), construction blasting for the relocation of PA 896 in Strasburg Township and Strasburg Borough, **Lancaster County** with an expiration date of November 28, 2009. Permit issued November 14, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E22-531: Greater Zion Missionary Baptist Church, Sharon Bass, 212 North Progress Avenue, Harrisburg, PA 17109, Susquehanna Township, **Dauphin County,** United States Army Corps of Engineers, Baltimore District.

To replace 6.0 feet of 72.0-inch CMP and to extend the 72.0 inch CMP by an overall length of 60.0 feet in a UNT to Paxton Creek (WWF) and to provide bank stabilization to alleviate slope and building foundation degradation. The project is located at 212 North Progress Avenue (Harrisburg East, PA Quadrangle N: 7.1 inches; W: 13.1 inches, Latitude: 40° 17' 19"; Longitude: 76° 50' 38") in Susquehanna Township, Dauphin County.

E67-844: Kenneth Martin, PhD, York College of Pennsylvania, Campus Operations, Miller Administration Building, 439 Country Club Road, York, PA 17403, Spring Garden Township, **York County,** United States Army Corps of Engineers, Baltimore District.

To remove an existing pedestrian footbridge, then to construct and maintain a 48.0-inch by 76.0-inch by 40.0-foot elliptical concrete pipe culvert in a UNT to Tyler Run (WWF) (York, PA Quadrangle N: 13.2 inches; W: 15.0 inches, Latitude: 39° 56' 52"; Longitude: 76° 43' 55") along Springettsbury Avenue in Spring Garden Township, York County.

E67-842: Stone Ridge Development, 330 Dubs Church Road, Hanover, PA 17331, Brookside Heights, Penn Township, **York County,** United States Army Corps of Engineers, Baltimore District.

To install and maintain a 65.0-foot long three-celled box culvert (2 cells 12.0 feet by 3.5 feet and one cell 10.0 feet by 5.0 feet) with associated utilities over a UNT to Oil Creek (WWF) (Hanover, PA Quadrangle N: 8.35; W: 12.45 inches, Latitude: 39° 47' 46.75"; Longitude: 76° 57' 51.66") for the purpose of constructing a 193 unit development called Brookside Heights. The project is located along Brookside Avenue just south of SR 116 in Penn Township, York County.

E38-162: Scott Werkheiser, Greater Lebanon Refuse Authority, 1610 Russell Road, Lebanon, PA 17046, North Annville Township, **Lebanon County,** United States Army Corps of Engineers, Baltimore District.

To remove a 75.0-foot long by 15.0-foot wide by 2.0-foot deep vegetated gravel bar in a UNT to Swatara Creek (WWF) for the purpose of reducing stream bank erosion

at a point just north of the intersection of Russell and Cedar Run Roads (Palmyra, PA Quadrangle N: 21.0"; W: 16.7", Latitude: 40° 21' 54"; Longitude: 76° 29' 39") in North Annville Township, Lebanon County. There are no proposed wetland impacts.

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 inches, 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.

E01-274: Joseph Myers, 160 Ram Drive, Hanover, PA 17331, Berwick Township, **Adams County,** United States Army Corps of Engineers, Baltimore District.

To conduct various activities as follows:

1. To construct and maintain a 9.58-foot by 4.08-foot by 72.0-foot long CMP arch culvert with a 6.0-inch depression, an 8.0-inch diameter water line, an 8.0-inch diameter sanitary sewer line and a 24.0-inch diameter stormsewer line in a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 16.10 inches; W: 0.52 inch, Latitude: 39° 50' 19"; Longitude: 77° 00' 13").

2. To construct and maintain a 9.58-foot by 4.08-foot by 67-foot long CMP arch culvert with a 6.0-inch depression, an 12.0-inch diameter water line and an 8.0-inch diameter sanitary sewer line in a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 16.27 inches; W: 0.30 inch, Latitude: 39° 50' 23"; Longitude: 77° 00' 08").

3. To construct and maintain a 76.0-inch by 48.0-inch by 80.0-foot long elliptical concrete pipe culvert with a 6.0-inch depression, an 8.0-inch diameter water line, an 8.0-inch diameter sanitary sewer line and a 24.0-inch diameter stormsewer line in a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 17.0 inches; W: 0.09 inch, Latitude: 39° 50' 37"; Longitude: 77° 00' 02").

4. To relocate and maintain a 1,105.0-foot long stream channel of a UNT to South Branch Conewago Creek (WWF) (Hanover, PA Quadrangle N: 16.80 inches; W: 17.25 inches, Latitude: 39° 50' 33"; Longitude: 76° 59' 52").

5. To relocate and maintain an 850.0-foot long stream channel of a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 16.90 inches; W: 0.27 inch, Latitude: 39° 50' 35"; Longitude: 77° 00' 07").

6. To place and maintain fill in the floodway of a UNT to South Branch Conewago Creek (WWF) to construct a sewage pump station along the left bank and to construct and maintain a 24.0-inch diameter pipe culvert (McSherrystown, PA Quadrangle N: 16.05 inches; W: 0.80 inch, Latitude: 39° 50' 18"; Longitude: 77° 00' 21").

7. To construct and maintain an 18.0-inch diameter by 92.0-foot long RC pipe culvert with a 6.0-inch depression, an 8.0-inch diameter water line and an 8.0-inch diameter stormsewer line in a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 17.22 inches; W: 0.38 inch, Latitude: 39° 50' 43"; Longitude: 77° 01' 13").

8. To construct and maintain a 24.0-inch diameter by 80.0-foot long RC pipe culvert with a 6.0-inch depression, an 8.0-inch diameter water line and an 18.0-inch diameter stormsewer line in a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 17.32 inches; W: 0.50 inch, Latitude: 39° 50' 43"; Longitude: 77° 00' 13").

9. To construct and maintain a 6.0-inch diameter sanitary sewer line, an 8.0-inch diameter stormsewer line and a 12.0-inch diameter water line in a UNT to South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 16.88 inches; W: 0.50 inch, Latitude: 39° 50' 35"; Longitude: 77° 00' 13").

10. To construct and maintain a 68.0-inch by 43.0-inch by 75.0-foot long elliptical concrete pipe culvert with a 6.0-inch depression and a 6.0-inch diameter water line in a UNT to South Branch Conewago Creek (WWF) (Hanover, PA Quadrangle N: 16.0 inches; W: 17.54 inches, Latitude: 39° 50' 17"; Longitude: 76° 59' 60").

All activities are related to the construction of a proposed housing development called Cambrian Hills located just east of Carlisle Pike (PA 94) about 0.5 mile from the Adams and York County line in Berwick Township, Adams County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-451. Ridgebury Township, 13278 Berwick Turnpike, Gillett, PA 16925. Water Obstruction and Encroachment Joint Permit, in Ridgebury Township, **Bradford County**, United States Army Corps of Engineers, Susquehanna River Basin District (Bentley Creek, PA Quadrangle N: 41° 56' 27.3"; W: 76° 42' 47.5").

To construct and maintain a gravel access drive having a width of 20-feet and a length of 300-feet, 218-feet of which is located in the floodway. Gravel access drive shall be comprised of compacted subgrade, 6" of No. 3 coarse aggregate, 2" Department of Transportation DSA. Access drive will be at grade, no more than 1,500 cubic-feet of fill will be placed in the floodway to create the access drive, all of which is located along Bentley Creek, 1,000-feet south of the intersection of Berwick Turnpike and Bucks Creek Road (Bentley Creek, PA Quadrangle N: 41° 56' 27.3"; W: 76° 42' 47.5") in Ridgebury Township, Bradford County. This project proposes to have a minimal impact on Bentley Creek, which is designated a WWF and does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects."

E14-513. Department of Transportation, Engineering District 2-0, P. O. Box 342, Clearfield, PA 16830. SR 3023 Section A01 Bridge Replacement, in Worth Township, **Centre County**, United States Army Corps of Engineers, Pittsburgh District (Port Matilda, PA Quadrangle N: 040° 49' 33"; W: 076° 06' 32").

Construct and maintain a single span, composite prestressed spread box beam bridge, with integral abutments placed behind the existing abutments. The proposed bridge will have a span of 60 ft., a curb to curb width of

26 ft. and a skew of 32°. The proposed bridge will have a low chord elevation of 1,404.82 ft. This project proposes approximately a 30 ft. permanent impact to Laurel Run as a result of the bridge replacement and approximately 130 ft. (135 sq. ft.) impact as a result of the installation of R-8 Rip-Rap to stabilize the stream banks. The project is located on SR 3023, Segment 0090, Offset 0446-1046, over Laurel Run. Laurel Run is designated a Class A Wild Trout, HQ-CWF stream. This project does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E60-195. J & F Land Development Corporation, 247 Nikomahs Drive, Millmont, PA 17845. Residential Structure, in Hartley Township, **Union County**, United States Army Corps of Engineers, Baltimore District (Weikert, PA Quadrangle 40° 51' 29.5" N; 77° 15' 19.8" W).

To: 1) remove a 40 foot by 16-foot at grade house and carport from the 100-year floodway; 2) construct and maintain an elevated, on piers, 71-foot 2-inch by 45-foot house, an attached 31-foot 4-inch by 18-foot deck (both having a finished floor elevation of 668.8 feet) and one associated staircase that projects into the 100-year flood way of Penns Creek located a few feet downstream of the old house and 1,040 feet west on Nikomahs Drive from Creek Road. This permit was issued under section 105.13(e) "Small Projects."

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

E02-1580. County of Allegheny Department of Public Works, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219. To operate and maintain the existing multispan railroad Riverton Bridge in the City of Duquesne and City of McKeesport in **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (McKeesport, PA Quadrangle N: 19.4 inches; W: 13.6 inches, Latitude: 40° 21' 25"; Longitude: 79° 50' 50"). To operate and maintain the existing multispan railroad bridge (Riverton Bridge) located over the Monongahela River (WWF); to remove the existing tracks, catwalk and to construct and maintain a new 12-ft. wide pedestrian deck and side railing on the existing 14-ft. wide bridge deck across the remaining span. The project is for the converting the bridge to a walking, hiking and biking trail as part for the Great Allegheny Passage Trail. The project is located approximately 1,000-ft. downstream of the McKeesport Duquesne Bridge.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D65-204EA. Leo Altimus, 108 Altimus Drive, Bolivar, PA 15923. Fairfield Township, **Westmoreland County**, United States Army Corps of Engineers, Pittsburgh District.

Project proposes to breach and remove Altimus Dam across Hendricks Creek (TSF) for the purpose of restoring the stream to a free flowing condition. The project will restore approximately 100 feet of stream channel. The dam is located approximately 3,000 feet south of the intersection of SR1011 (Midget Camp Road) and SR1006 (Creek Road) (Wilpen, PA Quadrangle Latitude: 40° 21' 42"; Longitude: 79° 08' 12").

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control (ESCP) Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and the Administrative Agency Law, (2 Pa.C.S. Chapter 5A), 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 AT&T 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 to 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 decisional law.

If individuals want to challenge this action, individual appeals must reach the Board within 30 days. Individuals do not need a lawyer 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. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board, (717) 787-3483, for more information.

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

| | | | | |
|--------------|--|-----------------|------------------------------|---|
| ESCP-0808803 | Fortuna Energy, Inc. Tracy Gregory 337 Daniel Zenker Drive Horseheads, NY 14845 | Bradford County | Troy and Granville Townships | UNT to North Branch Towanda Creek CWF |
| ESCP-5908801 | Fortuna Energy, Inc. Tracy Gregory 337 Daniel Zenker Drive Horseheads, NY 14845 | Tioga County | Jackson Township | Tioga River CWF |

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

| SSIP Permit No. | Applicant Name & Address | County | Municipality | Tank Type | Tank Capacity |
|-----------------|---|--------|----------------|-----------------------|-------------------|
| 08-62-004 | United Refining Company 15 Bradley Street Warren, PA 16365-3299 Attn: Michael S. Roudybush | Warren | City of Warren | 1 AST storing Ethanol | 2,121,000 gallons |

SPECIAL NOTICES

Public Hearing for NPDES Permit No. PAI026608001; Proposed Mehoopany Wind Farm Project, in Eaton, Forkston, Mehoopany, Noxen and Washington Townships, Wyoming County

On October 31, 2008, the Department of Environmental Protection (Department) received an administratively complete NPDES Permit application package for the proposed Mehoopany Wind Farm Project, located in Eaton, Forkston, Mehoopany, Noxen and Washington Townships, Wyoming County.

