

# PENNSYLVANIA BULLETIN

Volume 37

Number 19

Saturday, May 12, 2007 • Harrisburg, PA

Pages 2169—2280

## Agencies in this issue

The Courts  
Department of Banking  
Department of Conservation and Natural Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Environmental Hearing Board  
Environmental Quality Board  
Fish and Boat Commission  
Historical and Museum Commission  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
Public School Employees' Retirement  
State System of Higher Education

**Detailed list of contents appears inside.**



PRINTED ON 100% RECYCLED PAPER



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

**No. 390, May 2007**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE**

If information on mailing label is incorrect, please make changes in space provided below and mail to:

**FRY COMMUNICATIONS, INC.  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

**FRY COMMUNICATIONS**  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 2340  
(800) 334-1429 ext. 2340 (toll free, out-of-State)  
(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

**Fry Communications, Inc.**  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198

Copyright © 2007 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE COURTS

**DISCIPLINARY BOARD OF THE SUPREME COURT**  
 Notice of suspension ..... 2179

**RULES OF CIVIL PROCEDURE**  
 Amendment of rule 4017.1 governing video depositions; no. 475 civil procedural rules; doc. no. 5 ..... 2178

## EXECUTIVE AGENCIES

**DEPARTMENT OF BANKING**  
**Notices**  
 Action on applications ..... 2216

**DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**  
**Notices**  
 Conservation and Natural Resources Advisory Council meeting ..... 2218

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Notices**  
 Applications, actions and special notices ..... 2218  
 High energy demand day memorandum of understanding approved by the Ozone Transportation Commission ..... 2255

**DEPARTMENT OF GENERAL SERVICES**  
**Notices**  
 Real estate for sale ..... 2255

**DEPARTMENT OF HEALTH**  
**Notices**  
 Application of Dubois Regional Medical Center for exception ..... 2256  
 Application for request for exception to 28 Pa. Code § 123.25(2) ..... 2256

**DEPARTMENT OF PUBLIC WELFARE**  
**Rules and Regulations**  
 Home health agency services ..... 2185  
 Special MA eligibility provisions ..... 2180

**Statements of Policy**  
 Rescission of the statement of policy clarifying the conditions under which Medical Assistance recipients may be considered home bound ..... 2215

**Notices**  
 Expansion of the Long-Term Care Capitated Assistance Program; request for information ..... 2256  
 Medical Assistance Program fee schedule revision; change to conversion factor for anesthesia services ..... 2257  
 Medical Assistance Program; prior authorization list ..... 2257

**DEPARTMENT OF REVENUE**  
**Notices**  
 Pennsylvania Cloud 9 instant lottery game ..... 2258  
 Pennsylvania Fire 'n' Ice Bingo instant lottery game ..... 2259  
 Pennsylvania Harley-Davidson® '07 instant lottery game ..... 2263

**DEPARTMENT OF TRANSPORTATION**  
**Notices**  
 Contemplated sale of access rights ..... 2265  
 Request for bids (2 documents) ..... 2265, 2266  
 Sale of land no longer required for transportation... 2266

**ENVIRONMENTAL HEARING BOARD**  
**Notices**  
 Borough of Myerstown v. DEP; EHB doc. no. 2007-104-C ..... 2266  
 Meadows Sewer Company v. DEP; EHB doc. no. 2007-105-C ..... 2266

**ENVIRONMENTAL QUALITY BOARD**  
**Proposed Rulemaking**  
 Stream redesignations (Big Brook, et al.) ..... 2190

**FISH AND BOAT COMMISSION**  
**Proposed Rulemaking**  
 Fishing; American eels ..... 2196

**HISTORICAL AND MUSEUM COMMISSION**  
**Notices**  
 State Surplus Property Program; deaccession auction ..... 2266

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
**Notices**  
 Notice of comments issued ..... 2267  
 Notice of filing of final rulemakings ..... 2272

**INSURANCE DEPARTMENT**  
**Notices**  
 Application for approval to acquire control (2 documents) ..... 2272, 2273  
 Application and request for a certificate of authority ..... 2273  
 Application for voluntary surrender of certificate of authority (2 documents) ..... 2273, 2274

**LIQUOR CONTROL BOARD**  
**Notices**  
 Expiration of leases ..... 2274

**PENNSYLVANIA GAMING CONTROL BOARD**  
**Proposed Rulemaking**  
 General provisions; applications; licensed entity representatives; manufacturer licenses; supplier licenses; horsemen's organizations; labor organizations; junket enterprises; management companies ..... 2197

---

**Now Available Online at <http://www.pabulletin.com>**

---

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Notices**

Services of notice of motor carrier applications..... 2275  
Telecommunications (4 documents)..... 2278  
Tentative order ..... 2279

**PHILADELPHIA REGIONAL PORT AUTHORITY**

**Notices**

Request for bids (2 documents) ..... 2279, 2280

**PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD**

**Notices**

Hearings scheduled ..... 2280

**STATE SYSTEM OF HIGHER EDUCATION**

**Notices**

Bid opportunity; Clarion University ..... 2280

# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

### **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

### **Citation to the *Pennsylvania Bulletin***

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

**SUBSCRIPTION INFORMATION: (717) 766-0211  
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### 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.

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2007.

## 1 Pa. Code (General Provisions)

### Proposed Rules

301	1220
303	1220
305	1220
307	1220
309	1220
311	1220
311a	1220
313	1220
315	1220

## 4 Pa. Code (Administration)

### Statements of Policy

9	27, 953, 1870
---	---------------

## 7 Pa. Code (Agriculture)

### Adopted Rules

130e	194
------	-----

### Proposed Rules

11	951
21	672
23	672
25	672
27	672
95	951
123	951
125	951
128a	951

## 12 Pa. Code (Commerce, Trade and Local Government)

### Adopted Rules

145	1840
-----	------

## 22 Pa. Code (Education)

### Adopted Rules

49	209
----	-----

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

93	11
123	883
126	209
803	774
804	774
805	774
806	774
807	774
808	774

### Proposed Rules

93	2190
121	2063
127	1317
129	2063
145	2063
901	785

## 28 Pa. Code (Health and Safety)

### Statements of Policy

931	953
-----	-----

## 31 Pa. Code (Insurance)

### Adopted Rules

84a	1125
-----	------

### Proposed Rules

133	1229
-----	------

## 34 Pa. Code (Labor and Industry)

### Statements of Policy

123	317
-----	-----

## 37 Pa. Code (Law)

### Proposed Rules

97	786
----	-----

### Statements of Policy

200	1651
411	1651

## 40 Pa. Code (Liquor)

### Adopted Rules

5	16
11	16
13	16
17	16

## 49 Pa. Code (Professional and Vocational Standards)

### Adopted Rules

7	20
16	1644
18	1644

### Proposed Rules

13	1867, 1868
21	1035, 1980
27	1036
31	1038
35	1499
39	1494
43b (correction)	2098

## 52 Pa. Code (Public Utilities)

### Proposed Rules

64	1032
Unclassified	1126, 2098

### Statements of Policy

69	29, 1335
----	----------

## 55 Pa. Code (Public Welfare)

### Adopted Rules

140	2180
1249	2185

### Proposed Rules

1150	1865
1243	1865

### Statements of Policy

178	1043, 1046
1101	1880
1249	2215

**58 Pa. Code (Recreation)****Adopted Rules**

135	1309
137	1310
147	1310, 1311, 1312

**Proposed Rules**

63	2196
65	1218
69	1218
111	1220
131	1325
135	315
137	1333
139	1327
141	1320, 1324
147	211, 1333
421a	2197
423a	2197
425a	2197
427a	2197
431a	2197
436a	2197
438a	2197
439a	2197
440a	2197
491a	23
501a	416
503a	416
511a	1490
513a	1490

**Statements of Policy**

436a	2099
436b	2099

**Temporary Rules**

401	21, 1841, 1968
405	1313, 1968
421	1970
423	1968, 1970
425	21
427	1970
429	1862
431	1970
433	1841
435	1841
437	1841
441	1841
443	1841
461	1968
465	1978
511	1314

**61 Pa. Code (Revenue)****Proposed Rules**

1001	1028
------	------

**Statements of Policy**

60	1048
----	------

**67 Pa. Code (Transportation)****Adopted Rules**

75	1487
457	1650

**201 Pa. Code (Judicial Administration)****Adopted Rules**

19	929
----	-----

**204 Pa. Code (Judicial System General Provisions)****Adopted Rules**

71	311
83	1959

**Proposed Rules**

81	394
83	394, 520

**207 Pa. Code (Judicial Conduct)****Adopted Rules**

1	752
3	752
117	1025, 1839

**210 Pa. Code (Appellate Procedure)****Adopted Rules**

1	521
3	521
9	521

**225 Pa. Code (Rules of Evidence)****Proposed Rules**

VIII	669
------	-----

**231 Pa. Code (Rules of Civil Procedure)****Adopted Rules**

200	312
400	1480
1000	1411, 1480
1700	1480
1900	929
1910	522
1920	1959
2200	1480
3000	939, 1411
4000	2178
Part II	1759

**Proposed Rules**

200	1640
1300	1641
1910	1120
3000	1641
4000	7

**234 Pa. Code (Rules of Criminal Procedure)****Adopted Rules**

4	523, 752
7	523
8	1960
10	312

**Proposed Rules**

2	1302
5	1025, 1303

**237 Pa. Code (Juvenile Rules)****Adopted Rules**

1	1123, 1483
2	1483
3	1123
6	1123
8	1123, 1483
11	1123

**Proposed Rules**

1	527, 1306
3	527
5	527
11	943



12 ..... 943  
 13 ..... 943  
 14 ..... 943  
 15 ..... 943  
 16 ..... 943  
 17 ..... 943  
 18 ..... 943

**246 Pa. Code (Minor Court Civil Rules)**

**Adopted Rules**

100 ..... 2092

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

Unclassified . . . . . 255, 400, 401, 404, 530, 670, 671, 761,  
 768, 770, 772, 773, 949, 950, 1026, 1124, 1215, 1216,  
 1414, 1642, 1962, 2094, 2095, 2096

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CH. 4000]

#### Amendment of Rule 4017.1 Governing Video Depositions; No. 475 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 25th day of April, 2007, Pennsylvania Rule of Civil Procedure 4017.1 is amended to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2007.

Mr. Justice Fitzgerald did not participate in the consideration or decision of this matter.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 4000. DEPOSITIONS AND DISCOVERY

#### ENTRY UPON PROPERTY FOR INSPECTION AND OTHER ACTIVITIES

Rule 4017.1. [ Videotape ] Video Depositions.

(a) Any deposition [ taken ] upon oral examination may be [ recorded by videotape ] taken as a matter of course as a video deposition by means of simultaneous audio and visual electronic recording. Except as provided by this rule, the rules of this chapter governing the practice and procedure in depositions and discovery shall apply.