The Department will hold a public hearing to accept comment on the documentation and plans associated with the Individual NPDES Permit Application No. PAI026608001 for the discharge of stormwater from construction activities to:

- Stone Run—HQ-CWF
- Kasson Brook—HQ-CWF
- South Branch Roaring Run—CWF

- Roaring Run—CWF
- Newton Run—HQ-CWF
- Sugar Hollow Creek—HQ-CWF
- Bowman's Creek—HQ-CWF
- Hettesheimer Run—HQ-CWF
- York Run—HQ-CWF
- Bowman Hollow—HQ-CWF

The public hearing will be conducted on Wednesday, January 7, 2009, from 7 p.m. to 10 p.m. at the Triton Hose Company No. 1, located at 108 West Tioga Street, Tunkhannock, PA 18657 by the Watershed Management Program, Permitting and Technical Services Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Mehoopany Wind Farm Hearing, Department of Environmental Protection, Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testi-

mony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to the NPDES Permit Application No. PAI026608001 documentation and plans. Written copies of oral testimony are requested. Relinquishing time to others will not be allowed. Individuals attending the hearing will have the opportunity to testify if they so desire; however, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application documentation and plans are available for review at the Wyoming County Conservation District Office, One Hollowcrest Complex, Tunkhannock, PA 18657, (570) 836-2589 and/or the Department Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA (570) 826-2511. For further information, contact Mark Carmon of the Department's Northeast Regional Office at (570) 826-2511.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

Act 181 Notification: Delta Mining, Inc. PBF 56763022.1 Mine Drainage Treatment Project; Elk Lick Township, **Somerset County.** The site is located on Bureau of Forestry lands. The work will include installation of a 4 inch pipeline (and/or ditchline) approximately 500 feet in length to divert mine drainage into an existing treatment system. This project issues on November 14, 2008, and bids will be opened on December 2, 2008. A mandatory prebid meeting will be conducted at the site on November 26, 2008; call for time and directions. Bid documents will be available after November 14, 2008, and at the prebid meeting. Bidders must obtain a Coal Mining License to qualify for the final award as per 25 Pa. Code § 86.189. Bid proposals shall be submitted to Attn: Malcolm Crittenden, DEP, 286 Industrial Park, Ebensburg, PA 15931. For more information call, Malcolm Crittenden at (814) 472-1900 or mcrittende@State.pa.us.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

**Request for Comment and Notice of Public Meeting
For the Proposed Total Maximum Daily Load
(TMDL) for the Brush Run, Gathers Run and Reid
Run Watersheds in Clarion County**

The Department of Environmental Protection (Department) is holding public meetings to discuss and accept comments on proposed TMDLs for the Brush Run, Gathers Run and Reids Run Watersheds in Clarion County. The meetings will be held on December 16, 2008, beginning at 9 a.m. at the Knox District Office in Knox, PA. The proposed TMDLs were developed in accordance with the requirements of The Clean Water Act, section 303(d). Two stream segments in the Brush Run Watershed and one segment in both the Gathers and Reids Run Watersheds have been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals and depressed pH. The listed segments and miles degraded are shown in the following table:

| <i>Stream Code</i> | <i>Stream Name</i> | <i>Miles Degraded</i> |
|--------------------|--------------------|-----------------------|
| 49502 | Brush Run | 2.6 |
| 49508 | UNT Brush Run | 1.1 |
| 49524 | Gathers Run | 1.0 |

| <i>Stream Code</i> | <i>Stream Name</i> | <i>Miles Degraded</i> |
|--------------------|--------------------|-----------------------|
| 49530 | Reids Run | 3.40 |

The proposed plans provide calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

| <i>Parameter</i> | <i>Criterion value (mg/l)</i> | <i>Total Recoverable/ Dissolved</i> |
|------------------|-----------------------------------|---|
| Aluminum | 0.75 | Total Recoverable |
| Iron | 1.5 | Total Recoverable |
| Manganese | 1.00 | Total Recoverable |
| pH | 6.0 to 9.0 | NA |

The primary pollutant source for these watersheds is abandoned mine workings. These watersheds were heavily mined for coal in the late 19th century and mining continues on a smaller scale today. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations which are established for permitted point sources.

The TMDLs were developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDLs.

The TMDLs set allowable loading rates for metals and acidity at specified points in the Watershed. The basis of information used in the establishment of this TMDL is field data collected over a 2 year period.

The data and all supporting information used to develop the proposed TMDLs are available from the Department. To request a copy of the proposed TMDLs and an information sheet, contact Ely Heferle, Water Pollution Biologist, Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191. E-mail will be received at eheferle@state.pa.us. Directions to the Knox District Office can also be obtained by contacting this address.

The proposed TMDLs for the Brush Run, Gathers Run and Reids Run Watersheds can be accessed through the Department's web site www.dep.state.pa.us by typing "TMDL" in the DEP Keyword field and clicking GO.

Written comments will be accepted at the previous address and must be postmarked by January 29, 2009. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Monday December 15, 2008. The Department will consider all comments in developing the final TMDLs, which will be submitted to the Environmental Protection Agency for approval.

Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 797-1191 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

Junior Coal Contracting, Inc., GFCC No. 14-07-01, Ridge Operation, Rush Township, Centre County (Trout Run to Moshannon Creek—Upper West Branch Watershed): A no-cost construction contract has been awarded to Junior Coal Contracting, Inc., that will result in the reclamation of approximately 22.6 acres of abandoned mine land, the reclamation of 2,150-feet of abandoned highwall and the daylighting and reclamation of 20.2 acres of abandoned deep mines. The site will be reclaimed and regraded to approximate original contour. Alkaline addition in the form of waste lime will be added to the mining area. A total of 30,700 tons of alkaline waste lime will be placed on the site. The estimated value of the reclamation work is \$298,200 which will be done at no cost to the Commonwealth. The site is located just north of Sandy Ridge on lands formerly mined and subsequently abandoned by Blair Brothers Coal Company (deep mine) in the early 1900s and Dugan Coal Mining Company (surface mine) in the late 1940s. Blasting has been approved as part of the reclamation activities. Refuse reprocessing is prohibited at the site.

Request for Comment and Notice of Public Meeting Proposed Total Maximum Daily Loads (TMDLs) for the Glade Run Watershed in Fayette County

Greensburg District Mining Office: Armbrust Building, RR2 Box 603-C, Greensburg, PA 15601.

The Department of Environmental Protection (Department) is holding a public meeting on January 14, 2009, beginning at 6 p.m. at the Knights of Columbus, 888 North Gallatin Avenue Extension, Uniontown, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment of Glade Run has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals. The listed segment and miles degraded are shown in the following table:

| <i>Stream Code</i> | <i>Stream Name</i> | <i>Miles Degraded</i> |
|--------------------|--------------------|-----------------------|
| 38205 | Glade Run | 3.4 |

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

| <i>Parameter</i> | <i>Criterion value (mg/l)</i> | <i>Total Recoverable/Dissolved</i> |
|------------------|-------------------------------|------------------------------------|
| Aluminum | 0.75 | Total Recoverable |
| Iron | 1.5 | Total Recoverable |
| Manganese | 1.00 | Total Recoverable |
| pH | 6.0 to 9.0 | NA |

The primary pollutant source for the Watershed is abandoned mine workings. This Watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its

statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the Watershed. The basis of information used in the establishment of this TMDL is field data collected from 2000—2008.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Jennifer Orr at (717) 772-5670 between 8 a.m. and 4 p.m., Monday through Friday, at Rachel Carson State Office Building, 10th Floor, 400 Market Street, Harrisburg, PA 17101. E-mail will be received at jeorr@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by January 23, 2009. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Friday, January 9, 2009. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

Request for Comment and Notice of Public Meeting Proposed Total Maximum Daily Loads (TMDLs) for Redstone Creek, Fayette County

The Department of Environmental Protection (Department) is holding a public meeting on Friday, December 12, 2008, beginning at 10 a.m. at the Uniontown District Office, 100 New Salem Road, Uniontown, PA 15401 to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment of Redstone Creek has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals. The listed segment and miles degraded are shown in the following table:

| <i>Stream Code</i> | <i>Stream Name</i> | <i>Miles Degraded</i> |
|--------------------|--------------------|-----------------------|
| 39931 | Redstone Creek | 10.2 |

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese), acidity and suspended solids while maintaining levels below water quality criteria. The applicable water quality criteria are as follows:

| <i>Parameter</i> | <i>Criterion value (mg/l)</i> | <i>Total Recoverable/Dissolved</i> |
|------------------|-------------------------------|------------------------------------|
| Aluminum | 0.75 | Total Recoverable |
| Iron | 1.5 | Total Recoverable |
| Manganese | 1.00 | Total Recoverable |
| pH | 6.0 to 9.0 | NA |

The primary pollutant source for the Watershed is abandoned mine workings. This Watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the Watershed. The basis of information used in the establishment of this TMDL is field data collected from 1995–2007.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Scott Heidel at (717) 787-1421 between 7:45 a.m. and 3:45 p.m., Monday through Friday, at Rachel Carson State Office Building, 10th Floor, 400 Market Street, Harrisburg, PA 17101. E-mail will be received at scheidel@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by January 16, 2009. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Monday, December 8, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the United States Environmental Protection Agency for approval.

Request for Comment and Notice of Public Meeting Proposed Total Maximum Daily Loads (TMDLs) for the Susquehanna River in Luzerne and Columbia Counties

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901.

The Department of Environmental Protection (Department) is holding a public meeting on December 9, 2008, beginning at 10:30 a.m. at the Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790 to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment of the Susquehanna River has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals. The listed segment and miles degraded are shown in the following table:

| <i>Stream Code</i> | <i>Stream Name</i> | <i>Miles Degraded</i> |
|--------------------|--------------------|-----------------------|
| 6685 | Susquehanna River | 20 |

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

| <i>Parameter</i> | <i>Criterion value (mg/l)</i> | <i>Total Recoverable/Dissolved</i> |
|------------------|-------------------------------|------------------------------------|
| Aluminum | 0.75 | Total Recoverable |
| Iron | 1.5 | Total Recoverable |
| Manganese | 1.00 | Total Recoverable |

| <i>Parameter</i> | <i>Criterion value (mg/l)</i> | <i>Total Recoverable/Dissolved</i> |
|------------------|-------------------------------|------------------------------------|
| pH | 6.0 to 9.0 | NA |

The primary pollutant source for the Watershed is abandoned mine workings. This Watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the Watershed. The basis of information used in the establishment of this TMDL is field data collected from 1995–2007.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Jennifer Orr at (717) 772-5670 between 8 a.m. and 4 p.m., Monday through Friday, at Rachel Carson State Office Building, 10th Floor, 400 Market Street, Harrisburg, PA 17101. E-mail will be received at jeorr@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by January 16, 2009. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Monday, December 8, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 08-2156. Filed for public inspection November 28, 2008, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: "Technical Guidance"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2008.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper

copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance—Substantive Revision:

DEP ID: 275-2101-007. Title: Best Available Technology and Other Permitting Criteria for Municipal Solid Waste Landfills. Description: This technical guidance document, formerly titled "Landfill Permitting Criteria", is issued under the authority of section 6.6(c) of the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.1 and 127.12(a)(5) (relating to purpose; and content of applications). The guidance document specifies Best Available Technology (BAT) requirements for gas collection systems at active landfills, the collection and control of landfill gas, special requirements for enclosed flares, the open flare policy for beneficial use of landfill gas, the open flare policy for the control of landfill gas other than beneficial use, leachate storage and recirculation and landfill fugitive dust control criteria. The BAT requirements in the document will replace the former guidance; however, the BAT determination will not be applied retroactively. The BAT analysis must include a list of all possible control technologies, a technology feasibility analysis and an economic analysis of the feasible control technologies. Specifically, the guidance requires a Plan Approval for a new municipal solid waste landfill or for an expansion at an existing municipal waste landfill if the estimated volatile organic compound (VOC) emissions from the new facility or from the proposed expansion are greater than or equal to 2.7 tons per year, before the installation of an air cleaning device. A Plan Approval is also required when the municipal solid waste landfill design capacity is in excess of 1 million tons. The Plan Approval shall include requirements for the associated landfill gas collection system and its associated air cleaning devices, if any. Written Comments: The Department invites written comments on the substantive revisions to the technical guidance document. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments, suggestions or objections should be submitted by January 13, 2009, to Virendra Trivedi, Environmental Engineer Manager, Department of Environmental Protection, Bureau of Air Quality, Division of Permits, New Source Review Section, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468; vtrivedi@state.pa.us. The Department will also consider written requests that a public hearing be held concerning the proposed BAT criteria guidance. Contact: Interested parties are encouraged to obtain and review a complete copy of the technical guidance document by contacting Jeanette Van Skike, Department of Environmental Protection, Bureau of Air

Quality, Division of Permits, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325, jvanskike@state.pa.us. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

Notice to Rescind Technical Guidance:

DEP ID: 383-3301-305. Title: Laboratory Reporting Instruction for Total Trihalomethanes (TTHMs) in Public Drinking Water Systems. Description: Technical guidance document 383-3301-305 is being rescinded by the Department as it has been replaced with a more recent guidance document (technical guidance document number 383-3301-306: Laboratory Reporting Instructions for Disinfectant Residuals, Disinfection Byproducts and Precursors), which became effective at 38 Pa.B. 405 (January 19, 2008). Guidance document number 383-3301-306 includes updated information for reporting total trihalomethanes and is already in use by the regulated community, making the availability of technical guidance document number 383-3301-305 no longer necessary. Contact: Dawn Hissner, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, 400 Market Street, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17101, (717) 787-0130, dhissner@state.pa.us. Effective Date: November 29, 2008.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2157. Filed for public inspection November 28, 2008, 9:00 a.m.]

Storage Tank Advisory Committee; Cancellation of Meeting

The Storage Tank Advisory Committee (Committee) meeting scheduled for December 9, 2008, has been cancelled. The next meeting is scheduled for March 10, 2009, at 10 a.m. in the 14th floor conference room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the cancellation of the December 9, 2008, meeting or the next regularly scheduled Committee meeting should be directed to Charles Swokel, Bureau of Waste Management, (717) 772-5806, cswokel@state.pa.us. The agenda and meeting materials for the March 10, 2009, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: "Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5551 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-2158. Filed for public inspection November 28, 2008, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Real Estate for Sale Montgomery County

The Department of General Services (Department) will accept bids for the purchase of 0.29-acre +/- of land and single-family residence located at 174 North Whitehall Road, West Norriton Township, Montgomery County. Bids are due Friday, January 9, 2009. Interested parties wishing to receive a copy of Solicitation No. 94259 should view the Department's web site at www.dgs.state.pa.us or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,
Secretary

[Pa.B. Doc. No. 08-2159. Filed for public inspection November 28, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of The Washington Hospital for Excep- tion

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Washington Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25 (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us

This facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2160. Filed for public inspection November 28, 2008, 9:00 a.m.]

Approved Drugs for ALS Amubulance Services

Under 28 Pa. Code § 1005.11 (relating to drug use, control and security), the following drugs are approved for use by ground advanced life support (ALS) ambulance services and may be administered by EMT-paramedics, prehospital registered nurses and health professional physicians when use of the drugs is permitted by the applicable Department of Health (Department) approved regional medical treatment protocols:

1. Activated charcoal
2. Adenosine
3. Albuterol
4. Amiodarone
5. Aspirin
6. Atropine sulfate
7. Benzocaine—for topical use only
8. Bretylium
9. Calcium chloride
10. Calcium gluconate
11. Captopril
12. Dexamethasone sodium phosphate
13. Diazepam
14. Dilaudid—for interfacility transports only*
15. Diltiazem
16. Diphenhydramine HCL
17. Dobutamine
18. Dopamine
19. Enalapril
20. Epinephrine HCL
21. Etomidate
22. Fentanyl
23. Furosemide
24. Glucagon
25. Heparin by intravenous drip—for interfacility transports only*
26. Heparin lock flush
27. Hydrocortisone sodium succinate
28. Glycoprotein IIb/IIIa Inhibitors—for interfacility transports only*
 - a. Abciximab
 - b. Eptifibatide
 - c. Tirofiban
29. Intravenous electrolyte solutions
 - a. Dextrose
 - b. Lactated Ringer's
 - c. Sodium chloride
 - d. Normosol
 - e. Potassium—for interfacility transports only*
30. Ipratropium Bromide
31. Isoproterenol HCL—for interfacility transports only*
32. Levalbuterol—for interfacility transports only*
33. Lidocaine HCL
34. Lorazepam
35. Magnesium sulfate
36. Metaproterenol
37. Methylprednisolone
38. Midazolam
39. Morphine sulfate
40. Naloxone HCL
41. Nitroglycerin by intravenous drip must be regulated by an infusion pump
42. Nitroglycerin ointment
43. Nitroglycerin spray

44. Nitroglycerin sublingual tablets
45. Nitrous oxide
46. Ondansetron
47. Oxytocin
48. Pralidoxime CL
49. Procainamide
50. Sodium bicarbonate
51. Sodium thiosulfate
52. Sterile water for injection
53. Terbutaline
54. Tetracaine—for topical use only
55. Verapamil

* During interfacility transport, all medications given by continuous infusion (except intravenous electrolyte solutions with potassium concentrations of no more than 20 mEq/L) must be regulated by an infusion pump.

This list supersedes the list of approved drugs published at 37 Pa.B. 1278 (March 17, 2007).

Changes made are:

- (1) Addition of Activated charcoal.
- (2) Addition of Calcium gluconate.
- (3) Addition of Captopril.
- (4) Addition of Enalapril.
- (5) Removal of restriction that Nitroglycerin by intravenous drip may only be used for interfacility transports.
- (6) During interfacility transports medications by continuous infusion must be regulated by an infusion pump.
- (7) Addition of requirement that administration of nitroglycerine by intravenous drip must be regulated by an infusion pump.

Ambulance services are not authorized to stock drugs designated "for interfacility transports only." However, paramedics and health professionals may administer a drug so designated if the facility transferring a patient provides the drug, directs that it be administered to the patient during the transfer, and the regional transfer and medical treatment protocols permit the administration of the drug by those personnel. See 28 Pa. Code § 1005.11 (a)(3) and (d).

Section § 1005.11 of 28 Pa. Code permits a ground ALS ambulance service to exceed, under specified circumstances, the drugs (taken from the master list) that a region's medical treatment protocols authorize for use within the region. In addition, under 28 Pa. Code § 1001.161 (relating to research), the Department may approve an ambulance service to engage in a research project that involves use of a drug not included in a region's medical treatment protocols. Finally, under 28 Pa. Code § 1001.4 (relating to exceptions), a ground ALS ambulance service and its ALS ambulance service medical director may apply to the Department for an exception to a region's medical treatment protocols.

The list of drugs in this notice does not apply to air ambulance services. Under 28 Pa. Code § 1007.7(i)(2) (relating to licensure and general operating requirements), each air ambulance service is to develop its own medical treatment protocols which identify drugs that may be used by the air ambulance service. The air ambulance service is to then submit the protocols to the medical advisory committee of the appropriate regional

emergency medical services council for the medical advisory committee's review and recommendations. Following its consideration of the recommendations, and after making further revisions if needed, the air ambulance service is to file the protocols with the Department for approval.

Persons with a disability who require an alternate format of this notice (for example, large print, audiotape, Braille) should contact Robert Cooney at the Department of Health, Bureau of Emergency Medical Services, Room 606, Health and Welfare Building, 625 Forster Street, Harrisburg, PA, 17120-0701, (717) 787-8740. Speech or hearing impaired persons may use V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2161. Filed for public inspection November 28, 2008, 9:00 a.m.]

Prehospital Practitioner Scope of Practice

Under 28 Pa. Code §§ 1003.21(c)(13), 1003.22(e)(3), 1003.23(f), 1003.24(e) and 1003.25b(c), the Department of Health (Department) is publishing the scope of practice for ambulance attendants, first responders, emergency medical technicians (EMTs), EMT-paramedics (EMT-Ps) and prehospital registered nurses (PHRNs) under the Emergency Medical Services Act (EMS Act) (35 P. S. §§ 6921—6938).

Skills identified may be performed by a prehospital practitioner at the practitioner's level of certification/recognition only if the practitioner has successfully completed training (cognitive, affective and psychomotor) on the specified skill, which includes training to perform the skill on adults, children and infants, as appropriate.

A PHRN with medical command authorization may perform, in addition to those services within an EMT-Ps scope of practice, other services authorized by The Professional Nursing Law (63 P. S. §§ 211—225.5), when authorized by a medical command physician through either online medical command or standing medical treatment protocols. To administer drugs in addition to those permitted by applicable medical treatment protocols, a PHRN must also have received approval to do so by the advanced life support service medical director of the advanced life support ambulance service under which the PHRN is functioning.

This list supersedes the list of skills in the scope of practice of prehospital personnel published at 36 Pa.B. 8013 (December 30, 2006). Six changes have been made. The changes are:

Adding the King LTS-D Airway as a device to be used as a rescue airway.

Adding CPAP/BiPAP as a skill that can be performed by EMTs.

Listing tracheostomy suctioning as an EMT and EMT-P skill.

Permitting ambulance attendants to make verbal patient reports to individuals receiving the patient.

Permitting ambulance attendants to complete patient care reports.

Adding the use of hemostatic agents to the methods that can be employed to stop bleeding.

Yes—The skill is in the scope of practice for the level of certification

No—The skill is not in the scope of practice for the level of certification

1. May assist higher level practitioner only when in the physical presence and under the direct supervision of the ALS practitioner.

2. Additional training and approval by service medical director required.

3. The skill may be performed by BLS personnel in accordance with Statewide BLS protocols or medical command order.

4. The skill is not approved for the level of certification regardless if taught in a course approved for that level of certification.

5. The acronym is explained following the table.

6. Skill may only be used when functioning with a licensed ambulance service or QRS that complies with Department requirement for performing this skill.

7. May only be done as a physician extender under the Medical Practice Act.

8. FDA Approved Hemostatic Agents enclosed in self contained package during treatment.

AA—Ambulance Attendant

FR—First Responder Technician

EMT—Emergency Medical Technician

EMT-P—Emergency Medical Technician Paramedic

| TOPIC | SKILL | AA | FR | EMT | EMT-P |
|------------------------------------|---|-----|------------------|----------------------|------------------|
| Airway/ventilation/ oxygenation | Airway—Nonsurgical Alternative/Rescue Airway—CombiTube™, King LT-D Airway™ or King LTS-D Airway | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Airway—oral & nasal | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Airway—pharyngeal tracheal lumen (PTL) | No | No | No | No ⁴ |
| Airway/ventilation/ oxygenation | Bag-valve—ETT/Non surgical alternative airway ventilation | No | Yes ¹ | Yes ¹ | Yes |
| Airway/ventilation/ oxygenation | Bag-valve-mask—with in-line small-volume nebulizer | No | Yes ¹ | Yes ¹ | Yes |
| Airway/ventilation/ oxygenation | Bag-valve-mask (BVM) ventilation | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Chest decompression—needle | No | No | No | Yes |
| Airway/ventilation/ oxygenation | CPAP/BiPAP ⁵ —demonstrate application of | No | No | Yes ^{2,3,6} | Yes |
| Airway/ventilation/ oxygenation | Cricoid pressure (Sellick maneuver) | No | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Cricothyrotomy—needle | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Cricothyrotomy—open/surgical | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Cricothyrotomy—overwire (Seldinger) technique | No | No | No | Yes |
| Airway/ventilation/ oxygenation | End tidal CO ₂ monitoring/capnography | No | Yes ¹ | Yes ¹ | Yes |
| Airway/ventilation/ oxygenation | Esophageal obturator airway (EOA)/esophageal gastric tube airway (EGTA) | No | No | No | No ⁴ |
| Airway/ventilation/ oxygenation | Extubation | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Flow restricted oxygen powered ventilation device (demand valve) | No | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Gastric decompression—OG ⁵ & NG ⁵ tube (suction) | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Gastric tube insertion—nasal & oral | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Head-tilt/chin-lift | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Inspiratory Impedance Threshold Device (ITD) | No | No | No | Yes ² |

| TOPIC | SKILL | AA | FR | EMT | EMT-P |
|------------------------------------|---|------------------|------------------|------------------|-----------------|
| Airway/ventilation/ oxygenation | Intubation—digital & lighted stylet | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Intubation—endotracheal tube | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Intubation—medication paralytics assisted (RSI ⁵) | No | No | No | No ⁴ |
| Airway/ventilation/ oxygenation | Intubation—nasotracheal & orotracheal | No | No | No ⁴ | Yes |
| Airway/ventilation/ oxygenation | Intubation—retrograde | No | No | No | No ⁴ |
| Airway/ventilation/ oxygenation | Intubation—transillumination/lighted stylet | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Jaw thrust & modified jaw thrust (trauma) | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Laryngeal mask airway (LMA) | No | No | No | No ⁴ |
| Airway/ventilation/ oxygenation | Mouth-to-mouth, nose, stoma, barrier & pocket mask | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Obstruction—direct laryngoscopy (remove with forceps) | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Obstruction—manual (Heimlich, finger sweep, chest thrusts) upper airway | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—blow-by delivery | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—humidifiers | No | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—nasal cannula | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—nonrebreather mask | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—partial rebreather | No | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—regulators | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—simple face mask | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Oxygen therapy—Venturi mask | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Peak expiratory flow assessment | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Pulse oximetry | Yes ¹ | Yes ² | Yes ² | Yes |
| Airway/ventilation/ oxygenation | Suctioning—meconium aspiration | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Suctioning—stoma/tracheostomy | No | No | Yes | Yes |
| Airway/ventilation/ oxygenation | Suctioning—tracheobronchial | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Suctioning—upper airway (nasal) | No | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Suctioning—upper airway (oral) | Yes | Yes | Yes | Yes |
| Airway/ventilation/ oxygenation | Transtracheal jet ventilation | No | No | No | Yes |
| Airway/ventilation/ oxygenation | Ventilators—automated transport (ATV) | Yes ¹ | Yes ² | Yes ² | Yes |