(1) Any party may have a [ videotape ] video deposition recorded simultaneously by stenographic means as provided by this chapter.

(2) A [ videotape ] video deposition may be used in court only if accompanied by a transcript of the deposition.

(b) Every notice or subpoena for the taking of a [ videotape ] video deposition shall state

(1) that [ it ] the deposition is to be [ videotaped ] taken as a video deposition,

(2) the name and address of the person whose deposition is to be taken,

(3) the name and address of the officer before whom it is to be taken,

(4) whether the deposition is to be simultaneously recorded by stenographic means, and

(5) the name and address of the [ videotape ] video operator and of his or her employer. The operator may be an employee of the attorney taking the deposition.

(c) The deposition shall begin by the operator stating on camera (1) his or her name and address, (2) the name and address of his or her employer, (3) the date, time and place of the deposition, (4) the caption of the case, (5) the name of the witness, and (6) the party on whose behalf the deposition is being taken. The officer before whom the deposition is taken shall then identify himself or herself and swear the witness on camera. At the conclusion of the deposition the operator shall state on camera that the deposition is concluded. When the length of the deposition requires the use of more than one [ tape ] videotape, the end of [ each tape ] the videotape and the beginning of each succeeding [ tape ] videotape shall be announced on camera by the operator.

(d) The deposition shall be timed by a digital clock on camera which shall show continually each hour, minute and second of each [ tape ] videotape of the deposition.

(e) No signature of the witness shall be required.

(f) The attorney for the party taking the deposition shall take custody of and be responsible for the safeguarding of the videotape and shall permit the viewing of and shall provide a copy of the videotape or the audio portion thereof upon the request and at the cost of a party.

(g) In addition to the uses permitted by Rule 4020 a [ videotape ] video deposition of a medical witness or any witness called as an expert, other than a party, may be used at trial for any purpose whether or not the witness is available to testify.

(h) At a trial or hearing that part of the audio portion of a [ videotape ] video deposition which is offered in evidence and admitted, or which is excluded on objection, shall be transcribed in the same manner as the testimony of other witnesses. The videotape shall be marked as an exhibit and may remain in the custody of the court.

**Official Note:** Local rules and practice shall regulate the procedure for handling objections to questions and answers on the [ tape ] videotape. Suggested devices include inter alia, previewing by the judge and counsel and withholding from the evidence material to which objections are sustained; or having the operator turn off the audio portion of the [ tape ] videotape at the trial or hearing to exclude objectionable material or the use of "fast forward" by the operator at the trial or hearing to eliminate both the image and the sound of the objectionable material.

**(i) As used in this rule, "videotape" includes all media on which a video deposition may be recorded.**

#### Explanatory Comment

Rule 4017.1 governing video depositions has been amended in two respects. First, the amendment allows a party to take video depositions as a matter of course. Although the present rule contains no limitation upon or prerequisite to the taking of a video deposition, some courts have imposed limitations citing the cost of the deposition and the burden to the party being deposed. See for example, *Tillett v. Shento*, 131 P.L.J. 297 (C.P. Alle-

gheny 1982). However, technological advances have lowered the cost of a video deposition and either reduced or eliminated the burden to the parties.

There has been a noted lack of civility of parties, deponents and attorneys in connection with depositions upon oral examination. There also occurs the abusive practice of attorneys who raise objections which suggest an answer to the deponent or who instruct the deponent not to answer a question without reasonable basis. The ability of a party to use video depositions as a matter of course may have the salutary effect of discouraging egregious conduct during depositions.

Second, advancements in technology have provided new methods of video recording an oral deposition in addition to videotaping. The terminology of the rule has been changed to reflect those advancements.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 07-835. Filed for public inspection May 11, 2007, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Claude Alexander Allen having been suspended from the practice of law in the Commonwealth of Virginia by Order of the Virginia State Bar Disciplinary Board dated December 8, 2006, the Supreme Court of Pennsylvania issued an Order dated April 30, 2007 suspending Claude Alexander Allen from the practice of law in this Commonwealth consistent with the Order of the Virginia State Bar Disciplinary Board. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 07-836. Filed for public inspection May 11, 2007, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [55 PA. CODE CH. 140]

#### Special MA Eligibility Provisions

The Department of Public Welfare (Department), under sections 201(2) and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)) and section 1902(a)(10)(A)(ii)(XVIII) of the Social Security Act (42 U.S.C.A. § 1396a(a)(10)(A)(ii)(XVIII)) (Title XIX), regarding state plans for medical assistance, adds Chapter 140, Subchapter E (relating to the categorically needy breast and cervical cancer prevention and treatment program for qualified women). Notice of proposed rulemaking was published at 34 Pa.B. 6335 (November 27, 2004).

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

The purpose of this final-form rulemaking is to take advantage of a Federal option in the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (Pub. L. No. 106-354, 104 Stat. 409) (BCCPT Act), which amended section 1902(a)(10)(A)(ii)(XVIII) of the Social Security Act. The BCCPT Act permits states to provide Medical Assistance to women under 65 years of age who have been screened for breast or cervical cancer through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP). Individuals must be diagnosed and found to need treatment for either breast or cervical cancer or a precancerous condition of the breast or cervix. Coverage is limited to women who are "uninsured," which is defined in § 140.702 (relating to definitions) as lacking "creditable coverage" as that term is defined in the Health Insurance Portability and Accountability Act (HIPAA) (section 2701(c) of the Public Health Service Act (42 U.S.C.A. § 300gg(c)(1)), regarding increased portability through limitation on preexisting condition exclusions.

Consistent with the BCCPT Act, providers and facilities funded in full or in part by the CDC are authorized to screen women only. Breast cancer is the most common form of cancer diagnosed among women in this Commonwealth and the second most common cause of cancer deaths for women in this Commonwealth ([www.health.state.pa.us/stats](http://www.health.state.pa.us/stats)). Cervical cancer, while less common than breast cancer, is one of the most successfully treatable cancers, if detected at an early stage ([www.health.state.pa.us/stats](http://www.health.state.pa.us/stats)).

The BCCPT Act amended Title XIX of the Social Security Act. The Commonwealth has elected this option and published a notice of intent at 32 Pa.B. 115 (January 5, 2002) to implement the Breast and Cervical Cancer Prevention and Treatment Program (BCCPT Program). The Commonwealth's State Plan Amendment to provide Medical Assistance under the BCCPT Program to uninsured women screened and diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, was approved on February 15, 2002, by the Centers for Medicare and Medicaid Services. The Department of Health (DOH) is the designated screening entity for the BCCPT Program.

Under Federal law, the DOH must agree that low-income women will be given priority in the provision of services. See 42 U.S.C.A. § 300n(a), regarding additional required agreements. Under its grant agreement with the

NBCCEDP, the DOH HealthyWoman Project provides breast and cervical cancer screening for uninsured women who are under 65 years of age and have a household income below 250% of the Federal Poverty Income Guidelines (FPIG). Prior to the implementation of the BCCPT Program on January 1, 2002, there were no consistent avenues available to fund the ongoing treatment needs of low-income, uninsured women who were screened and diagnosed with breast or cervical cancer.

#### *Affected Individuals and Organizations*

The final-form rulemaking affects and benefits women under 65 years of age who are uninsured, who have been screened for breast or cervical cancer through the CDC NBCCEDP and have been diagnosed and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

There are approximately 11,600 women diagnosed with breast and cervical cancer each year in this Commonwealth ([www.health.state.pa.us/stats](http://www.health.state.pa.us/stats)). Census data was used to estimate the total number of the 11,600 women who are under 65 years of age and have income levels between 100% and 250% of the FPIG. The result of this analysis indicated that there are an additional 1,109 women who may be eligible for Medical Assistance each year under this option.

#### *Accomplishments and Benefits*

The final-form rulemaking will take advantage of a Federal option in the BCCPT Act that permits states to provide Medical Assistance to uninsured women under 65 years of age who have been screened for breast or cervical cancer through the CDC NBCCEDP and diagnosed and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

There has been no consistent avenue available to fund ongoing treatment needs of low-income, uninsured women diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix. As a result, many women may have gone without necessary treatment that may prevent or cure their illness. This option will provide low-income, uninsured women with Medical Assistance that will enable them to seek necessary treatment, thereby decreasing the incidence of uncompensated care and this Commonwealth's cancer mortality rate.

There may be a reduction in premature mortality rates from breast and cervical cancer as a result of screening, early diagnosis and treatment. Health care providers may see a reduction in the incidence of uncompensated care for uninsured women who require treatment for breast and cervical cancer.

#### *Fiscal Impact*

The Insurance Department might realize a savings since some women determined eligible for the BCCPT Program might have been otherwise eligible for medical coverage under the adult Basic Program administered by the Insurance Department and funded by tobacco settlement funds.

Private hospitals and physicians who treat uninsured women with breast or cervical cancer, or a precancerous condition of the breast or cervix, may be compensated for services rendered.

Low-income (under 250% FPIG), uninsured women who may have otherwise incurred personal debt will realize a savings.

*Paperwork Requirements*

New application forms were created exclusively for use with the BCCPT Program: the PA 600B—for applications; the PA 600BP—for partial redeterminations; and the PA 600BR—for annual redeterminations. These forms have been in use since the beginning of the BCCPT Program. Each form provides instructions for use by the applicant or recipient and provider. The Department has not received adverse comments regarding these forms.

The BCCPT Program application, form PA 600B, is a two-part application used by the HealthyWoman Project and the County Assistance Office (CAO) to determine eligibility for the BCCPT Program. Part A of the application is completed at the DOH HealthyWoman Project screening site and contains demographic and income information, consent for release of information and BCCPT Program rights and responsibilities. Part B of the application is completed by the applicant, the medical provider and the CAO. Use of a single form to document demographic information needed by both programs for an eligibility determination will reduce additional paperwork for providers, applicants and the Department.

The BCCPT Program Partial Renewal, form PA 600BP, is completed at a partial redetermination of eligibility for women whose treatment for breast or cervical cancer is expected to last less than 12 months. The recipient, the medical provider and the CAO complete this form.

The BCCPT Program Annual Renewal, form PA 600BR, is completed every 12 months when continued eligibility for the BCCPT Program is redetermined. The recipient, the medical provider, the Office of Medical Assistance Programs and the CAO complete this form.

Additional information regarding the Commonwealth's BCCPT Program is in MA Bulletins 99-01-02 and 99-02-06 and Chapter 317 of the Medicaid Eligibility Handbook available on the Department's website ([www.dpw.state.pa.us](http://www.dpw.state.pa.us)).

The Department includes eligibility information about the DOH HealthyWoman Program on the Department's website. A link to learn more about the DOH HealthyWoman Project, including the 250% income eligibility limit which is updated annually on the DOH website, is included on the Department's website.