| TOPIC | SKILL | AA | FR | EMT | EMT-P |
|--------------------------------|--|------------------|------------------|------------------|-----------------|
| Assessment of | Glasgow Coma Scale (GCS) | Yes | Yes | Yes | Yes |
| Assessment of | Level of consciousness (LOC) | Yes | Yes | Yes | Yes |
| Assessment of | Patient assessment skills identified in the NSC ⁵ | Yes | Yes | Yes | Yes |
| Assessment of | Vital sign—body temperature | Yes | Yes | Yes | Yes |
| Assessment of | Vital sign—pulse | Yes | Yes | Yes | Yes |
| Assessment of | Vital sign—pupils | Yes | Yes | Yes | Yes |
| Assessment of | Vital sign—respirations | Yes | Yes | Yes | Yes |
| Assessment of | Vital sign—skin color/temperature & condition (CTC) | Yes | Yes | Yes | Yes |
| Cardiovascular/ circulation | Blood pressure—auscultation | Yes | Yes | Yes | Yes |
| Cardiovascular/ circulation | Blood pressure—electronic noninvasive | Yes | Yes | Yes | Yes |
| Cardiovascular/ circulation | Blood pressure—palpation | Yes | Yes | Yes | Yes |
| Cardiovascular/ circulation | Cardiac monitoring—apply electrodes | No | Yes ¹ | Yes ¹ | Yes |
| Cardiovascular/ circulation | Cardiac monitoring—multi-lead | No | No | No | Yes |
| Cardiovascular/ circulation | Cardiac monitoring—single-lead (interpretive) | No | No | No | Yes |
| Cardiovascular/ circulation | Cardiopulmonary resuscitation (CPR) adult, infant, child, one & two person | Yes | Yes | Yes | Yes |
| Cardiovascular/ circulation | Cardioversion—synchronized | No | No | No | Yes |
| Cardiovascular/ circulation | Carotid massage (vagal maneuvers) | No | No | No | Yes |
| Cardiovascular/ circulation | Defibrillation—Counter shock—manual | No | No | No | Yes |
| Cardiovascular/ circulation | Defibrillation—automated external defibrillator (AED) | Yes ² | Yes ² | Yes ² | Yes |
| Cardiovascular/ circulation | Hemodynamic monitoring/assist (Swan Ganz, arterial, central venous lines) | No | No | No | No ⁴ |
| Cardiovascular/ circulation | Intra-aortic balloon pump monitoring/assist | No | No | No | No ⁴ |
| Cardiovascular/ circulation | Mechanical CPR device | No | No | No | Yes |
| Cardiovascular/ circulation | Military/Pneumatic Anti-Shock Trousers/Garment PASG/MAST ⁵) | No | No | Yes | Yes |
| Cardiovascular/ circulation | Thrombolytic therapy—initiation | No | No | No | No ⁴ |
| Cardiovascular/ circulation | Thrombolytic therapy—monitoring | No | No | No | No ⁴ |
| Cardiovascular/ circulation | Transcutaneous pacing | No | No | No | Yes |
| Cardiovascular/ circulation | Use a (cardiac) magnet to alter the mode of an AICD ⁵ or pacemaker | No | No | No | Yes |
| Communications | Verbal patient report to receiving personnel | Yes | Yes | Yes | Yes |
| Communications | Communications with PSAPs ⁵ , hospitals, medical command facilities | Yes | Yes | Yes | Yes |
| Documentation | Out-of-Hospital Do Not Resuscitate (DNR) orders (Act #59) | Yes | Yes | Yes | Yes |
| Documentation | Patient Care Report completion | Yes | Yes | Yes | Yes |
| Hazardous materials | Contaminated equipment disposal (sharps & PPE ⁵) | Yes | Yes | Yes | Yes |
| Hazardous materials | Decontamination | Yes | Yes | Yes | Yes |

| TOPIC | SKILL | AA | FR | EMT | EMT-P |
|--------------------------------------|---|-----|-----|-----|-----------------|
| Hazardous materials | Disinfection | Yes | Yes | Yes | Yes |
| Hazardous materials | PPE ⁵ (personal protection equipment) use | Yes | Yes | Yes | Yes |
| Immobilization | PASG/MAST ⁵ —pelvic stabilization | No | No | Yes | Yes |
| Immobilization | Spinal immobilization—helmet stabilization or removal | No | No | Yes | Yes |
| Immobilization | Spinal immobilization—long board w/pt supine & standing | Yes | Yes | Yes | Yes |
| Immobilization | Spinal immobilization—manual stabilization & cervical collar | Yes | Yes | Yes | Yes |
| Immobilization | Spinal immobilization—rapid extrication | No | No | Yes | Yes |
| Immobilization | Spinal immobilization—seated patient (KED ⁵ , etc.) | No | No | Yes | Yes |
| Immobilization | Splinting—manual, ridged, soft, vacuum | Yes | Yes | Yes | Yes |
| Immobilization | Splinting—traction | Yes | Yes | Yes | Yes |
| IV Initiation/ maintenance/fluids | Central venous cannulation (femoral vein only) | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Central venous line—access of existing catheters | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Clean technique | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | External jugular vein cannulation | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Heparin/saline lock insertions as no-flow IV | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Indwelling intravenous catheters as described 28 Pa. Code § 1003.23(e)(2) | No | No | Yes | Yes |
| IV Initiation/ maintenance/fluids | Intraosseous—needle placement & infusion—tibia, femur and humerus | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Peripheral venous—initiation (cannulation) | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Sub-cutaneous indwelling catheters—access of existing catheters | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Vascular access devices in home healthcare—access of existing catheters | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Venous (blood sampling)—obtaining | No | No | No | Yes |
| IV Initiation/ maintenance/fluids | Venous central line (blood sampling)—obtaining | No | No | No | No ⁴ |
| IV Initiation/ maintenance/fluids | Arterial line—capped—transport | No | No | Yes | Yes |
| IV Initiation/ maintenance/fluids | Arterial line—monitoring/assist | No | No | No | No ⁴ |
| IV Initiation/ maintenance/fluids | Blood/Blood-by-products | No | No | No | No ⁴ |
| Lifting & moving | Patient lifting, moving & transfers per NSC ⁵ | Yes | Yes | Yes | Yes |
| Lifting & moving | Patient restraints on transport devices | Yes | Yes | Yes | Yes |
| Medication administration routes | Endotracheal tube (ET) | No | No | No | Yes |
| Medication administration routes | Inhalation (aerosolized/nebulized) | No | No | No | Yes |
| Medication administration routes | Intramuscular (IM) | No | No | No | Yes |
| Medication administration routes | Intranasal | No | No | No | Yes |
| Medication administration routes | Intraosseous—tibia, humerus or femur | No | No | No | Yes |

| TOPIC | SKILL | AA | FR | EMT | EMT-P |
|----------------------------------|---|-----|-----|----------------------|------------------|
| Medication administration routes | Intravenous (IV)—bolus | No | No | No | Yes |
| Medication administration routes | Intravenous (IV) infusion, including by intravenous pump | No | No | No | Yes |
| Medication administration routes | Nasogastric | No | No | No | Yes |
| Medication administration routes | Oral | No | No | No | Yes |
| Medication administration routes | Rectal | No | No | No | Yes |
| Medication administration routes | Subcutaneous | No | No | No | Yes |
| Medication administration routes | Sub-lingual | No | No | No | Yes |
| Medication administration routes | Topical | No | No | No | Yes |
| Medication administration routes | Auto-injectors | No | No | Yes ³ | Yes |
| Medications | Activated charcoal | No | No | Yes ³ | Yes |
| Medications | As published in <i>Pennsylvania Bulletin</i> by PA DOH | No | No | No | Yes |
| Medications | Immunizations | No | No | No | Yes ⁷ |
| Medications | Oral glucose | No | No | Yes ³ | Yes |
| Medications | Over-the-counter medications (OTC) | No | No | No | No ⁴ |
| Medications | Oxygen | Yes | Yes | Yes | Yes |
| Medications | Auto-injected epinephrine—primary use—not patient's own prescription | No | No | Yes ^{2,3,6} | Yes |
| Medications—Patient Assisted | Auto-injected epinephrine | No | No | Yes ³ | Yes |
| Medications—Patient Assisted | Metered dose inhaler (MDI)—bronchodilator | No | No | Yes ³ | Yes |
| Medications—Patient Assisted | Nitroglycerin | No | No | Yes ³ | Yes |
| Patient assessment/management | Behavioral—Restrain violent patient | No | No | Yes | Yes |
| Patient assessment/management | Blood glucose assessment | No | No | No | Yes |
| Patient assessment/management | Burns—chemical, electrical, inhalation, radiation, thermal | Yes | Yes | Yes | Yes |
| Patient assessment/management | Childbirth—umbilical cord cutting | No | Yes | Yes | Yes |
| Patient assessment/management | Childbirth (abnormal/complications) | No | No | Yes | Yes |
| Patient assessment/management | Childbirth (normal)—cephalic delivery | Yes | Yes | Yes | Yes |
| Patient assessment/management | Dislocation reduction (shoulder) | No | No | No | No ⁴ |
| Patient assessment/management | Eye irrigation/care | Yes | Yes | Yes | Yes |
| Patient assessment/management | Hemorrhage control—diffuse, direct, pressure point, tourniquet, bandaging, hemostatic agents ⁸ | Yes | Yes | Yes | Yes |
| Patient assessment/management | Intracranial monitoring/assist | No | No | No | No ⁴ |
| Patient assessment/management | As outlined in DOH approved regional & Statewide tx ⁵ & transport protocols | Yes | Yes | Yes | Yes |

| TOPIC | SKILL | AA | FR | EMT | EMT-P |
|-------------------------------|--|-----|-----|-----|-------|
| Patient assessment/management | Multiple Casualty Incident (MCI)/Incident Command System (ICS) | No | Yes | Yes | Yes |
| Patient assessment/management | Triage (prioritizing patients)—use of tags | Yes | Yes | Yes | Yes |
| Patient assessment/management | Urinary catheterization | No | No | No | Yes |
| Rescue | Vehicle access & extrication | Yes | Yes | Yes | Yes |

◀ Acronym

Explanation

| | |
|------------|---|
| AICD | Automatic Implantable Cardioverter Defibrillators |
| CPAP/BiPAP | Continuous positive airway pressure/biphasic positive airway pressure |
| KED | Kendrick Extrication Device |
| NSC | U. S. Department of Transportation National Standard Curriculum |
| OG & NG | Oral gastric & nasal gastric tube |
| PASG/MAST | Pneumatic anti-shock garment/military anti-shock trousers |
| PPE | Personal protective equipment |
| PSAP | Public safety answering point |
| RSI | Rapid sequence induction |
| TX | Treatment |

Persons with a disability who require an alternate format of this notice (for example, large print, audiotape, Braille) should contact Robert Cooney at the Department of Health, Bureau of Emergency Medical Services, Room 606, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0710, (717) 787-8740. Speech or hearing impaired persons may call by using V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETT JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-2162. Filed for public inspection November 28, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Powerball

In accordance with 61 Pa. Code § 871.21 (relating to future changes to Powerball), the Secretary of Revenue (Secretary) announces the following changes to the Powerball regulations.

The Secretary, having determined that it is impractical and contrary to the public interest to defer notice to the public of changes to the Powerball game, has given actual knowledge of the document to the persons whom the document is primarily directed in accordance with 1 Pa. Code § 13.74 (relating to effectiveness prior to publication) by press release dated on or before December 4, 2008, of the following changes to the Powerball regulations.

These changes will affect ticket sales beginning on Sunday, January 4, 2009, for the Powerball drawing on Wednesday, January 7, 2009. The changes to the regulation will be codified as paragraph (3) in 61 Pa. Code § 871.22 (relating to changes to Powerball):

(3) Changes effective for Powerball tickets sold on or after January 4, 2009:

(i) Section 871.2(a) (relating to game description and purpose). Powerball is a five out of 59 plus one out of 39 on-line lottery game which pays the grand prize on an

annuitized, parimutuel basis. Except as provided in this chapter, all other prizes are paid on a set cash basis.

(ii) Section 871.2(b) The purpose of the Powerball game is to determine winners from ticket holders matching five numbers from 1 through 59, and matching the separately drawn Powerball number, or a designated combination thereof, within a single play, with the five winning numbers and the Powerball number to be randomly drawn. Drawings will be conducted twice a week or as publicly announced by the Secretary.

(iii) Section 871.3 (relating to definitions).

Basic play—Each set of six numbers consisting of five numbers from 1 through 59 and the Powerball number on a ticket purchased without the selection of any promotion, representing a single entry for a Powerball drawing and designated by a letter from A to E on a Powerball ticket.