*Public Comment*

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of proposed rulemaking. The Department received letters from the Independent Regulatory Review Commission (IRRC) and two commentators: the Pennsylvania Health Law Project (PHLP) and Community Legal Services, Inc. (CLS). In addition to providing comments on the proposed rulemaking, the PHLP stated that the BCCPT Program has been invaluable to eligible women in providing coverage for needed treatment of breast or cervical cancer, or a precancerous condition of the breast or cervix. The CLS thanked the Department for adopting the BCCPT Program.

The Department has carefully reviewed and considered each suggestion and comment and thanks the commentators.

*Discussion of Comments and Major Changes*

Following is a summary of the comments received within the public comment period following publication of the proposed rulemaking and the Department's response to those comments.

*General—Regulations*

One commentator remarked that limiting the BCCPT Program to women unconstitutionally excludes men with breast cancer.

*Response*

The BCCPT Act covers individuals who have been screened under the CDC breast and cervical cancer early detection program established under Title XV of the Public Health Service Act (42 U.S.C.A. §§ 300k—300n-5), which specifies “women.” See 42 U.S.C.A. § 1396a(aa)(3). The Department must provide Medical Assistance in accordance with the BCCPT Act.

*General—Regulations*

One commentator believed that limiting the program to women who are screened through the HealthyWoman Project sites creates unnecessary obstacles to accessing the BCCPT Program.

*Response*

The BCCPT Act specifies eligible women must be screened through the CDC NBCCEDP. CDC NBCCEDP identified the HealthyWoman Project as the accepted healthcare provider.

*General—Preamble*

One commentator recommended referencing sources of information such as Medical Assistance Bulletins 99-01-12 and 99-02-06 and Operations Memorandum OPS011208 in the preamble.

*Response*

The Department agrees in part. Information included in the Operations Memorandum has been incorporated into Chapter 317 of the Medicaid Eligibility Handbook, which is available on the Department's website ([www.dpw.state.pa.us](http://www.dpw.state.pa.us)). Some information included in the nonregulatory documents has been incorporated into the final-form rulemaking. For example, the definition of “treatment for breast and cervical cancer” is included in § 140.702.

*§ 140.602. Definitions. (redesignated as § 140.702)*

*§ 140.621(2)(ii). Conditions of Eligibility. (redesignated as § 140.721(2)(ii))*

*§ 140.633(1). Verification requirements. (redesignated as § 140.733(i))*

One commentator expressed concern with the Department's use of the term “need treatment.” In addition, IRRC stated that the term should be edited for clarity. The PHLP commented that “need treatment” should be more clearly defined and it is unclear if this phrase includes taking medication designed to prevent the recurrence of cancer. The PHLP also stated that the regulation may result in different interpretations by different providers, and that “[t]he lack of clear definition has been problematic for consumers trying to access coverage through the BCCPT.”

IRRC noted that MA Bulletin 99-01-12, effective January 1, 2002, includes a definition for “treatment for breast or cervical cancer” and recommends that the Department include this definition in the final-form rulemaking.

*Response*

The Department concurs with the commentator and IRRC and revised the regulation accordingly to include a definition for “treatment for breast or cervical cancer” in § 140.702. The definition includes medical services to prevent recurrence.

*§ 140.621. Conditions of eligibility. (redesignated as § 140.721)*

IRRC and one commentator stated that the reference to Chapter 149 (relating to citizenship and alienage) in § 140.621(1)(iii) (redesignated as § 140.721(1)(iii)) should be edited for clarity and replaced with a reference to Chapter 150 (relating to citizenship and alienage provisions for categorically needy NMP-MA and MNO-MA).

*Response*

The Department agrees that Chapter 149 is an incorrect reference and replaced the reference with a reference to Chapter 150.

*§ 140.621(2)(iii). Conditions of eligibility. (redesignated as § 140.721(2)(iii))*

One commentator suggested that stating that women must be “uninsured” to be eligible misleads the reader. This commentator recommended that language in the regulations pertaining to being “uninsured” as a condition of eligibility should be changed to “having no creditable coverage” and all uses of the word “uninsured” should be deleted.

*Response*

The Department agrees in part. The BCCPT Act requires that, to be eligible, women “are not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C.A. § 300gg(c)(1).” The term “uninsured” is defined in § 140.702 as “Having no creditable coverage as the term is defined under the Health Insurance Portability and Accountability Act (HIPAA) (Section 2701(c) of the Public Health Service Act (42 U.S.C.A. § 300gg(c)(1)).” Because “uninsured” has been defined in the regulations to mean “having no creditable coverage,” it has not been deleted from the final-form rulemaking.

*§ 140.621(2)(iv). Conditions of eligibility. (redesignated as § 140.721(2)(iv))*

One commentator commented that the regulations should provide an exception that would allow BCCPT Program eligibility for women that were eligible for Medical Assistance for Workers with Disabilities (MAWD). The commentator suggested that the regulation should be changed to limit eligibility to women who are “ineligible for any other categorically needy Medicaid program, except those charging monthly premiums, such as MAWD.”

*Response*

The Department disagrees. The Commonwealth provides coverage under 1902(a)(10)(a)(ii)(XVIII) of the Social Security Act, which specifies that women must not be otherwise covered under creditable coverage, as defined in HIPAA (section 2701(c) of the Public Health Service Act).

*§ 140.631. Income eligibility limitations. (redesignated as § 140.731)*

IRRC and one commentator recommended that this section should be edited for clarity. The commentator remarked that this section should reference the regulations or guidelines, or both, that describe the income eligibility requirements for the CDC NBCCEDP and the HealthyWoman Project. IRRC remarked that clarity would be improved by specifically identifying or including a cross-reference to where the income limits necessary to be eligible for screening by CDC NBCCEDP can be found and how an individual’s income is determined.

*Response*

The Department disagrees with this request to include CDC NBCCEDP and the HealthyWoman Project income eligibility requirements and guidelines within the regulation. A woman who is income-eligible for CDC NBCCEDP meets the income requirements for the BCCPT Program. The Department does not do a separate determination of income eligibility. However, the DOH’s income eligibility requirements can be found on the Department’s website at [www.health.state.pa.us](http://www.health.state.pa.us).

*§ 140.633(a)(2). Verification requirements. (redesignated as § 140.733(a)(2))*

One commentator stated that this section should read “[v]erification that the woman is a United States citizen, a qualified alien, or otherwise PRUCOL as defined in Chapter 150. An applicant applying for BCCPT for an emergency medical condition is not required to verify alien status.”

*Response*

The Department disagrees with the suggested revision. Emergency Medical Assistance and BCCPT are separate programs. Verification that an applicant is a United States citizen or a qualified alien is required for the BCCPT Program as for any other category of Medical Assistance. “Permanently Residing Under Color of Law (PRUCOL)” is an obsolete term. An individual who is ineligible for BCCPT because of alien status and who has an emergency medical condition may qualify for Medical Assistance for that medical emergency in accordance with § 150.11 (relating to aliens eligible for emergency medical services).

Information regarding the coverage of emergency medical conditions for undocumented aliens was not included in the regulations because it is outside the scope of Chapter 140 (relating to special MA eligibility provisions).

*§ 140.641. Complete redetermination. (redesignated as § 140.741)*

One commentator suggested this section should be edited for clarity and for use of consistent language.

*Response*

The Department agrees with the commentator’s suggestion. In § 140.741, the words “for qualified women” have been deleted. The term “Categorically Needy” has been replaced with “for all enrolled women.” In addition, § 140.742 (relating to partial redetermination) has been revised for clarity and consistency with § 140.741.

*§ 140.641(b). Complete redetermination. (redesignated as § 140.741(b))*

*§ 140.642(b). Partial redetermination. (redesignated as § 140.742(b))*

One commentator advised that the reference to Chapter 133 (relating to redetermining eligibility) in these sections is confusing and should be edited for clarity.

*Response*

The Department concurs and added a cross-reference to a specific citation in Chapter 133.

*§ 140.661. Eligibility begin date. (redesignated as § 140.761)*

One commentator stated that this section should reference the section on retroactive eligibility by adding the following sentence to the end of this section: “However,

retroactive coverage for services may be available as allowed for by the provisions under § 140.671 dealing with Retroactive Eligibility.”

*Response*

The Department adopted this recommendation and a reference to retroactive eligibility has been added to this section.

§ 140.681. *Reporting of changes. (redesignated as § 140.781)*

IRRC and one commentator commented that this section should be edited for clarity to include, or should reference provisions that include, what changes in circumstances need to be reported and to whom the changes should be reported.

*Response*

The Department agrees and revised the text to provide that the recipient shall report changes to the Department that would affect eligibility as set forth in § 140.721 (relating to conditions of eligibility).

§ 140.691. *Appeal and fair hearing. (redesignated as § 140.791)*

One commentator stated that this section should be revised to add language to explain to which eligibility and service denials the appeal and fair hearing rights do and do not apply. Also, the commentator stated that additional guidance should be added regarding whether and how a woman can appeal HealthyWoman Project eligibility determinations.

*Response*

The Department disagrees that the HealthyWoman Project appeal and fair hearing information should be added to this regulation. Section 140.791 provides that the appeal and fair hearing rights under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) apply to eligibility determinations of the Department. This includes eligibility under the BCCPT Program. Appeals of service denials are beyond the scope of this final-form rulemaking.

*Regulatory Review Act*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on February 16, 2007, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In compliance with the Regulatory Review Act the Department also provided the Committees and IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form rulemaking, the Department reviewed and considered comments received from the Committees, IRRC and the public. In addition to submitting the final-form rulemaking, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

In accordance with section 5.1(j.1) and (j.2) of the Regulatory Review Act, on March 15, 2007, this final-form rulemaking was deemed approved by the Committees. IRRC met on March 15, 2007, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(a) The public notice of intention to adopt the administrative regulations by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(b) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code (62 P. S. §§ 101—1412).

*Order*

The Department, acting under the authority of sections 201(2) and 403(b) of the Public Welfare Code and Title XIX of the Social Security Act, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 140, are amended by adding §§ 140.701, 140.702, 140.721, 140.731—140.733, 140.741, 140.742, 140.751, 140.761, 140.771, 140.781 and 140.791 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

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

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin* retroactive to January 1, 2002.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 1463 (March 31, 2007).)*

*(Editor's Note: At 34 Pa.B. 6335, these regulations were originally proposed in Subchapter D, §§ 140.601, 140.602, 140.621, 140.631—140.633, 140.641, 140.642, 140.651, 140.652, 140.671, 140.681 and 140.691. The final-form regulations now appear in Subchapter E.)*

**Fiscal Note:** 14-490. (1) General Fund;

	<i>MA Inpatient</i>	<i>MA Outpatient</i>
(2) Implementing Year 2006-07 is	\$998,000	\$4,022,000
(3) 1st Succeeding Year 2007-08 is	\$1,260,000	\$5,296,000
2nd Succeeding Year 2008-09 is	\$1,430,000	\$6,273,000
3rd Succeeding Year 2009-10 is	\$1,546,000	\$7,081,000
4th Succeeding Year 2010-11 is	\$1,672,000	\$7,992,000
5th Succeeding Year 2011-12 is	\$1,809,000	\$9,021,000
	<i>MA Inpatient</i>	<i>MA Outpatient</i>
(4) 2005-06 Program—	\$474,693,000	\$945,950,000
2004-05 Program—	\$531,875,000	\$842,991,000
2003-04 Program—	\$411,042,000	\$677,979,000
(7) MA Inpatient and MA Outpatient; (8) recommends adoption. Funds have been included in the budget to cover these increases.		

## Annex A

## TITLE 55. PUBLIC WELFARE

## PART II. PUBLIC ASSISTANCE MANUAL

## Subpart C. ELIGIBILITY REQUIREMENTS

## CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS

## Subchapter E. THE CATEGORICALLY NEEDY BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM FOR QUALIFIED WOMEN

## GENERAL PROVISIONS

Sec.

- 140.701. Policy on Medical Assistance for women with breast or cervical cancer.  
140.702. Definitions.

## ELIGIBILITY

- 140.721. Conditions of eligibility.

## INCOME, RESOURCES AND VERIFICATION

- 140.731. Income eligibility limitations.  
140.732. Resource eligibility limitations.  
140.733. Verification requirements.

## REDETERMINATION

- 140.741. Complete redetermination.  
140.742. Partial redetermination.

## BENEFIT COVERAGE

- 140.751. Benefit coverage.  
140.752. Eligibility begin date.  
140.771. Retroactive eligibility.

## REPORTING

- 140.781. Reporting of changes.

## RIGHT TO APPEAL AND FAIR HEARING

- 140.791. Appeal and fair hearing.

## GENERAL PROVISIONS

## § 140.701. Policy on Medical Assistance for women with breast or cervical cancer.

The Department provides full MA benefits to uninsured women under 65 years of age who have been screened and diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, who are eligible under the Commonwealth's categorically needy BCCPT Program.

## § 140.702. Definitions.

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

*BCCPT Program—Breast and Cervical Cancer Prevention and Treatment Program*—A Federally-funded option that provides full MA benefits to uninsured women under 65 years of age who have been screened and diagnosed and are in need of treatment for breast or cervical cancer, or a precancerous condition of the breast or cervix. These women have been identified through an entity funded in full or in part by CDC.

*CDC—Centers for Disease Control and Prevention*—The lead Federal agency for protecting the health and safety of people at home and abroad by applying disease prevention and control.

*NBCCEDP—National Breast and Cervical Cancer Early Detection Program*—A program established by Congress under the Breast and Cervical Cancer Mortality Act of 1990 (Pub. L. No. 101-354, 104 Stat. 409) which autho-

rizes the CDC to promote breast and cervical cancer screening and to pay for screening services for eligible individuals.

*Treatment for breast and cervical cancer*—Medical services, which are, or are reasonably expected to provide one of the following:

(i) Ameliorate the direct effects of breast or cervical cancer.

(ii) Aid in the clinical characterization of breast or cervical cancer, including testing for the effectiveness of curative treatment but excluding screening for recurrence or new primary cancers.

(iii) Prevent the recurrence of breast or cervical cancer.

*Uninsured*—Having no “creditable coverage” as the term is defined under the Health Insurance Portability and Accountability Act (HIPAA) (Section 2701(c) of the Public Health Service Act (42 U.S.C.A. § 300gg(c)(1)).

## ELIGIBILITY

## § 140.721. Conditions of eligibility.

Eligibility for MA under the BCCPT Program is based on the requirements in the following chapters:

(1) A woman shall meet the following eligibility requirements:

(i) Chapter 125 (relating to application process).

(ii) Chapter 148 (relating to MA residence provisions for categorically needy NMP-MA and MNO-MA).

(iii) Chapter 150 (relating to citizenship and alienage provisions for categorically needy NMP-MA and MNO-MA).

(iv) Chapter 155 (relating to enumeration).

(v) Chapter 255 (relating to restitution).

(vi) Chapter 257 (relating to reimbursement).

(2) Under the BCCPT Program, a woman shall be:

(i) Under 65 years of age.

(ii) Screened under the CDC's NBCCEDP and diagnosed with either breast or cervical cancer, or a precancerous condition of the breast or cervix, and need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

(iii) Uninsured.

(iv) Otherwise ineligible for categorically needy Medicaid as defined in § 1101.21 (relating to definitions).

## INCOME, RESOURCES AND VERIFICATION

## § 140.731. Income eligibility limitations.

There are no income limits when determining eligibility under the BCCPT Program. An individual who meets the income limits to be eligible for screening by the CDC's NBCCEDP is income-eligible for the BCCPT Program.

## § 140.732. Resource eligibility limitations.

There are no resource limits when determining eligibility under the BCCPT Program.

## § 140.733. Verification requirements.

(a) Under the BCCPT Program, the following verification is required:

(1) Verification that the woman was screened for breast or cervical cancer, or a precancerous condition of the breast or cervix, by a provider or facility funded in full or in part by the CDC under its NBCCEDP, and diagnosed



and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix. Verification of the continued need for treatment must be provided at each partial and complete redetermination.

(2) Verification that the woman is a United States citizen or qualified alien as the term is defined in 8 U.S.C.A. § 1641(b) (relating to definitions).

(3) Verification that the woman is under 65 years of age.

(4) Verification that the woman is a resident of this Commonwealth.

(5) Verification that the woman is uninsured.

(b) The verification specified in subsection (a) must be provided on a form established by the Department.

**REDETERMINATION**

**§ 140.741. Complete redetermination.**

(a) A complete redetermination is required at least every 12 months for women who continue to require treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

(b) For the BCCPT Program, the eligibility factors in § 133.84(c) (relating to MA redetermining eligibility procedures) apply.

**§ 140.742. Partial redetermination.**

(a) A partial redetermination is required at the end of the initial period of treatment for a woman whose initial period of treatment is expected to last less than 12 months. The initial period of treatment is based on the diagnosing or treating physician's attestation regarding the woman's diagnosis.

(b) For the BCCPT Program, the partial redetermination eligibility factors in § 133.84(d) (relating to MA redetermining eligibility procedures) apply.

**BENEFIT COVERAGE**

**§ 140.751. Benefit coverage.**

The Department will provide full MA coverage for a woman determined eligible under the BCCPT Program.

**§ 140.761. Eligibility begin date.**

The eligibility begin date is the date the woman is diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, but not prior to January 1, 2002. Retroactive BCCPT Program benefits are available under § 140.771 (relating to retroactive eligibility).

**§ 140.771. Retroactive eligibility.**

The earliest possible date for retroactive BCCPT Program benefits to begin is the first day of the third month preceding the month of application, but not prior to January 1, 2002. The period of eligibility for retroactive BCCPT Program benefits begins the first day of the month in which the first medical service was incurred if the applicant was otherwise eligible during that month.

**REPORTING**

**§ 140.781. Reporting of changes.**

The recipient shall report changes that would affect eligibility for the BCCPT Program under § 140.721 (relating to conditions of eligibility) to the Department within 10 days from the date of the change.

**RIGHT TO APPEAL AND FAIR HEARING**

**§ 140.791. Appeal and fair hearing.**

The applicant or recipient is entitled to the appeal and fair hearing rights under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

[Pa.B. Doc. No. 07-837. Filed for public inspection May 11, 2007, 9:00 a.m.]

**DEPARTMENT OF PUBLIC WELFARE**

**[55 PA. CODE CH. 1249]**

**Home Health Agency Services**

The Department of Public Welfare (Department), under sections 403, 443.2(2) and 509 of the Public Welfare Code (62 P. S. §§ 403, 443.2(2) and 509), amends Chapter 1249 (relating to home health agency services) to read as set forth in Annex A. Notice of proposed rulemaking was published at 34 Pa.B. 6544 (December 11, 2004).

*Purpose of the Final-Form Rulemaking*

The purpose of this final-form rulemaking is to remove the requirement that a recipient be homebound to qualify for Home Health Agency (HHA) services and to remove the limits for HHA visits from the regulation.

The final-form rulemaking is needed to conform the regulations to the Department's direction of emphasizing home- and community-based services, when appropriate, rather than more restrictive and expensive alternatives such as nursing home care, as well as to comply with a Federal directive clarifying Federal regulations regarding the Medicaid home health benefit. Based upon *Olmstead v. L.C.*, 527 U. S. 581 (1999), the Health Care Financing Administration, now the Centers for Medicare and Medicaid Services, clarified its position that requiring that a person be "homebound" to qualify for Medicaid HHA services violates Federal regulatory requirements in 42 CFR 440.230(c) and 440.240(b) (relating to sufficiency of amount, duration, and scope; and comparability of services for groups). As a result, the Department is removing the requirement that individuals be homebound to receive HHA services.

In addition, the Department is removing HHA service limits from the regulations and placing them on the Medical Assistance (MA) Program Fee Schedule to make those limits consistent with limits on other MA services. The Department is not changing the existing limits.

*Affected Individuals and Organizations*

The amendments to Chapter 1249 will have a positive effect on physicians and HHAs enrolled in the MA Program as well as MA recipients of HHA services. The final-form rulemaking permits the attending physician to prescribe medically necessary HHA services to MA recipients who are not homebound if the HHA service would avoid or delay the need for treatment in a hospital or other institutional setting for the condition being treated or if the MA recipient has an illness, injury or mental health condition that justifies providing the service in the home instead of a physician's office, clinic or other outpatient setting. The removal of the homebound requirement does not preclude recipients who are homebound from receiving HHA services.

The removal of the limits on HHA visits from the regulations formalizes a process whereby recipients with

a medically necessary and appropriate need for continued care in excess of the Fee Schedule limitations can apply for a program exception as authorized in § 1150.63 (relating to waivers). It will no longer be necessary to seek a waiver of the regulation from the Secretary of the Department for payment for HHA visits that exceed the service limits.

#### *Accomplishments and Benefits*

The final-form rulemaking benefits MA recipients because it will enable the MA Program to prior authorize medically necessary HHA services for recipients who are not homebound but who are in need of medical care that can be provided more cost effectively in their own homes, rather than in a hospital, long-term care facility or other institutional setting. In addition, MA recipients of HHA services and their physicians will benefit from the final-form rulemaking because the amendments to § 1249.59 (relating to limitations on payment) permit the attending physician to prescribe and the MA recipient to receive medically necessary HHA visits beyond the existing service limits, if approved through a program exception.