First set numbers—The first group of numbers, from 1 through 59, appearing in the top grid of a Powerball game panel.

Grand prize winnings pool—An amount constituting 32.5288% of gross sales from all participating States for a particular Powerball game drawing for the purpose of paying winning grand prizes in that drawing. The grand prize winnings pool includes prize money allocated to the grand prize category from prior Powerball game drawings in which there were no winning grand prize tickets. A portion of this pool is used to fund prize reserve accounts until those accounts achieve maximum balances.

Panel or game panel—One of five areas of the Powerball bet slip that contains two number grids. The upper grids (first set numbers) contain 59 squares, each numbered 1 through 59 and the lower grids (second set numbers) contain 39 squares, each numbered 1 through 39. Each panel is lettered either A, B, C, D or E, and when used to purchase a ticket, corresponds to the numbers selected and printed on the ticket adjacent to that letter.

Powerball number or second set number—The number selected from the second group of numbers, from 1 through 39, appearing in the lower grid of a Powerball game panel.

Quick pick—The random selection by the Lottery's computer system of five numbers from 1 through 59 and a Powerball number from 1 through 39 that appear on a ticket in the Powerball game.

Second set numbers—The second group of numbers, from 1 through 39, appearing in the lower grid of a Powerball game panel.

Set prize winnings pool—An amount constituting 17.4712% of gross sales for the current drawing and any moneys carried forward from previous draws.

Ticket—A Powerball ticket, produced by an on-line terminal from a licensed on-line retailer in an authorized manner, containing a letter prefix followed by five se-

lected numbers from 1 through 59 and a single selected Powerball number from 1 through 39 for each basic play, ticket validation number data, drawing date, amount bet and any applicable promotion exercised by the player. Each set of five numbers and the Powerball number constitutes a basic play of which there may be one or more, up to five on a ticket.

Winning numbers—Six numbers, the first five numbers from 1 through 59, and the Powerball number from 1 through 39, selected at a Powerball drawing and subsequently validated by the MUSL, which shall be used to determine the winning Powerball plays.

Editor's note: This is a partial listing of the definitions applicable to Powerball. See § 871.3 (relating to definitions) for additional definitions.

(iv) Section 871.7(c) (relating to time, place and manner of conducting drawing). Manner of conducting drawing. The MUSL will draw at random five numbers from a set of balls numbered 1 through 59 and one Powerball number from a set of balls numbered 1 through 39 with the aid of mechanical drawing equipment. The drawings will be observed by security personnel and independent auditors and the validity of a drawing will be solely determined by the MUSL.

(v) Section 871.8(a) (relating to expected prize payout percentages). Determination of expected prize payout percentages is as follows:

| <i>Tickets Containing The Following in One Single Lettered Game Section</i> | <i>Prize Category</i> | <i>Prize Payment</i> | <i>Approximate Percentage of Winnings Pool Allocated to Prize Category**</i> |
|---|-----------------------|----------------------|--|
| Five first set numbers and the Powerball number | Grand Prize | Grand Prize | 65.0576% |
| Five first set numbers | Second Prize* | \$200,000 | 7.7850% |
| Four first set numbers and the Powerball number | Third Prize* | \$10,000 | 2.7656% |
| Four first set numbers | Fourth Prize* | \$100 | 1.0510% |
| Three first set numbers and the Powerball number | Fifth Prize* | \$100 | 1.4658% |
| Three first set numbers | Sixth Prize* | \$7 | 3.8990% |
| Two first set numbers and the Powerball number | Seventh Prize* | \$7 | 1.7786% |
| One first set number and the Powerball number | Eighth Prize* | \$4 | 6.4790% |
| The Powerball number | Ninth Prize* | \$3 | 9.7184% |

* Indicates a set prize.

** Fifty percent of Powerball gross sales are allocated to the winnings pool for the payment of prizes.

(vi) Section 871.8(c)(1) (relating to expected prize payout percentages). If the total of the set prizes awarded in a Powerball drawing exceeds the set prize pool which is 17.4712% of gross sales, the amount needed to fund the set prizes shall be drawn from the following sources in the following order:

(i) The amount allocated to the set prize tiers and carried forward from previous draws, if any.

(ii) An amount from the MUSL set prize reserve account, if available, not to exceed \$25,000,000 per Powerball drawing.

(vii) Section 871.19 (relating to probability of winning). The probability of winning is as follows:

| <i>Tickets Containing The Following in One Single Lettered Game Section</i> | <i>Prize Category</i> | <i>Probability of Winning per Play</i> |
|---|-----------------------|--|
| Five first set numbers and the Powerball number | Grand Prize | 1:195,249,054 |
| Five first set numbers | Second Prize | 1:5,138,133 |

Tickets Containing The Following in One Single Lettered Game Section

| | <i>Prize Category</i> | <i>Probability of Winning per Play</i> |
|--|-----------------------|--|
| Four first set numbers and the Powerball number | Third Prize | 1:723,144.6444 |
| Four first set numbers | Fourth Prize | 1:19,030.1222 |
| Three first set numbers and the Powerball number | Fifth Prize | 1:13,644.2386 |
| Three first set numbers | Sixth Prize | 1:359.0589 |
| Two first set numbers and the Powerball number | Seventh Prize | 1:787.1676 |
| One first set number and the Powerball number | Eighth Prize | 1:123.4773 |
| The Powerball number | Ninth Prize | 1:61.7386 |

(viii) Section 871.20(a) (relating to power play promotion). The power play promotion shall be available in association with the Powerball game and will continue until the Secretary publicly announces a suspension or termination thereof. The power play promotion will be conducted in accordance with the Powerball rules except that players may purchase the power play option for the chance to multiply set prizes won as a result of a Powerball drawing by a number ranging from 2 to 5. The Powerball grand prize will not be eligible for multiplication under the power play promotion. The Secretary will on occasion announce, as a special promotion, a multiplier of 10.

(ix) Section 871.20(c). At the time of each Powerball drawing, the MUSL shall conduct a power play drawing, with the aid of mechanical drawing equipment or any other selection methodology as authorized by the Secretary, under the supervision of security and an independent auditor which shall result in the selection of the power play number from among the following series of numbers: 2, 2, 2, 2, 3, 3, 3, 3, 4, 4, 4, 4, 5, 5, 5 and 5.

(x) Section 871.20(d). Powerball tickets that contain the power play option and one or more plays eligible for Powerball set prizes (but not the grand prize) identified in § 871.8(a) (relating to expected prize payout percentages) shall be entitled to a total set prize calculated by multiplying each Powerball set prize by the power play number. The second prize category power play multiplier will be fixed at a minimum of 5.

(xi) Section 871.20(j). Except as otherwise provided, all power play set prizes shall be paid in single, lump-sum payments determined by multiplying the Powerball set prize by the number selected in the power play drawing as follows:

| <i>Prize Level</i> | <i>Powerball Set Prize Amount</i> | <i>Power Play Multiplier and Set Prize Amount</i> | | | |
|--------------------|-----------------------------------|---|-------------|-------------|-------------|
| | | <i>5</i> | <i>4</i> | <i>3</i> | <i>2</i> |
| Second Prize | \$200,000 | \$1,000,000 | \$1,000,000 | \$1,000,000 | \$1,000,000 |
| Third Prize | \$10,000 | \$50,000 | \$40,000 | \$30,000 | \$20,000 |
| Fourth Prize | \$100 | \$500 | \$400 | \$300 | \$200 |
| Fifth Prize | \$100 | \$500 | \$400 | \$300 | \$200 |
| Sixth Prize | \$7 | \$35 | \$28 | \$21 | \$14 |
| Seventh Prize | \$7 | \$35 | \$28 | \$21 | \$14 |
| Eighth Prize | \$4 | \$20 | \$16 | \$12 | \$8 |
| Ninth Prize | \$3 | \$15 | \$12 | \$9 | \$6 |

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-2163. Filed for public inspection November 28, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by Global Host, Inc., seeking to lease highway right-of-way located along the

northerly side of Banksville Road, at its intersection with Potomac Avenue, in the 20th Ward of The City of Pittsburgh, Allegheny County, adjacent to Legislative Route 02269, Section 2T R/W, containing 8,046 +/- square feet or 0.185 +/- acre, for the purpose of customer parking and landscaping.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-2164. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by Park West Maintenance, seeking to lease highway right-of-way located at 729 Aten Road, Borough of Coraopolis, Allegheny County, adjacent to SR 60, Section A01 R/W, containing 120,660 +/- square feet or 2.77 +/- acre, for the purpose of storage for materials and equipment.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-2165. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by The Port Authority of Allegheny County, seeking to lease highway right-of-way located 1860 SR 286 (also known as Golden Mile Highway), Plum Borough, Allegheny County, containing 30,030 +/- square feet or 0.69 +/- acre, adjacent to SR 286 for the purpose of a park and ride facility.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-2166. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by The Port Authority of Allegheny County, seeking to lease highway right-of-way located at the intersection of Wind Gap Avenue and Youghiogheny Street, in the 28th Ward, City of Pittsburgh, Allegheny County, containing 45,540 +/- square feet or 1.05 +/- acre, adjacent to Legislative Route 1121-1 for the purpose of a park and ride facility.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to H. Daniel Cessna, P. E., District Executive, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017.

Questions regarding this application or the proposed use may be directed to Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-2167. Filed for public inspection November 28, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, November 6, 2008, and announced the following:

Regulation Disapproved:

Department of State #16-40: Lobbying Disclosure (adds 51 Pa. Code Chapters 51—69)

Disapproval Order

Public Meeting held
November 6, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson, Dissenting; Alvin C. Bush, Vice Chairperson; Nancy Sabol Frantz, Esq., Abstaining; Karen A. Miller; John F. Mizner, Esq.

*Department of State—Lobbying Disclosure
Regulations Committee
Lobbying Disclosure:
Regulation No. 16-40 (#2665)*

On January 9, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of State (Department). This rulemaking was adopted by the Lobbying Disclosure Regulations Committee (Committee) and adds 51 Pa. Code Chapters 51 to 69. The proposed regulation was published in the January 19, 2008 *Pennsylvania Bulletin*

with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 18, 2008.

We find that this final-form regulation exceeds the statutory authority of the Lobbying Disclosure Act (Act). 65 Pa.C.S. §§ 13A01—13A11. The final-form regulation would require registration and reporting of activities that do not require registration and reporting under the Act.

The Regulatory Review Act requires this Commission to “first and foremost, determine whether the agency has the statutory authority to promulgate the regulation.” 71 P. S. § 745.5b(a). When properly promulgated, a regulation has the full force and effect of law. Therefore, a regulation can only implement and specify the powers bestowed by its statutory authority. A violation of this regulation can result in criminal penalties, a \$25,000 fine and a prohibition from lobbying for five years. 65 Pa.C.S. § 13A09. Therefore, it would not be proper to impose these serious penalties on a person who violates the regulation written by the Committee, but not the Act that was approved by the General Assembly and signed into law by the Governor.

The first paragraph of our comments dated March 20, 2008, stated:

We find that portions of the [proposed] regulation exceed the statutory authority of 65 Pa.C.S.A. Chapter 13A *Lobbying Disclosure* (Act) because they require registration and reporting for activities that are not directly included in the Act. If the Committee believes registration and reporting of these activities are needed, the Committee should seek changes to the Act.

This comment was directed to the proposed regulation’s definition of the phrase “effort to influence legislative action or administrative action.” We included in that comment an extensive discussion of our interpretation of the Act and its limitations. In relation to retainers, we stated:

[T]he Committee needs to explain its statutory authority to require registration and reporting when the “lobbyist or lobbying firm does not make direct or indirect communications or take any other action” particularly in regard to the Act’s definitions of “lobbying,” “direct communication” and “indirect communication,” which all require “an effort . . . to influence legislative or administrative action.”

Unfortunately, despite our extensive comments, we find that the final-form regulation continues the violation of the Regulatory Review Act criterion of statutory authority. 71 P. S. § 745.5b(a).

There is a strong framework within the Act that directly and consistently relates back to the statutory definitions of “lobbyist,” “lobbying firm” and “principal,” and to the definition of “lobbying.” 65 Pa.C.S. § 13A03. Contained within these definitions are two components that trigger registration and reporting under the Act, unless an exemption in 65 Pa.C.S. § 13A06 applies. First, under the statutory definitions of “lobbyist,” “lobbying firm” and “principal” the person or entity must engage in lobbying *for economic consideration*. “Economic consideration” is defined in 65 Pa.C.S. § 13A03 as “anything of value offered or received. The term includes compensation and reimbursement for expenses.”

Second, the actions have to meet the statutory definition of “lobbying.” In our extensive comments on the proposed regulation, we found that, under the Act, a

communication is a tangible, proactive communication that is “written, oral or by any other medium” that is made to influence legislative or administrative action. Similarly under the Act, “office expenses” must be “utilized for lobbying” and the provision for providing “gifts, hospitality, transportation or lodging,” must be “to a State official or employee for the purpose of advancing the interest of the lobbyist or principal.” The Act further defines many of the components of “lobbying,” including “legislative action,” “administrative action,” “direct communication,” “indirect communication,” “office expenses,” “gift” and “hospitality.” 65 Pa.C.S. § 13A03.

The Act does not define the phrase “effort to influence legislative action or administrative action.” In Section 51.1 of the final-form regulation, the Department amended its definition of that phrase to state:

Any attempt to initiate, support, promote, modify, oppose, delay or advance a legislative action or administrative action on behalf of a principal for economic consideration.

(i) The term includes paying an individual or entity economic consideration for lobbying services.

(ii) Monitoring of legislation, monitoring of legislative action or monitoring of administrative action is not lobbying. However, for an individual or entity that is not exempt, the costs of monitoring are subject to the reporting requirements of the act when the monitoring occurs in connection with activity that constitutes lobbying.

Paragraph (i), as written and explained by the Committee, would require registration and reporting when a payment or contract is made for “lobbying services,” irrespective of whether a communication is made or is ever made to influence legislative or administrative action. The definition effectively amends the statutory definitions of “lobbying,” “lobbyist,” “lobbying firm” and “principal” by equating payment of economic consideration with an attempt to influence legislative or administrative action. Consequently, the regulation requires registration and reporting of actions that, under the Act, do not constitute “lobbying” and do not require registration or reporting.

Our concern with the definition of “effort to influence legislative action or administrative action” in Section 51.1 extends to registration provisions for lobbyists, lobbying firms and principals in Sections 53.4(a)(1), 53.3(a)(1) and 53.2(a)(1). These provisions also require registration upon engaging an individual or entity for lobbying services or paying economic consideration for lobbying services, without the actual act of “lobbying,” as defined in 65 Pa.C.S. § 13A03. We also find the phrase “lobbying services” lacks clarity because the regulation does not specify what constitutes “lobbying services.”

The Committee satisfactorily responded to our comment on monitoring by adding clarification in the final-form regulation that monitoring is not lobbying and only has to be reported when it occurs “in connection with activity that constitutes lobbying.” However, in regard to our comment on retainers, the Committee amended the language to include “paying an individual or entity economic consideration for lobbying services.” The Committee noted in the final-form submittal that 65 Pa.C.S. § 13A04(a) requires registration within ten days of “acting in any capacity as a lobbyist, lobbying firm or principal.” The Committee reasons that this is needed because limiting registration to within ten days of a communication could exclude disclosure of advanced payments. The Committee

reasons this would enable persons to avoid registration or reporting requirements through the timing of payments.

We find the Committee's reasoning to be flawed for several reasons. First, the phrase "acting in any capacity" cannot be divorced from the clear statutory limits of the following phrase "as a lobbyist, lobbying firm or principal." Since the terms "lobbying," "lobbyist," "lobbying firm" and "principal" are all defined in 65 Pa.C.S. § 13A03, it is not proper to include in regulation some other "capacity" that is not in the statute.

Second, the Committee advances its theory that registration and reporting could be avoided by the timing of payments. At our public meeting, the Pennsylvania Bar Association (PBA) offered a solution to the Committee's concern that it believes falls within the Act. PBA believes that costs could be pro-rated to the time period when lobbying actually occurs. If the Committee's concern is that registration and reporting could be avoided by the timing of payments, the Committee should give strong consideration to the PBA's solution. If the Committee believes there are other activities that need to be reported, such as payments and retainers, without the actual act of lobbying, it should seek statutory amendments, as we recommended in our comments on the proposed regulation.

Finally, the Act delineates the circumstances and expenses that require registration and reporting. The only categories for reporting expenses specified by 65 Pa.C.S. § 13A05(b)(2)(iv) do not contemplate expenses related to anything but the specific activities listed in the definition of "lobbying" in 65 Pa.C.S. § 13A03. If the Committee believes other expenses need to be reported, it needs to seek statutory amendments for reporting them.

Based upon the information provided to us, we have determined this regulation is not consistent with the statutory authority of the Department (65 Pa.C.S. § 13A10(d)) and the intention of the General Assembly. We find promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2168. Filed for public inspection November 28, 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

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> | <i>Public Meeting</i> |
|-----------------|--|-----------------|-----------------------|
| 41-018 | County Probation and Parole Officers' Firearms Education and Training Commission | 11/14/08 | Anticipated 2/26/09 |

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Tolled</i> | <i>Resubmitted</i> | <i>Public Meeting</i> |
|-----------------|--|---------------|--------------------|-----------------------|
| 16A-4926 | State Board of Medicine Nurse Midwife Prescriptive Authority | 11/17/08 | 11/17/08 | 12/18/08 |

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2169. Filed for public inspection November 28, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval of the Recapitalization of a Domestic Stock Casualty Insurance Company

The Green Tree Perpetual Assurance Company, a Commonwealth domiciled stock casualty insurance company, has submitted a Plan of Recapitalization, whereby it proposes to reduce the stated capital of the company. The initial filing was made under 15 Pa.C.S. §§ 1101—4162 (relating to the Business Corporation Law of 1988) and the GAA Amendments Act of 1990 (15 P.S. §§ 21205—21207). Persons wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department's (Department) order approving this recapitalization are invited to submit a written statement to the

Department within 7 days from the date of this issue of the *Pennsylvania Bulletin*. A written statement must include the 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 and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2170. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Rest Haven Nursing Center Chestnut Hill, Inc.

Rest Haven Nursing Center Chestnut Hill, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Chestnut Hill Lodge Health and Rehabilitation Center in Wyndmoor, PA. The initial filing was received on November 18, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2171. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application and Request for Plan Approval of a Mutual-to-Stock Conversion

Tuscarora-Wayne Mutual Insurance Company, a Commonwealth domiciled mutual fire insurance company, has submitted a Plan of Mutual-to-Stock Conversion, whereby it proposes to convert from a mutual insurance company to an insurer organized as a stock company. The initial filing was made under requirements set forth under the Insurance Company Mutual-to-Stock Conversion Act (40 P. S. §§ 911-A—929-A). Any person wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department's (Department) orders approving of this conversion is invited to submit a written statement to the Department within 45 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the author, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2173. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Rest Haven Nursing Center Whitemarsh, Inc.

Rest Haven Nursing Center Whitemarsh, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Andorra Woods Healthcare Center in Whitemarsh, PA. The initial filing was received on November 18, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2172. Filed for public inspection November 28, 2008, 9:00 a.m.]

Application and Request for Plan Approval of a Mutual-to-Stock Conversion

Washington Mutual Fire and Storm Insurance Company, a Commonwealth domiciled mutual fire insurance company, has submitted a Plan of Mutual-to-Stock Conversion, whereby it proposes to convert from a mutual insurance company to an insurer organized as a stock company. The initial filing was made under requirements set forth under the Insurance Company Mutual-to-Stock Conversion Act (40 P. S. §§ 911-A—929-A). Any person wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department's (Department) order approving of this conversion is invited to submit a written statement to the Department within 45 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the author, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2174. Filed for public inspection November 28, 2008, 9:00 a.m.]

Erie Insurance Exchange; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing

On November 5, 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 increase of 2.50% amounting to \$21.0 million annually to be effective on April 1, 2009.

Unless formal administrative action is taken prior to January 4, 2009, 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."

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 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2175. Filed for public inspection November 28, 2008, 9:00 a.m.]

Geisinger Health Plan-Employer Group (with fewer than 51 subscribers); Rate Filing

On November 10, 2008, Geisinger Health Plan submitted a filing for the Employer Group Rates for all groups with fewer than 51 average subscribers, requesting a rate increase of 5.5%. The filing will affect approximately 18,900 members and generate additional revenue of approximately \$3 million annually. An effective date of April 1, 2009, is requested.

This filing also proposes some benefit design changes such as, Diabetic test strips (charge Rx rider Tier 2 copay per box of 100 strips); add urological supplies; add Eyewear rider; add Employee Assistance Program Option.

Unless formal administrative action is taken prior to February 12, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) 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 Regional Office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, rmathurstate.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2176. Filed for public inspection November 28, 2008, 9:00 a.m.]

Geisinger Health Plan-Employer Group (with 51 or more subscribers); Rate Filing

On November 10, 2008, Geisinger Health Plan submitted a filing for the Employer Group Rates for all groups with 51 or more average subscribers, requesting a rate increase of 7.1%. The filing will affect approximately 30,000 members and generate additional revenue of approximately \$6.8 million annually. An effective date of April 1, 2009, is requested.

This filing also proposes some benefit design changes such as, Diabetic test strips (charge Rx rider Tier 2 copay per box of 100 strips); add urological supplies; add Eyewear rider; add Employee Assistance Program Option.

Unless formal administrative action is taken prior to February 12, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) 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 Regional Office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, rmathur@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-2177. Filed for public inspection November 28, 2008, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, announces a meeting of the Authority's Board on Tuesday, December 9, 2008, at 10 a.m. to be held at the Wildwood Conference Center, Harrisburg Area Community College, One HAAC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,
Executive Director

[Pa.B. Doc. No. 08-2178. Filed for public inspection November 28, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Interim Procedural Order

Public Meeting held
November 6, 2008

Commissioners Present: James H. Cawley, Chairperson;
Tyrone J. Christy, Vice Chairperson; Robert F.
Powelson; Kim Pizzigrilli; Wayne E. Gardner

*Implementation of Act 129 of 2008;
Organization of Bureaus and Offices;
Doc. No. M-2008-2071852*

Interim Procedural Order

By the Commission:

On October 15, 2008, Governor Rendell signed into law Act 129 of 2008 (Act 129 or Act). The legislation requires electric distribution companies to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory of electric distribution companies in the Commonwealth. The Act also makes changes to the statutory structure of the Commission by eliminating the statutory requirement that the Commission maintain certain Commission bureaus.

The Act, effective November 14, 2008, repeals section 306 of the Public Utility Code, 66 Pa.C.S. § 306, which created the Commission's Office of Trial Staff (OTS). It also repeals sections 308(c) and (e), which recognized the Bureau of Conservation, Economics and Energy Planning (CEEP) and the Office of Special Assistants (OSA) in the statute. 66 Pa.C.S. § 308(c) and (e). However, Act 129 also adds language which gives the Commission greater flexibility in the ability to establish bureaus and assign staff through new section 308.2. 66 Pa.C.S. § 308.2.

The General Assembly, in amending the Public Utility Code, has provided the Commission with greater operational flexibility to respond to the rapidly changing utility environment of the twenty-first century. In particular, this enhanced operational flexibility will give the Commission the ability to realign Commission bureau and offices to meet the needs of a changing utility regulatory environment, to properly align resources and duties, to provide for greater accountability, and to recruit the best staff to meet its current responsibilities.

The Commission is currently undertaking an internal review of Commission operations to determine the best ways to use the enhanced operational flexibility given to us by the General Assembly. However, until this review is completed and to ensure continuity of the Commission staff's functional operations, the Commission intends to maintain the status quo with regard to the duties, responsibilities and functions of the OTS, OSA and CEEP. Utilities, common carriers, parties to Commission proceedings or others who may have a duty through statute, regulation or Commission order to file complaints, petitions, tariffs, reports and other documents and information with these bureaus will continue to do so¹ and will otherwise cooperate with these bureaus until the Commission determines the manner in which its resources

¹ Some examples include, but are not limited to, the requirements that general petitions be served upon OTS (52 Pa. Code § 5.41), as well as petitions for declaratory orders (52 Pa. Code § 5.42), and petitions for issuance, amendment, repeal, or waiver of Commission regulations (52 Pa. Code § 5.43).

should be organized to more effectively respond to the changing utility regulatory environment.

Accordingly, until such time as the Commission completes its internal review and takes formal action to alter the composition of its bureaus and offices, and to avoid any gap in necessary staff functions, the status quo will be maintained as to the duties, responsibilities and functions of these bureaus and offices; *Therefore,*

It Is Ordered That:

1. The Office of Trial Staff, the Office of Special Assistants, and the Bureau of Conservation, Economics and Energy Planning shall continue as bureaus and offices of the Commission and shall perform their duties, responsibilities and functions under the Public Utility Code as previously established by the Commission and the Code prior to enactment of Act 129 of 2008 until the Commission completes its internal review and takes formal action to alter the composition of its bureaus and offices.

2. All utilities, common carriers and other persons having business with the Commission shall cooperate with these bureaus as previously established by the Commission and the Code prior to enactment of Act 129 of 2008.

3. All utilities, common carriers and other persons having business with the Commission shall continue to serve complaints, petitions, tariffs, reports and other documents and information with these bureaus as required by our regulations and orders.

4. The Office of Trial Staff and Law Bureau shall continue to have standing to initiate and participate in Commission proceedings as previously established by the Commission and the Code prior to the enactment Act 129 of 2008.