#### *Fiscal Impact*

It is anticipated that the final-form rulemaking will result in no additional cost to the Department. Allowing providers to prescribe medically necessary HHA services for MA recipients who are not homebound and those MA recipients to receive medically necessary HHA services will result in more MA recipients qualifying for HHA services, but additional costs associated with increased HHA services utilization will be offset by decreased utilization of hospital and other institutional services. The Department anticipates no fiscal impact on the private sector or the general public as a result of this final-form rulemaking.

#### *Paperwork Requirements*

No additional reporting, paperwork or recordkeeping is required to comply with the final-form rulemaking.

#### *Public Comment*

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking. No public comments were received within the 30-day time frame; however, the Department received two comments from the Independent Regulatory Review Commission (IRRC). The Department also received comments from the Disabilities Law Project (DLP) and Pennsylvania Protection and Advocacy (PP&A) after the 30-day comment period closed.

#### *Discussion of Comments and Major Changes*

Following is a summary of the comments received following publication of the proposed rulemaking and the Department's response to those comments. A summary of major changes from the proposed rulemaking is also included.

#### *General Provisions*

*§ 1249.2a. Clarification of conditions under which MA recipients may be considered homebound—statement of policy.*

#### *Comment*

IRRC stated that it understood that the Department will be rescinding § 1249.2a and replacing it with a statement of policy that is consistent with the changes to this regulation. IRRC recommended that the Department

publish this final-form rulemaking and the updated statement of policy concurrently to avoid inconsistencies in Chapter 1249.

#### *Response*

Because MA recipients must no longer be homebound to receive HHA services, a statement of policy clarifying when a recipient may be considered homebound is no longer necessary. Therefore, the Department will be rescinding the statement of policy and will not replace it with another statement of policy.

#### *Payment for Home Health Services*

*§ 1249.52. Payment conditions for various services.*

#### *Comment*

IRRC commented that it understood that MA recipients who reside or are eligible to reside in a nursing home, rehabilitative facility or a mental institution qualify for HHA services and therefore recommended that the term "hospitalization" in proposed § 1249.52(a)(2)(i) be replaced with a broader term that encompasses all institutional care settings.

DLP and PP&A commented that Federal Medicaid regulations prohibit a state from requiring that a person be in or qualify for institutional care to receive HHA services and recommended that proposed § 1249.52(a)(2)(i) be deleted.

#### *Response*

The Department disagrees with IRRC's statement that eligibility for HHA services depends on whether an MA recipient resides or is eligible to reside in a nursing home, rehabilitative facility or mental institution. The Department agrees with DLP and PP&A that eligibility for HHA services may not be based on whether the recipient has received or is eligible to receive care in an institutional setting. Eligibility is based on an MA recipient's health care benefits package, irrespective of whether the recipient has been or may be institutionalized.

The intent of the Department's initial statement in § 1249.52(a)(2)(i) ("The only alternative to home health agency services is hospitalization") was to explain one of the conditions that the Department would have considered in determining the medical necessity of HHA services, not to establish eligibility for the services. The Department agrees that this section requires clarification and that the alternatives to HHA services need to be expanded beyond hospitalization. The section has been rewritten as follows: "The specific HHA services would avoid or delay the need for treatment in a hospital or other institutional setting for the condition being treated."

#### *Comment*

DLP and PP&A expressed concern that proposed § 1249.52(a)(2)(ii) continued to require a person to have a physical or mental condition that justifies that the service must be provided in the home rather than in an outpatient clinic, which they believe is another way of requiring that recipients of HHA services be homebound. DLP and PP&A also commented that because occupational, physical and speech therapies are not covered for adult MA recipients in an outpatient setting, adult MA recipients can receive these services outside of an institution only through HHA visits. Therefore, requiring that a recipient must have a condition that justifies receiving the therapy in the home will effectively prevent adult MA recipients who are not homebound from receiving medically necessary therapies.

*Response*

The Department disagrees with DLP and PP&A's comment that occupational, physical and speech therapies are not covered for adult MA recipients in outpatient settings other than through HHA. The Department covers medically necessary occupational, physical and speech therapies for adult MA recipients in outpatient clinics as well as through HHA.

Nonetheless, the Department agrees with DLP and PP&A that the language of the regulation needs to be revised so that it is clear that an MA recipient does not have to be homebound to qualify for HHA services. In addition, the requirement for documentation in the medical record has been deleted from this subparagraph and added to the introductory sentence in § 1249.52(a). As a result, the Department revised § 1249.52(a)(2)(ii) as follows: "The recipient has an illness, injury or mental health condition that justifies providing the service at the recipient's residence instead of a physician's office, clinic or other outpatient setting."

*Comment*

DLP and PP&A recommended that the Department remove all references to the homebound requirement from Medical Assistance Bulletin 23-94-04, Procedures for Prior Authorization of Home Health Services, issued June 10, 1994, and effective July 5, 1994.

*Response*

The Department agrees and will rescind MA Bulletin 23-94-04 and issue an updated bulletin removing the requirement that a recipient be homebound to qualify for HHA services.

*Discussion of Additional Changes*

In addition to the changes explained previously, after additional internal review and in preparation for final-form rulemaking, the Department made the following changes:

*§ 1249.42. Ongoing responsibilities of providers.*

After additional internal review of proposed § 1249.42(1)(ii), the Department realized that the proposed language inadvertently did not require an initial assessment of need for HHA services. Accordingly, § 1249.42(1)(ii) has been revised to remove the word "continued" to make clear that the need for HHA services must be assessed and documented both initially and on a continuing basis.

*§ 1249.59. Limitations on payment.*

After additional internal review of proposed § 1249.59, the Department realized that the proposed language did not make it possible to request services above the service limits through a program exception. Accordingly, § 1249.59(2) and (4) (redesignated as paragraph (3)) have been revised to remove the limits on HHA visits and place them on the Fee Schedule.

As a result of the revision to § 1249.59(2), proposed § 1249.52(6) is unnecessary and has been deleted. Proposed paragraph (7) has been redesignated as paragraph (6).

In addition to the changes discussed previously, the Department made several technical revisions in preparing the final-form rulemaking, including correcting typographical errors and revising language to enhance clarity.

*Regulatory Review Act*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on February 16, 2007, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In compliance with the Regulatory Review Act, the Department also provided the Committees and IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form rulemaking, the Department reviewed and considered comments received from the Committees, IRRC and the public. In addition to submitting the final-form rulemaking, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

In accordance with section 5.1(j.1) and (j.2) of the Regulatory Review Act, on March 15, 2007, this final-form rulemaking was deemed approved by the Committees. IRRC met on March 15, 2007, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(a) Public notice of intention to adopt the administrative regulation by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(b) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code (62 P. S. §§ 101—1412).

*Order*

The Department, acting under sections 403, 443.2(2) and 509 of the Public Welfare Code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 1249, are amended by amending §§ 1249.2, 1249.42, 1249.52, 1249.57 and 1249.59 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

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

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

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note:* For a statement of policy relating to this final-form rulemaking, see 37 Pa.B. 2215 (May 12, 2007).)

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 1463 (March 31, 2007).)

**Fiscal Note:** Fiscal Note 14-491 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 55. PUBLIC WELFARE****PART III. MEDICAL ASSISTANCE MANUAL****CHAPTER 1249. HOME HEALTH AGENCY SERVICES****GENERAL PROVISIONS****§ 1249.2. Definitions.**

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

*Home health agency*—A public or private agency or organization, or part of an agency or organization that is licensed by the Commonwealth and certified for participation in Medicare. The agency shall be staffed and equipped to provide skilled nursing care and at least one therapeutic service—physical therapy, occupational therapy or speech pathology—or home health aides to a disabled, aged, injured or sick recipient on a part-time or intermittent basis in his residence.

*Home health services*—Nursing services, home health aide services, physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency and medical supplies, equipment and appliances suitable for use in the home. For the purpose of this chapter, medical supplies, equipment and appliances do not include dentures, prosthetic devices, orthoses or eyeglasses.

*Residence*—A place where the recipient makes his home.

(i) The term includes a personal care home, a hospice, a relative's home or a friend's home.

(ii) The term does not include a hospital, skilled nursing facility or intermediate care facility.

*Usual charge*—A home health agency's most frequent charge to the general public within the same calendar month.

*Visit*—A personal contact in the recipient's residence made for the purpose of providing a covered service by a health care worker on the staff of the home health agency or by others under contract or arrangement with the home health agency.

**PROVIDER PARTICIPATION****§ 1249.42. Ongoing responsibilities of providers.**

Ongoing responsibilities of providers are established in Chapter 1101 (relating to general provisions). The home health agency shall:

(1) Have written policies concerning the acceptance of recipients and the feasibility of meeting the recipient's needs in the home care setting, which include, but are not limited to:

(i) An evaluation visit in the recipient's residence to consider the physical facilities available, attitudes of family members and the availability of family members to help in the care of the patient.

(ii) Assessment and documentation of the need for home health agency services.

(2) Establish a plan of care for the recipient that does the following:

(i) Specifies the types of services required.

(ii) Provides long range projection of likely changes in the recipient's condition.

(iii) Includes the diagnosis and a description of the recipient's functional limitations.

(iv) Includes the type and frequency of nursing services, rehabilitation and therapy services and home health aide services needed.

(v) Includes drugs, medications, special diets, activities permitted and the medical supplies, equipment and appliances necessary for the recipient's use.

**PAYMENT FOR HOME HEALTH SERVICES****§ 1249.52. Payment conditions for various services.**

(a) Home health agencies are reimbursed for services furnished to MA recipients within the MA Program Fee Schedule limits if the following conditions are met and documented in the recipient's medical record:

(1) The services are ordered by and included in the plan of treatment established by the recipient's attending physician.

(2) The attending physician certifies that the recipient requires care in the home and one of the following conditions exist:

(i) The specific home health services would avoid or delay the need for treatment in a hospital or other institutional setting for the condition being treated.

(ii) The recipient has an illness, injury or mental health condition that justifies providing the services at the recipient's residence instead of a physician's office, clinic or other outpatient setting.

(3) The attending physician certifies that the recipient requires the skilled services of a nurse, physical therapist, occupational therapist or speech therapist or the services of a home health aide.

(4) A change in the treatment plan is made in writing and signed by the physician, or if given orally, is put in writing and signed by the health care professional receiving the oral order on behalf of the agency. The order shall be countersigned by the physician within 30 days of the physician's order. The following health care professionals may receive oral orders from the physician:

(i) Registered nurses.

(ii) Licensed practical nurses.

(iii) Physical therapists, occupational therapists and speech therapists. These health care professionals may only receive oral orders that pertain to these specialties.

(5) The plan is reviewed by the attending physician, in consultation with agency professional personnel at least every 60 days. The review of the recipient's plan must contain the signature of the attending physician and the date the review was performed.

(6) The Department has prior authorized the services.