5. This order shall be effective on November 14, 2008.

6. A copy of this Interim Procedural Order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2179. Filed for public inspection November 28, 2008, 9:00 a.m.]

Order

Public Meeting held
November 6, 2008

Commissioners Present: James H. Cawley, Chairperson;
Tyrone J. Christy, Vice Chairperson; Robert F.
Powelson; Kim Pizzigrilli, Statement attached; Wayne
E. Gardner

*Additional Numbering Resources to Local Exchange
Carriers: Safety Valve Process;
Doc. No. M-2008-2032767*

Order

The Commission issued a Secretarial letter on April 2, 2008, requesting interested parties to submit comments regarding the Commission's "safety valve" petition process. These petitions involve the Commission's delegated authority to award numbering resources to telecommuni-

cations carriers in certain situations where Neustar,¹ the national numbering resource administrator, is unable to do so. Comments were received from various interested parties. Additionally, a working group meeting was subsequently held on May 15, 2008. The Commission has reviewed all comments received by the interested parties and hereby adopts a streamlined safety valve process.

Background

In order to address the rapid growth and use of numbering resources, the Federal Communications Commission ("FCC") issued several orders implementing various methods to reduce the depletion of numbering resources.² In these orders, the FCC delegated to state commissions the ability to monitor and enforce a carrier's compliance with the Federal utilization requirements.³

Specifically, as part of its initiative to address the depletion of numbering resources, the FCC established procedures that address growth numbering resources in its *Third Report and Order*.⁴ The FCC, in that order, reaffirmed that carriers must meet a months-to-exhaust requirement before receiving growth numbering resources so as to ensure that telephone numbers are used efficiently and that carriers are prevented from maintaining excessive inventories of numbers.⁵ In addition, the utility must meet the national utilization threshold requirement of 75%.⁶ According to the FCC's regulations, the North American Numbering Plan Administrator ("NANPA"), Neustar, shall withhold numbering resources from any carrier based on its determination that the utility has not demonstrated a verifiable need for numbering resources and has not exhausted all other available remedies.⁷

However, in that same order, the FCC also established a "safety valve" process⁸ that allows a carrier to obtain additional NXX numbers, in limited circumstances, even if a carrier is not able to meet the utilization level and months-to-exhaust thresholds discussed above that are normally required to obtain additional numbering resources.⁹ The safety valve process is to be used as a last resort and, to the extent possible, as a stop-gap measure to enable carriers in need of additional numbering to continue to serve their customers. The FCC delegated this authority to state commissions. As such, the Commission can provide a telecommunications carrier with additional

numbering resources in a given rate center if the carrier cannot meet the demand for resources through its current inventory.

The Commission's current safety valve process involves a carrier filing a formal petition with the Commission requesting safety valve numbering relief. In that petition, the carrier provides a cover letter requesting a waiver to obtain additional numbering resources; details for the request are generally set forth in an attachment. The information contained in the attachment includes a statement of the purpose of the petition, background of the customer's numbering request, an explanation as to why the carrier is unable to fulfill the customer's request with current numbering resources, and an indication that the carrier applied to Neustar (the numbering administrator) for the requested numbers and evidence that the application was denied.

In addition, a petition must also include a "Thousands-Block Application Form, Part 1A," a months-to-exhaust and utilization certification worksheet, a copy of the written rejection from Neustar, and documentation from the end-user customer that supports the request.

Upon receipt of the petition, the Secretary's Bureau docketed the petition and allows 20 days for an answer or response to the petition in accordance with the Commission's regulations.¹⁰ In the interim, Commission staff drafts an order for consideration by the full Commission at the Public Meeting immediately following the expiration of the 20-day answer period. After approval at Public Meeting, the order is entered and served upon the carrier and the appropriate numbering administrator.¹¹ The Commission processes on average two to three safety valve process petitions from telecommunications carriers per month. To date, all safety valve petitions submitted for consideration at Public Meeting have been approved by the Commission.¹²

At its March 27, 2008 Public Meeting, the Commission unanimously approved the motion of Commissioner Pizzigrilli to convene a working group of interested stakeholders to examine the Commission's procedures for processing safety valve petitions. In her motion, Commissioner Pizzigrilli stated:

I believe that the Commission's current process for evaluating safety valve requests can be streamlined to improve the timeliness and efficiency with which these requests are reviewed. . . . I am confident that Pennsylvania can . . . develop a streamlined approach that will improve our current process while maintaining an appropriate level of oversight and continuing to ensure that any action taken is in the public interest.

By its Secretarial letter issued April 2, 2008, the Commission requested that interested parties submit comments on the safety valve process. Comments were received from AT&T,¹³ Verizon,¹⁴ the Pennsylvania Telephone Association ("PTA"), the United Telephone Company of Pennsylvania, LLC, d/b/a Embarq Pennsylvania

¹ Neustar is a private company selected by the FCC through a competitive bidding process to serve as the North American Numbering Plan Administrator ("NANPA"). In this role, Neustar serves as both the administrator for the North American Numbering Plan, which deals with full 10,000 block number codes, and the national number pooling system, which is a process by which carriers assigned full 10,000 number codes share telephone numbers in 1,000 number blocks.

² See Petition for Declaratory Order Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, CC Docket 96-98 (rel. September 28, 1998); In the Matter of Numbering Resources Optimization, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, (rel. March 31, 2000); In the matter of Numbering Optimization, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 99-200, CC Dockets 99-200 and 96-98, (rel. December 29, 2000); In the Matter of Numbering Resources Optimization, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, CC Docket Nos. 99-200, 96-98, and 95-116, (rel. December 28, 2001).

³ See 47 C.F.R. 52.15(i), (j)(5).

⁴ In the Matter of Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration, CC Docket No. 99-200 (Order adopted December 12, 2001). The order addresses the issue of national thousand-block pooling, including pooling for non-LNP capable and wireless carriers as well as a Federal cost recovery mechanism for thousand-block pooling. The order further addresses other numbering optimization measures including service-specific and technology-specific area code overlays.

⁵ *Id.* at ¶8.

⁶ 47 C.F.R. 52.15(g)-(h).

⁷ *Id.*

⁸ *Id.* at ¶64.

⁹ All applicants for growth numbering resources shall achieve a 75% utilization threshold, calculated in accordance with the Federal regulations for the rate center in which they are requesting growth numbering resources. In addition, the carrier shall provide a months-to-exhaust worksheet that provides utilization by rate center for the preceding 6 months and projected utilization for the next 12-months.

¹⁰ See 52 Pa. Code §§ 5.61 and 5.101.

¹¹ National Pooling has numbering administrators for each geographic region.

¹² There have been some instances where a telecommunications carrier has withdrawn its request.

¹³ AT&T's comments were filed on behalf of AT&T Communications of Pennsylvania, LLC; TCG Pittsburgh, Inc.; and TCG New Jersey, Inc.

¹⁴ Verizon's comments were filed on behalf of Verizon Pennsylvania Inc., Verizon North Inc. and MCIMetro Transmission Services LLC.

("Embarq"); the Broadband Cable Association of Pennsylvania ("BCAP"); D&E Systems, Inc. ("D&E"); and Sprint.¹⁵ A working group meeting was subsequently held on May 15, 2008. Participants included AT&T, Verizon, PTA, Embarq, BCAP and Sprint.

Comments

1. Written Comments

As noted above, written comments were filed by AT&T, Verizon, PTA, Embarq, BCAP, D&E and Sprint. Summaries of those written comments are as follow:

a. AT&T

AT&T stated that it agrees with Commissioner Pizingrilli that Pennsylvania should adopt a streamlined process for disposing of safety valve numbering requests. AT&T believes that such a process is necessary to enable businesses in Pennsylvania that need telephone numbers "to keep their plans for increased economic activity in the Commonwealth on schedule" because delays in "furnishing the numbers required . . . directly delays the [utility's customer's] plans to increase its operations . . ." AT&T also noted that no answers have ever been filed in response to safety valve petitions and no petitions have ever been denied by the Commission.

AT&T recommends: (1) shortening the 20-day response time for safety valve petitions to five calendar days pursuant to the Commission's authority under section 5.61(a) of its regulations;¹⁶ (2) mandating that copies of safety valve petitions be submitted by e-mail to staff; (3) if no answer is filed to a safety valve petition, automatically approving the petition on the sixth calendar day or the first business day thereafter; (4) directing staff to notify the petitioning carrier of the approval by electronic mail; and (5) issuing an order formally approving the petition at the first Public Meeting following the automatic approval period. In the event that an answer is filed, the petition would not be automatically approved but would be considered at the first Public Meeting after the five-day answer period has passed.

b. Verizon

Verizon also agrees that Pennsylvania should adopt a streamlined safety valve process. Verizon echoed AT&T's comment to this effect that no answers have ever been filed in response to safety valve petitions and that, in spite of this, it generally takes at least 30 days, and sometimes up to 60 days, from the date a petition is filed before it is granted. Verizon notes that, in its orders creating the safety valve process the FCC directed states to dispose of the requests "as expeditiously as possible." Verizon feels this directive is not being met under the current system.

Verizon suggests a streamlined process that mirrors the process proposed by AT&T.

c. Sprint

Sprint recommends establishing a ten-day period for considering safety valve requests. Sprint also provided a list of criteria the Commission should consider when reviewing safety valve requests that is similar to the criteria currently used by the Commission.

¹⁵ Sprint's comments were filed on behalf of Sprint Communications Company, LP; Sprint Spectrum, LP; Nextel Communications of Mid-Atlantic, Inc.; and NPCR, Inc.
¹⁶ 52 Pa. Code § 5.61(a).

d. Remaining Comments

D&E and Embarq did not provide any specific comments of their own but did voice support for the comments filed by AT&T. PTA and BCAP also did not provide any specific comments but also voiced support for the Commission adopting a streamlined process and indicated that they would like to participate in the working group session.

2. Working Group Session

A working group session for interested parties was held on May 15, 2008; all commenting parties participated with the exception of D&E. The session consisted of a give-and-take dialogue of the ideas proposed in the written comments as well as of ideas proposed by staff.

Discussion

After reviewing the comments and meeting with the interested parties, we have determined that the following changes will be made to the current safety valve process: (1) requests for numbering relief shall no longer be filed in the nature of a formal petition; (2) the Commission will create a template form that companies can file when requesting numbering relief from the Commission; and (3) safety valve requests will be disposed of via Secretarial letters approved at Public Meeting.

1. Cease Requiring Numbering Requests to be in the Form of Petitions

As noted above, the Commission currently treats numbering requests as petitions. By doing so, the 20-day answer/responsive pleading requirements found in the Commission's regulations automatically attach.¹⁷ We acknowledge that this 20-day answer period often causes an excessive delay in the granting of these requests since the numbering requests will not be processed and submitted for consideration at Public Meeting until the response time has elapsed. This delay is unnecessary largely because no numbering request has ever been protested by another party. Moreover, numbering petitions are not served on any parties, so it is unlikely that a numbering petition ever would be protested. Further, there is a question as to whether anyone has standing to protest a numbering petition.

Additionally, we note that there is no requirement in any of the FCC orders delegating safety valve authority that applications for numbering resources be docketed as petitions; rather, the FCC used the generic term "request" to describe an application for numbering resources.¹⁸

We are opposed to simply shortening the responsive period for numbering petitions as was suggested by AT&T and those supporting AT&T's comments. We strongly believe that the response periods for all petitions filed with the Commission should be kept uniform so as to avoid confusion. While all commenting parties do not necessarily share our view that all response times should be kept consistent, they do accept changing the form of the numbering requests away from petitions as a reasonable alternative to keeping the requests as petitions with a shortened response period. Accordingly, we will begin to designate all future safety valve matters as "requests" so that the 20-day response period set forth in our regulations is not applicable.

¹⁷ See 52 Pa. Code §§ 5.61 and 5.101.

¹⁸ See In the Matter of Numbering Resources Optimization Third Report and Order and Second Order on Reconsideration in CC docket No. 96-98 and CC docket No. 99-200, CC Docket Nos. 99-200, 96-98, 95-116, December 12, 2001.

2. Create Uniform Request Form

While all numbering requests are currently docketed as petitions, there is no uniformity in the form of pleadings filed by the companies. Some companies file formal petitions while others file letter petitions.¹⁹ While this generally does not cause technical and legal staff any issues, it does understandably tend to create confusion as to how to docket the different filings.

As such, we hereby adopt the working group's consensus recommendation to create a standard form for companies to file when requesting numbering relief. The form will help expedite docketing and provide a more consistent and orderly flow of information. We have created a template referred to as a "Safety Valve Numbering Resource Request Form" in light of the discussion above. A copy of that form, to be included on the Commission's web site, is attached to this order. The Commission directs that carriers file the request form with the Secretary's Bureau, but contemporaneously serve the Law Bureau and the Bureau of Fixed Utility Services with copies of the filing.