(b) Home health agencies are reimbursed for the following services furnished to MA recipients:

(1) Skilled nursing care.

(2) Home health aide services.

(3) Physical and occupational therapy.

(4) Speech pathology and audiology services.

(5) Medical/surgical supplies listed in the MA Program Fee Schedule.

**§ 1249.57. Payment conditions for maternal/child services.**

(a) *Maternal/child services.* Home health agencies are reimbursed for maternal/child services if the following conditions are met:

(1) The service is prescribed by the recipient's attending physician.

(2) The services are reasonable and necessary to the treatment of the pregnancy, illness or injury. To be considered reasonable and necessary, the services furnished must be consistent with:

(i) The recipient's particular medical needs as ordered by the recipient's attending physician.

(ii) Accepted standards of medical practice.

(b) *Postpartum and child services.* When the mother no longer requires postpartum visits for medical reasons, but the child continues to need medical services, payment will be made for the additional visits for care of the child only if the services are ordered by the attending physician and are part of a written plan of care written specifically for the child.

**§ 1249.59. Limitations on payment.**

The following limits apply to payment for covered services:

(1) Only one fee will be paid per home health agency visit. Payment for a visit pertains to a separate service, by a separate caregiver, to a recipient. More than one visit can be billed to the same recipient on the same day but only for separate care.

(2) After the first 28 days of unlimited home health care, payment is limited to the number of home visits specified on the MA Program Fee Schedule. A new period of unlimited care begins following hospitalization, the onset of a new primary diagnosis or the exacerbation of an existing diagnosis which causes a change in the recipient's condition and requires a change in the plan of treatment, subject to § 1249.52(a)(4) (relating to payment conditions for various services).

(3) For prenatal and postpartum care, the following limits apply:

(i) Payment for prenatal care is limited to the number of visits specified on the MA Program Fee Schedule. Complications of pregnancy are not counted as prenatal care but are classified for invoicing purposes as acute illness.

(ii) Payment for a postpartum visit includes payment for care provided the newborn child.

(4) Payment for hypodermic or intramuscular therapy provided during a home visit is included in the visit fee. If this service is provided during a recipient's visit to the home health agency, the agency will be paid at the rate specified in the MA Program Fee Schedule.

[Pa.B. Doc. No. 07-838. Filed for public inspection May 11, 2007, 9:00 a.m.]

\_\_\_\_\_

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

### Stream Redesignations (Big Brook, et al.)

The Environmental Quality Board (Board) proposes to amend §§ 93.9b, 93.9f, 93.9g, 93.9n, 93.9o and 93.9r to read as set forth in Annex A.

This proposed rulemaking was adopted by the Board at its meeting of February 20, 2007.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Richard H. Shertzer, Chief, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

#### C. *Statutory and Regulatory Authority*

This proposed rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water quality standards and 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

#### D. *Background of the Proposed Rulemaking*

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department may identify candidates for redesignation during routine waterbody investigations. Requests for consideration may also be initiated by other agencies. Organizations, businesses or individuals may submit a rulemaking petition to the Board.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters and all other designations in its ongoing review of water quality standards. In general, HQ and EV waters must be maintained

at their existing quality and permitted activities shall ensure the protection of designated and existing uses.

Existing use protection is provided when the Department determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in §§ 93.3 and 93.4 (relating to protected water uses; and statewide water uses). Examples of water uses protected include the following: Cold Water Fishes (CWF), Warm Water Fishes (WWF), HQ and EV. A final existing use determination is made on a surface water at the time the Department takes a permit or approval action on a request to conduct an activity that may impact surface water. If the determination demonstrates that the existing use is different than the designated use, the water body will immediately receive the best protection identified by either the attained uses or the designated uses. A stream will then be "redesignated" through the rulemaking process to match the existing uses with the designated uses. For example, if the designated use of a stream is listed as protecting WWF but the redesignation evaluation demonstrates that the water attains the use of CWF, the stream would immediately be protected for CWF prior to a rulemaking. Once the Department determines the water uses attained by a surface water, the Department will recommend to the Board that the existing uses be made "designated" uses, through rulemaking, and be added to the list of uses identified in § 93.9 (relating to designated water uses and water quality criteria).

These streams were evaluated in response to five petitions, as well as requests from the Department's regional and central offices as follows:

#### *Petition*

Big Brook (Lebanon Township (Wayne County) Board of Supervisors)  
Brooke Evans Creek (Larry Piasecki)  
Wissahickon Creek (Upper Gwynedd Township, Montgomery County)  
Furnace Run (students from Conestoga Valley High School, Lancaster County)  
Clarion River (Iron Furnace Chapter of Trout Unlimited, the Alliance for Wetlands and Wildlife, the Commissioners of Clarion County and Reliant Energy Mid-Atlantic Power Holding LLC)

#### *Department*

Beaver Creek  
Mill Creek  
Stone Creek

These proposed amendments were developed as a result of aquatic studies conducted by the Department. The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality of Exceptional Value Waters). Based upon the data collected in these surveys, the Department recommends the designations described in this preamble and to read as set forth in Annex A.

Copies of the Department's stream evaluation reports for these waterbodies are available on the Department's website or from the contacts whose addresses and telephone numbers are listed in Section B.

The following is a brief explanation of the recommendations for each waterbody:

*Big Brook*—Big Brook is a tributary to Dyberry Creek in the Delaware River drainage. The basin is located in Dyberry, Oregon, Lebanon and Damascus Townships, Wayne County. The Big Brook basin is currently designated HQ-CWF and was evaluated for redesignation based on a petition submitted by the Lebanon Township (Wayne County) Board of Supervisors. The reference station was located on Sawkill Creek. Sawkill Creek is an EV stream in Pike County. Sawkill Creek was used because of its close proximity, similar drainage area and similar geologic setting. The Department recommends that the Big Brook basin be redesignated EV based on waters with biological conditions scores at all five sampling stations greater than 92% of the reference, thus satisfying the regulatory criterion for redesignation as EV. Big Brook should also retain its current designation as MF.

*Mill Creek*—Mill Creek is a tributary to Tulpehocken Creek in the Schuylkill River watershed. The stream is located in Jefferson and Tulpehocken Townships, Berks County. Mill Creek was inadvertently omitted from Chapter 93 (relating to water quality standards). The Department documented the presence of a coldwater fishery in the basin. Species identified include blacknose dace and creek chub. Based on the presence of cold water species, the Department recommends that the Mill Creek basin be designated as CWF. Since there are two Mill Creeks that are tributaries to Tulpehocken Creek within Berks County, and both were inadvertently omitted from Drainage List F in Chapter 93, it is proposed that the stream code and river mile location (Stream Code 01936 at RM 20.3) be added to the stream name within the Chapter 93 drainage list to clarify which Mill Creek is being added through this proposed rulemaking. The other Mill Creek, which originates and has most of its basin within Lebanon County (Stream Code 1956 at RM 29.6) needs further evaluation and will be the subject of a future rulemaking action once that use determination has been completed.

*Brooke Evans Creek*—Brooke Evans Creek is a tributary to the Schuylkill River in the Delaware River watershed. The candidate basin is a freestone stream in Limerick Township, Montgomery County. Brooke Evans Creek is currently designated WWF and was evaluated for redesignation in response to a petition from Larry Piasecki. Rock Run is an EV stream in the French Creek basin, which was chosen as a reference stream because both are freestone streams, have similar drainage area, are close in proximity to each other and are found in similar geologic settings. The candidate basin failed to meet the 83% comparison standard required to qualify as HQ waters; a pre-requisite for redesignation to EV waters. The Department recommends that Brooke Evans Creek basin retain its current WWF designation.

*Wissahickon Creek*—The Wissahickon Creek is a tributary to the Schuylkill River in the Delaware River basin. The Wissahickon Creek watershed is located in Landsdale, Montgomery, Upper Gwynedd, Horsham, Worcester, Lower Gwynedd, Whitpain, Upper Dublin,

Abington, Whitmarsh, Springfield and Cheltenham Townships, in Montgomery and Philadelphia Counties and the Boroughs of North Wales, Landsdale and Ambler. The Wissahickon Creek basin is currently designated Trout Stocking (TSF) and was evaluated based on the petition submitted by Upper Gwynedd Township. American eel have been found throughout the main stem of the Wissahickon Creek. Based on applicable regulatory criteria, the Department recommends that the Wissahickon Creek basin from its source to the Route 73 Bridge remain designated TSF. The Department also recommends that Migratory Fishes (MF) designation be added due to the presence of the migratory American eel.

*Beaver Creek*—Beaver Creek is a tributary to the East Branch Brandywine Creek in the Delaware River Basin and flows through East and West Brandywine and Caln Townships, Chester County. The designated use of the upper Beaver Creek basin (upstream of the east Brandywine/Caln Township border) is not defined in Chapter 93, whereas downstream of the referenced border, the designated use is TSF, MF. To correct this omission, Department and Fish and Boat Commission staff members conducted an evaluation which extended to the entire basin. The presence of a reproducing trout population was confirmed by these surveys. American eel were found at all five sample stations, including upstream of the impoundment at Bondsville Road, which indicates that the impoundment is not a barrier to the migration of this species. Based on these survey findings, the Department recommends that the Beaver Creek basin be designated CWF, MF.

*Stone Creek*—Stone Creek is a tributary to Dunning Creek in East St. Clair Township, Bedford County and it is included in the Susquehanna River Basin. It was determined that during the compilation of Chapter 93, the Stone Creek basin was not assigned a designated use. The Department recommends that the Stone Creek basin from its source to its confluence with UNT 14908 at RM 0.34 be designated WWF as these stream segments are normally dry during the summer months. The Department recommends that the remainder of Stone Creek basin be designated CWF based upon temperature data and the established use of these waters by the Reynoldsdale Hatchery for the maintenance and propagation of brook trout.

*Furnace Run*—Furnace Run is located in the Susquehanna River Basin. Furnace Run originates in Heidelberg Township, Lebanon County and flows through Elizabeth and Clay Townships, Lancaster County where it enters Middle Creek. Furnace Run basin is currently designated TSF, except for Segloch Run, a tributary which is designated EV. Furnace Run basin was evaluated for redesignation based on a petition that was submitted by students from Conestoga Valley High School. The presence of an established, naturally reproducing brook trout population was documented in the headwaters of Furnace Run. The HQ integrated benthic macroinvertebrate scoring criterion of greater than 83% was met for the headwaters of Furnace Run. Segloch Run is an EV stream and was used as reference because it is an adjacent watershed with the same geologic setting and similar drainage area to the upper reaches of Furnace Run. The Department recommends that the protected use of the upper portion of the Furnace Run basin from its source to the SR 1026 road crossing be designated HQ-CWF. The lower portion of Furnace Run downstream from SR 1026 should remain TSF.

*Clarion River*—The Clarion River is a large tributary to the Allegheny River located in the Ohio River basin. The Clarion River mainstem from the confluence of the East and West Branches downstream to the mouth is currently designated CWF. The section of the Clarion River from the inlet of Piney Lake to the mouth was evaluated for redesignation based on the petition submitted jointly by the Iron Furnace Chapter of Trout Unlimited, the Alliance for Wetlands and Wildlife, the Commissioners of Clarion County and Reliant Energy Mid-Atlantic Power Holding, LLC. The segment of the Clarion River that is being considered for redesignation flows through or borders Clarion, Highland, Monroe, Paint, Piney, Beaver, Licking, Perry and Richland Townships, Clarion County and is located in close proximity to Clarion and Calensburg Boroughs. Species composition data from the Clarion River in and below the impoundment created by Piney Dam reveals that WWF species are predominant. Data was collected which indicates that this reach of the Clarion River frequently exceeds CWF criteria. The Department recommends that the designated use of the Clarion River from the inlet of Piney Lake downstream to the mouth be changed from CWF to WWF. All tributaries to this reach will retain their current designation.

#### E. *Benefits, Costs and Compliance*

*Benefits*—Overall, this Commonwealth, its citizens and natural resources will benefit from this proposed rulemaking because it provides the appropriate level of protection to preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of clean water for drinking, recreational opportunities and aquatic life protection. It is important to realize these benefits to ensure opportunity and development continue in a manner that is environmentally, socially and economically sound. Maintenance of water quality ensures its future availability for all uses.

*Compliance costs*—The proposed rulemaking may impose additional compliance costs on the regulated community. These proposed amendments are necessary to improve total pollution control. The expenditures necessary to meet new compliance requirements may exceed that which is required under existing regulations.

Persons conducting or proposing activities or projects must comply with the regulatory requirements regarding designated and existing uses. Persons expanding a discharge or adding a new discharge point to a stream could be adversely affected if they need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating cost for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are redesignated. The initial costs resulting from the installation of technologically advanced wastewater treatment processes may be offset by potential savings from and increased value of improved water quality through more cost-effective and efficient treatment over time.

*Compliance assistance plan*—The proposed rulemaking has been developed as part of an established program that has been implemented by the Department since the early 1980s. The proposed amendments are consistent with and based on existing Department regulations. The proposed amendments extend additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law. All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The proposed amendments will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

*Paperwork requirements*—The proposed amendments should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. These proposed amendments are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus, an individual permit and its associated paperwork would be required. Additionally, paperwork associated with demonstrating social and economic justification may be required for new or expanded discharges to certain HQ waters, and consideration of nondischarge alternatives is required for all new or expanded discharges to EV and HQ waters.

#### F. *Pollution Prevention*

The water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

#### 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 April 27, 2007, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

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

I. *Public Comments*

*Written comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (ex-

press mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments must be received by the Board by June 26, 2007. 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 June 26, 2007. The one page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final rulemaking will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

*Electronic comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by June 26, 2007.

KATHLEEN A. MCGINTY,  
*Chairperson*

**Fiscal Note:** 7-410. 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 93. WATER QUALITY STANDARDS

DESIGNATED WATER USES AND WATER QUALITY CRITERIA

§ 93.9b. Drainage List B.

Delaware River Basin in Pennsylvania

*Lackawaxen River*

Stream	Zone	County					Water Uses Protected	Exceptions to Specific Criteria
		*	*	*	*	*		
4—Van Auken Creek	Basin			Wayne			HQ-TSF, MF	None
3—Dyberry Creek	Basin, Source to [ Confluence with West Branch Lackawaxen River ] Big Brook			Wayne			HQ-CWF, MF	None
4—Big Brook	Basin			Wayne			EV, MF	None
3—Dyberry Creek	Basin, Big Brook to Confluence with West Branch Lackawaxen River			Wayne			HQ-CWF, MF	None
2—Lackawaxen River	Main Stem, Confluence of West Branch Lackawaxen River and Dyberry Creek to Mouth			Wayne			HQ-TSF, MF	None
		*	*	*	*	*		

## § 93.9f. Drainage List F.

## Delaware River Basin in Pennsylvania

*Schuylkill River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
		* * *		
4—Owl Creek	Basin	Lebanon	WWF	None
<b>4—Mill Creek (Stream Code 01936 at RM 20.30)</b>	<b>Basin</b>	<b>Berks</b>	<b>CWF</b>	<b>None</b>
3—Tulpehocken Creek	Blue Marsh Reservoir	Berks	WWF	None
		* * *		
3—Gulley Run	Basin	Montgomery	WWF	None
3—Wissahickon Creek	Basin	Philadelphia	TSF, MF	None

## § 93.9g. Drainage List G.

## Delaware River Basin in Pennsylvania

*Delaware River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
		* * *		
5—Unnamed Tributaries to East Branch Brandywine Creek	Basins, in East Brandywine and Uwchlan Townships	Chester	HQ-TSF, MF	None
5—Beaver Creek	Basin[ , East Brandywine-Calm Township Border to Mouth ]	Chester	[ TSF ] CWF, MF	None
5—Valley Creek	Basin, Source to Broad Run	Chester	CWF, MF	None
		* * *		

## § 93.9n. Drainage List N.

## Susquehanna River Basin in Pennsylvania

*Juniata River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
		* * *		
5—Georges Creek	Basin	Bedford	WWF	None
<b>5—Stone Creek</b>	<b>Basin, Source to Confluence with UNT 14908 at RM 0.34</b>	<b>Bedford</b>	<b>WWF</b>	<b>None</b>
<b>6—Unnamed Tributary (UNT) 14908 to Stone Creek</b>	<b>Basin</b>	<b>Bedford</b>	<b>CWF</b>	<b>None</b>
<b>5—Stone Creek</b>	<b>Basin, UNT 14908 to Mouth</b>	<b>Bedford</b>	<b>CWF</b>	<b>None</b>
5—Bobs Creek	Basin, Source to Deep Hollow Run	Bedford	HQ-CWF	None
		* * *		

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania

*Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
		* * * * *		
4—Middle Creek	Basin, Elders Run to Furnace Run	Lancaster	TSF	None
5—Furnace Run	[ Main Stem ] Basin, Source to SR 1026	Lancaster	[ TSF ] HQ-CWF	None
[ 6 ]5—[ Unnamed Tributaries to ] Furnace Run	[ Basins ] Basin, SR 1026 to Segloch Run	Lancaster	TSF	None
6—Segloch Run	Basin	Lancaster	EV	None
5—Furnace Run	Basin, Segloch Run to Mouth	Lancaster	TSF	None
4—Middle Creek	Basin, Furnace Run to Mouth	Lancaster	WWF	None
		* * * * *		

§ 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania

*Clarion River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
		* * * * *		
5—Silver Creek	Basin	Elk	HQ-CWF	None
3—Clarion River	Main Stem, Confluence of East and West Branches to [ Mouth ] Inlet of Piney Lake at RM 37.4	Clarion	CWF	None
4—Unnamed Tributaries to Clarion River	Basins, Confluence of East and West Branches to [ Mouth ] Inlet of Piney Lake at RM 37.4	Elk-Forest-Jefferson-Clarion	CWF	None
4—Johnson Run	Basin	Elk	CWF	None
		* * * * *		
4—Blyson Run	Basin	Clarion	EV	None
3—Clarion River	Main Stem, Inlet of Piney Lake at RM 37.4 to Mouth	Clarion	WWF	None
4—Unnamed Tributaries to Clarion River	Basins, Inlet of Piney Lake at RM 37.4 to Mouth	Clarion	CWF	None
4—Mill Creek	Main Stem, Source to Little Mill Creek	Clarion	HQ-CWF	None
		* * * * *		

[Pa.B. Doc. No. 07-839. Filed for public inspection May 11, 2007, 9:00 a.m.]

# FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; American Eels

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

## A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

## B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available on the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

## C. Statutory Authority

The proposed addition of § 63.49 (relating to reporting by dealers of American eels) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

## D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

## E. Summary of Proposal

At its February 2006 meeting in Arlington, VA, the American Eel Management Board of the Atlantic States Marine Fisheries Commission (ASMFC) approved Addendum I to the Interstate Fishery Management Plan for American Eel with member states implementing either Option 1A or Option 2 of the Addendum. The goal of Addendum I is to provide accurate catch and effort data for use in future stock assessments. Option 1A of the Addendum requires implementation of a license and reporting program for commercial fisheries for American eel. Option 2 requires implementation of a dealer permit with a mandatory purchase reporting requirement. This will provide an important validation of the catch and effort data being reported by harvesters. Because there is not a commercial eel fishery in this Commonwealth, Option 1A does not apply. However, there are approximately 40 American eel dealers who are registered as dealers of live aquatic animals with the Department of Agriculture (Department). Therefore, the Commission proposes to implement Option 2 to address dealer reporting.

The Department regulates aquaculture in this Commonwealth. Under 3 Pa.C.S. § 4222 (relating to registration for dealers of live aquatic animals), the Department requires the registration of dealers of live aquatic animals. Chapter 42 of 3 Pa.C.S. (relating to Aquacultural Development Law) (act) further provides that distribution by registered dealers is limited to species of fish approved by the Department. The Department defers to a list of species of fish that the Commission approved for propagation in open systems. The Commission maintains this list

and updates it annually prior to January 31. The American eel is on this Commission list.

Under the act, registered dealers are subject to certain reporting and recordkeeping requirements. However, the act's reporting and recordkeeping requirements do not extend to the type of reports that the ASMFC is seeking. In addition, the act's provisions do not apply to dealers that are not required to be registered. Therefore, the Commission proposes a regulation requiring dealers of American eels to report the amounts of American eels that they buy and sell.

Reporting will be done on forms developed by the Commission and provided to the dealers by the Commission. Required information will include the date of purchase or sale, harvester, pounds purchased or sold by life stage, purpose of purchase or sale (bait, food, and the like), amount exported and other information the Commission considers necessary. This information will be required on the basis of individual purchases from harvesters or individual sales. Reports will be provided on a quarterly basis and be provided to the Commission by the 10th of the month in the next quarter. Reports will document purchases or sales for the preceding quarter on a monthly basis. The Commission will in turn maintain a database in a format acceptable to the ASMFC and provide the information on a schedule established by the ASMFC. The Commission proposes to add § 63.49 to read as set forth in Annex A.

## F. Paperwork

The proposed rulemaking will increase paperwork and will create new paperwork requirements. Dealers of American eels in this Commonwealth will be required to provide quarterly reports to the Commission on forms developed by the Commission.

## G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth's political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public. The proposed rulemaking, however, will result in a nominal increase in program costs to the Commonwealth. The costs incurred by the Commonwealth include development of the form, creation of a database, entry of data from the forms received each quarter into the database and preparation of an annual report.