3. Delegate Authority to Dispose of Numbering Requests to Staff

All commenting parties fully supported delegating authority to Commission staff to dispose of safety valve requests. The parties noted that numerous other states including New Jersey, New York and Delaware dispose of safety valve requests via administrative action. The parties believe that such delegation would expedite the safety valve process. In fact, in order to truly expedite the process, AT&T proposed that after a five-day response time frame that safety valve requests should be automatically "pre-approved" by staff and then subsequently an order formally approving the staff determination be issued by the Commission at the first Public Meeting following the automatic staff pre-approval.

The Commission, however, recognizes that safety valve requests involve scarce public resources. Because of that, we believe that future safety valve requests should continue to be submitted to the full Commission for consideration at Public Meeting. If granting the request is found to be in the public interest, the full Commission will issue a Secretarial letter awarding the numbering relief. That letter will be served on the carrier and the appropriate numbering administrator. The Commission notes that Secretarial letters can have same legal effect as Commission orders. See *West Pennsylvania Power Company v. Pennsylvania Public Utility Commission*, 100 A.2d 110 (Pa. Super. 1954).

In order to expedite the process, we direct staff to review the requests within a ten-day time frame and to submit a recommendation to the Commission for consideration at the next available Public Meeting thereafter. We believe that a ten-day time frame will still provide a requesting carrier with numbering resources in a reasonable amount of time while not hampering the Commission's ability to fully review each request. However, the Commission reserves the right to review safety valve requests beyond the ten day time frame as prescribed in this Order if the carrier's information is incomplete or warrants additional review.

¹⁹ All companies do, however, provide the same information; it is simply the form of the information that varies by company.

Conclusion

Based on the foregoing, we modify the current safety valve process in the following manner: (1) requests for numbering relief shall no longer be filed in the nature of a formal petition; (2) the Commission will create a template form that companies shall file when requesting numbering relief from the Commission; and (3) safety valve requests will be disposed of via Secretarial letter approved at Public Meeting; *Therefore,*

Statement of Commissioner Kim Pizzigrilli

Today the Commission implements a streamlined safety valve process which will improve the timeliness and efficiency of the review of requests for numbering resources made pursuant to the Safety Valve provision of the FCC's *Third Report and Order*²⁰ (FCC Order). I wish to thank the stakeholders, who filed comments and participated in the working group, and Staff for their collaborative efforts in providing valuable insight which resulted in improving the manner in which the Commission processes safety valve requests.

Since telecommunications carriers generally request additional numbers in response to service orders from large business customers, I believe it is imperative that the Commission expeditiously act upon these requests to ensure that Pennsylvania remains attractive to businesses seeking to expand or relocate its activities within the Commonwealth. Therefore, I encourage Staff to monitor the revised process and continue to develop further enhancements.

KIM PIZZINGRILLI,
Commissioner

It Is Ordered That:

1. The Commission will streamline the "safety valve" process as set forth in the body of this Order.
2. The future safety valve requests submitted to the Commission after the entry date of this Order shall be completed on the template form adopted by the Commission and attached to this Order as "Appendix A."
3. The future safety valve requests submitted to the Commission after the entry date of this Order shall be processed in the manner set forth in the body of this Order.
4. The Secretary's Bureau shall serve a copy of this Order upon all jurisdictional telecommunications carriers.
5. The copy of this Order be published in the *Pennsylvania Bulletin* and published on our web site.
6. This docket be marked closed.

JAMES J. MCNULTY,
Secretary

Appendix A: Pennsylvania Safety Valve Numbering Request Form

APPENDIX A

PENNSYLVANIA SAFETY VALVE NUMBERING RESOURCE REQUEST FORM

1. Certify existing numbering inventory cannot satisfy this specific request and/or requirement, and customer's request is not a "vanity number" request:

²⁰ In the Matter of Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration, CC Docket No. 99-200 (Order adopted December 12, 2007).

Name of Certifier _____
 Company Name _____
 OCN _____
 Date _____
 Telephone _____
 Email _____

2. Indicate reason(s) for this safety valve request (check all that apply):

Specific customer request—verified by attached confidential customer letter/document

- _____ need specific block(s) / NXX(s) for internal dialing plan (e.g. NXX ending in 2)
- _____ equipment limitations (e.g. cannot use 0, 9 blocks)
- _____ need large block(s) of sequential TNs for business expansion/growth
- _____ wholesale/resale business arrangement
- _____ other customer requirement as explained in attachment

SP technical requirement—verified in attached confidential document

- _____ need TNs for specific technology (e.g., TLDNs, prepaid service, test #s)
- _____ Location Routing Number (LRN) requirements
- _____ other technical requirement as explained in attachment

Growth requirement—verified in attached confidential document

- _____ new technology release
- _____ accelerated demand
- _____ market promotion
- _____ other growth requirement as explained in attachment

3. All requests will require NANPA/PA application request and associated denial and one of the following (check accompanying document):

- _____ Customer letter—required for specific customer request
- _____ SP technical requirement—documentation
- _____ Growth request—documentation

Explanation for "Other" entry on checklist:

Confidentiality Notice: This document and all attachment(s) are for the sole use of the intended recipient(s) at the PA PUC, and contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. This confidentiality requirement does not apply to transfer of necessary data between the PA PUC and NANPA/PA.

[Pa.B. Doc. No. 08-2180. Filed for public inspection November 28, 2008, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 15, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-2008-2073876. Phil's Auto and Taxi, Inc., t/a Phil's Dependable Taxi (405 Walnut Street, Sharon, Mercer County, PA 16146)—persons in paratransit service, from points in Mercer County, to points in Pennsylvania, and return.

A-2008-2073878. Chris L. Cloud and Associates, LLC (747 Cypress Street, Yeadon, Delaware County, PA 19050), a limited liability company of the Commonwealth—persons, in limousine service, from points in the Counties of Montgomery, Delaware, Chester and Bucks, to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

A-2008-2074819. RDC Bus Lines, LLC (500 Greentree Commons, 381 Mansfield Avenue, Pittsburgh, Allegheny County, PA 15220)—persons, upon schedule, and their baggage together with mail, newspapers and such property as can be transported in buses without the removal of seats, between the Township of Ross, Allegheny County, and the City of Harrisburg, Dauphin County, over the following routes: beginning at the North Hills Village in the Township of Ross, Allegheny County, thence by means of US Truck Route 19 to Interstate Highway 279, thence by means of Interstate Highway 279 to the City of Pittsburgh, Allegheny County, thence by means of various city streets to Interstate Highway 376, thence by means of Interstate Highway 376 to PA Highway 48, thence by means of PA Highway 48 to the City of Monroeville, thence by means of US Highway 22 to Interstate Highway 76, thence by means of Interstate Highway 76 to US Highway 15, thence by means of US Highway 15 to PA Highway 581, thence by means of PA Highway 581 to Interstate Highway 83, thence by means of Interstate Highway 83 to the City of Harrisburg, and return over the same routes. *Attorney:* William A. Gray, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Grant Building, Pittsburgh, PA 15219-2383.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.

A-2008-2073865. Executive Car and Limousine Service, Inc. (1009 Hearthstone Way, Lewisburg, Union County, PA 17837), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Union, Lycoming, Montour, Snyder and Northumberland, to points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Fred P. Rinaldi, Esquire, Rinaldi & Poveromo, P. C., 520 Spruce Street, P. O. Box 826, Scranton, PA 18501.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.

A-2008-2073844. Guyon Fisher, t/a Fisher's Moving (48 Lincoln Avenue, Ephrata, Lancaster County, PA 17522)—household goods in use, from points in the Borough and Township of Ephrata, Lancaster County, to points in Pennsylvania, and vice versa.

Application of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-2008-2074290. Rainbow Transportation, LLC (P. O. Box 3428, Easton, Northampton County, PA 18043)—a limited liability corporation of the Commonwealth—discontinuance of service and cancellation of its certificate—persons upon call or demand, in the City of Easton, the Borough of Wilson, the Townships of Palmer and Williams, all in Northampton County; subject to the following general conditions: that no right power or privilege is granted to provide service in the Township of Bethlehem, Northampton County.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-2181. Filed for public inspection November 28, 2008, 9:00 a.m.]

Transfer of Control

A-2008-2074706. Orwell Natural Gas Company and Energy West Incorporated. Joint application of Orwell Natural Gas Company and Energy West Incorporated for approval of the Transfer of Control of Orwell Natural Gas Company to Energy West Incorporated.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 15, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Orwell Natural Gas Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Long, Niesen and Kennard, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2182. Filed for public inspection November 28, 2008, 9:00 a.m.]

Wastewater Service

A-2008-2074772. Nantmeal Warwick Sewer Company, Inc. Application of Nantmeal Warwick Sewer Company, Inc. for approval to extend its service area and to supply wastewater service to the public in an additional portion of Warwick Township, Chester County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 9, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Nantmeal Warwick Sewer Company, Inc.

Through and By Counsel: Daniel P. Delaney, Esquire, K&L Gates, LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2183. Filed for public inspection November 28, 2008, 9:00 a.m.]

Water Service

A-2008-2074746. Aqua Pennsylvania, Inc. and Emlenton Water Company. Joint application of Aqua Pennsylvania, Inc. (Aqua) and Emlenton Water Company (Emlenton) for approval of: 1) the acquisition by Aqua of the water system assets of Emlenton situated in Emlenton Borough and a portion of Richland Township, Venango County, and a portion of Richland Township, Clarion County, PA; 2) the right of Aqua to begin to supply water service to the public in Emlenton Borough and a portion of Richland Township, Venango County, and a portion of Richland Township, Clarion County, PA; and 3) the abandonment by Emlenton of public water service in Emlenton Borough and a portion of Richland Township, Venango County, and a portion of Richland Township, Clarion County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 15, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc. and Emlenton Water Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Long, Niesen and Kennard, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2184. Filed for public inspection November 28, 2008, 9:00 a.m.]

Water Service

A-2008-2074771. Elverson Water Company, Inc. Application of Elverson Water Company, Inc., for approval to extend its service area and to supply water service to the public in an additional portion of Warwick Township, Chester County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 9, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Elverson Water Company, Inc.

Through and By Counsel: Daniel P. Delaney, Esquire, K&L Gates, LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2185. Filed for public inspection November 28, 2008, 9:00 a.m.]

Water Service

A-2008-2073929. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in portions of Valley Township, Chester County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 15, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania-American Water Company

Through and By Counsel: Susan Simms Marsh, Corporate Counsel, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-2186. Filed for public inspection November 28, 2008, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 08-138.P, High Mast Lighting Replacement at Tioga Marine Terminal (TMT) until 2 p.m. on Tuesday, December 23, 2008. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 2, 2008. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable EEO laws. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department.

Mandatory prebid job site meeting will be held December 11, 2008, 10 a.m. at Pier entrance gate, Delaware Avenue and Tioga Street, Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.
Executive Director

[Pa.B. Doc. No. 08-2187. Filed for public inspection November 28, 2008, 9:00 a.m.]

STATE BOARD OF BARBER EXAMINERS

Bureau of Professional and Occupational Affairs v. Jeffrey Anderson; Doc. No. 1793-42-2008

On September 30, 2008, Jeffrey Anderson, of Philadelphia, Philadelphia County, had his license no. BL-049465-L to practice barbering suspended under the Order of the Court of Common Pleas in Philadelphia County dated September 8, 2008, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). This suspension is effective immediately.

Individuals may obtain a copy of the adjudication by writing to Cynthia K. Montgomer, Senior Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Barber Examiners (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

VINCENT IACONO,
Chairperson

[Pa.B. Doc. No. 08-2188. Filed for public inspection November 28, 2008, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.
Cornel Clinkscale; Doc. No. 1789-42-2008**

On September 30, 2008, Cornel Clinkscale, of Philadelphia, Philadelphia County, had his license no. BL-050163-L to practice barbering suspended under the Order of the Court of Common Pleas in Philadelphia County dated September 8, 2008, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). This suspension is effective immediately.

Individuals may obtain a copy of the adjudication by writing to Cynthia K. Montgomer, Senior Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Barber Examiners (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

VINCENT IACONO,
Chairperson

[Pa.B. Doc. No. 08-2189. Filed for public inspection November 28, 2008, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.
Carlos Favors, Sr.; Doc. No. 1792-42-2008**

On September 30, 2008, Carlos Favors, Sr., of Philadelphia, Philadelphia County, had his license no. BL-049978-L to practice barbering suspended under the Order of the Court of Common Pleas in Philadelphia County dated September 8, 2008, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). This suspension is effective immediately.

Individuals may obtain a copy of the adjudication by writing to Cynthia K. Montgomer, Senior Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Barber Examiners (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

VINCENT IACONO,
Chairperson

[Pa.B. Doc. No. 08-2190. Filed for public inspection November 28, 2008, 9:00 a.m.]