## H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in another manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,  
Executive Director

**Fiscal Note:** 48A-192. (1) Fish Fund; (2) Implementing Year 2007-08 is \$3,600; (3) 1st Succeeding Year 2008-09 is \$3,000; 2nd Succeeding Year 2009-10 is \$3,100; 3rd

Succeeding Year 2010-11 is \$3,200; 4th Succeeding Year 2011-12 is \$3,300; 5th Succeeding Year 2012-13 is \$3,400; (4) 2006-07 Program—\$N/A; 2005-06 Program—\$N/A; 2004-05 Program—\$N/A; (7) General Government Operations; (8) recommends adoption.

#### Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart B. FISHING

#### CHAPTER 63. GENERAL FISHING REGULATIONS

*(Editor's Note: The following section is new. It has been printed in regular type to enhance readability.)*

##### § 63.49. Reporting by dealers of American eels.

Dealers of American eels shall report to the Commission the amount of American eels that they buy and sell.

(1) Reports shall be provided on forms prescribed by the Commission on a quarterly basis or as otherwise established by the Commission. Data to be reported includes the following:

- (i) The date of purchase or sale.
- (ii) The origin or destination of eels, pounds or number purchased or sold by life stage (glass eel, elvers, yellow eel, silver eel).
- (iii) The purpose of purchase or sale (bait, food, and the like).
- (iv) The amount exported.
- (v) Other information the Commission requires.

(2) Dealers shall present these reports upon the request of an officer authorized to enforce the code. Dealers shall allow officers authorized to enforce the code unrestricted access to the dealer's place of business during normal business hours to inspect the reports.

[Pa.B. Doc. No. 07-840. Filed for public inspection May 11, 2007, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 421a, 423a, 425a, 427a, 431a, 436a, 438a, 439a AND 440a]

#### General Provisions; Applications; Licensed Entity Representatives; Manufacturer Licenses; Supplier Licenses; Horsemen's Organizations; Labor Organizations; Junket Enterprises; Management Companies

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 the specific authority in 4 Pa.C.S. §§ 1202(b)(9), (13)—(20) and (23), 1202.1(b) and (e), 1317, 1317.1, 1321(a)(1) and (2), 1325, 1326, 1331 and 1406, proposes to adopt Chapters 421a, 423a, 425a, 427a, 431a, 436a, 438a, 439a and 440a to read as set forth in Annex A.

#### *Purpose of the Proposed Rulemaking*

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board initially adopted temporary regulations in Chapters 421, 423, 427 and 431 at 35 Pa.B. 4045 (July

16, 2005), Chapter 425 at 37 Pa.B. 21 (January 6, 2007), Chapter 436 at 36 Pa.B. 3409 (July 1, 2006), Chapter 438 at 36 Pa.B. 3951 (July 22, 2006), Chapter 439 at 35 Pa.B. 6619 (December 3, 2005) and Chapter 440 at 36 Pa.B. 679 (February 4, 2006). Under 4 Pa.C.S. Part II (relating to gaming), the temporary regulations expire on July 5, 2007.

The Board is proposing to replace the temporary regulations with the permanent regulations in this proposed rulemaking.

#### *Explanation of Chapters in this Proposed Rulemaking*

Chapter 421a (relating to general provisions) is an updated version of temporary Chapter 421. A number of revisions were made to improve clarity, increase parallel construction and remove redundant provisions.

Section 421a.1 (relating to general requirements) contains general requirements that apply to all applicants. It includes items such as a requirement that applicants consent to investigations, agree to abide by provisions of 4 Pa.C.S. Part II and the Board's regulations and waive liability as to the Board and other State agencies pertaining to disclosure of application information. It also requires applicants to report suspected violations of 4 Pa.C.S. Part II, to report changes in information provided in its application and to provide additional information requested by the Board. A provision that appears in § 435.1(l) (relating to general provisions) has been added to this section as subsection (j).

Temporary § 421.2 has been deleted. This section listed the types of licenses, permits certifications and registrations issued by the Board, but contained no regulatory requirements.

Section 421a.2 (relating to disqualification criteria) contains criteria the Board may use to deny an initial or renewal application or suspend or revoke a license, permit, certification or registration. Included in the list are failure to prove that the applicant is qualified; violations of 4 Pa.C.S. Part II or the Board's regulations; misrepresentations of facts in the application; or violations of state or Federal laws.

Section 421a.3 (relating to investigations; supplementary information) provides that the Board may make inquires or conduct investigations of applicants for or holders of a license, permit, certification or registration. It also requires applicants for or holders of a license, permit, certification or registration to cooperate in these investigations.

Section 421a.4 (relating to presuitability determination) outlines the procedures for conducting presuitability determinations of potential purchasers of an applicant for or holder of a license.

Section 421a.5 (relating to undue concentration of economic opportunities and control) restates the provision in 4 Pa.C.S. § 1102(5) (relating to legislative intent) to prevent undue concentration of economic opportunities and control in gaming. It specifies the opportunities for control the Board will evaluate and the criteria the Board will examine to determine the potential for undue concentration.

Chapter 423a (relating to applications) replaces temporary Chapter 423. It contains provisions that pertain to all applications filed with the Board.

Section 423a.1 (relating to general requirements) contains general provisions including: requirements that applications be on Board forms; that applicants file supplemental forms required and additional information

requested by the Board; and that all information be true and complete. It also specifies that some documents shall be sworn to or notarized; English translations or summaries shall be provided for documents in a foreign language; applications will be denied if the applicant fails to cooperate in investigations; and application materials submitted to the Board become the property of the Board.

Section 423a.2 (relating to preliminary submission review) is a new section that outlines the process for preliminary review of applications, allows the applicant an opportunity to provide missing materials and requires the return of an incomplete application to the applicant.

Section 423a.3 (relating to application processing) outlines the general process that will apply to the review of applications after they have been accepted for filing. It also includes provisions requiring the Board to publish a list of applications and actions regarding the applications and that the information provided in applications will be part of the evidentiary record that the Board will use to render its decision.

Section 423a.4 (relating to deficient applications) outlines the process for notification of deficiencies, how an applicant can cure deficiencies and that the application may be immediately denied if the deficiencies are not corrected.

Section 423a.5 (relating to application withdrawal) requires an applicant to file a petition for withdrawal which specifies the reasons for the withdrawal. It also permits the Board to grant a petition for withdrawal with or without prejudice and bars reapplication by applicants whose withdrawal was granted with prejudice for 5 years. Additionally, this section allows the Board to convert an incomplete application to a petition for withdrawal and that fees and costs related to the application shall be paid before a petition for withdrawal will be approved.

Section 423a.6 (relating to license, permit, registration and certification issuance and Statement of Conditions) specifies that an application will not be issued until all fees have been paid and all conditions set by the Board have been fulfilled. It also provides that the Board may require that a Statement of Conditions be signed by an entity's executive officer and that violation of any of the conditions in the Statement of Conditions may result in the imposition of administrative sanctions by the Board.

Section 423a.7 (relating to restriction on application after denial or revocation) imposes a 5-year restriction on reapplication by an applicant whose application was denied or by holders of a license, permit, certification or registration if the license, permit, certification or registration was revoked. It establishes a process to petition for reapplication after 2 years and specifies what must be in the petition. If a petition for early reapplication is denied, the petitioner may not file another request for early reconsideration for at least 1 year.

Chapter 425a (relating to licensed entity representatives) replaces temporary Chapter 425. Like the temporary regulations, this chapter requires licensed entity representatives to file a Licensed Entity Registration Form and update their information on an on-going basis. It also requires the Board to maintain a list of licensed entity representatives that will be available at its offices and on the Board's website.

Chapter 427a (relating to manufacturers) replaces temporary Chapter 427. It has been reorganized to improve the chapter's clarity and to incorporate changes made in the act of November 1, 2006 (P. L. 1243, No. 135) (Act 135).

Section 427a.1 (relating to manufacturer general requirements) specifies who must obtain a manufacturer license; that an applicant for or holder of a manufacturer license cannot apply for or hold a slot machine or supplier license; that a licensed manufacturer or manufacturer designee may supply or repair the manufacturer's equipment; that a licensed manufacturer can contract with a licensed supplier to supply or repair the manufacturer's equipment; and that no limitation will be placed on the number of manufacturer licenses issued or when applications for a manufacturer license may be filed.

Section 427a.2 (relating to manufacturer license applications and standards) lists what is required from an applicant for a manufacturer's license. An applicant must submit: the Manufacturer Application and Disclosure Information Form; the application fee; a diversity plan; applications for key employees and principals; Securities and Exchange Commission (SEC) filings; an affirmation that the applicant and its affiliates, intermediaries, subsidiaries or holding companies does not hold an interest in a slot machine applicant or licensee; and an affirmation that the applicant has developed and implemented safeguards to prevent a violation of 4 Pa.C.S. § 1513 (relating to political influence). Manufacturer applicants are also required to provide additional information requested by the Board, comply with Chapters 421a and 423a, demonstrate the ability to produce, repair or modify slot machines or associated equipment and pay additional cost regarding background investigations of the applicant. Additionally, this chapter lists the criteria the Board will use to evaluate these applications.

Section 427a.3 (relating to manufacturer license term and renewal) is a new section that specifies that a manufacturer's license is good for 1 year, that renewal applications must be submitted 6 months prior to the expiration of the license and that a license for which a renewal application and fee has been received will remain in effect for up to an additional 6 months until the Board acts on the renewal application.

Section 427a.4 (relating to alternative manufacturer licensing standards) lays out the process for an alternative review of a manufacturer's license application based on the applicant's licensure in another jurisdiction. It requires submission of the application materials filed in the other jurisdiction, a copy of the other license or order approving the license and disclosure of any enforcement actions pending in the other jurisdiction.

Section 427a.5 (relating to responsibilities of a manufacturer) sets forth the responsibilities of licensed manufacturers including requirements to provide information requested by the Board; report changes in circumstances that could affect the licensee's eligibility for the license; and provide copies of SEC filings within 30 days of submission of the filings to the SEC. This section also specifies which employees must obtain occupational permits and clarifies what a slot machine license may do in terms of servicing or repairing the manufacturer's slot machines or associated equipment under a contract with the manufacturer. It also permits a slot machine licensee to perform routine maintenance without requiring an agreement between the slot machine licensee and the manufacturer.

Chapter 431a (relating to supplier licenses) replaces temporary Chapter 431. It has been reorganized to improve the clarity of the chapter and to incorporate changes made in Act 135.

Section 431a.1 (relating to supplier general requirements) specify: who must obtain a supplier license; that

an applicant for or holder of a supplier license can't apply for or hold a slot machine or manufacturer license; and that no limitation will be placed on the number of supplier licenses issued or when applications for a supplier license may be filed.

Section 431a.2 (relating to supplier license applications and standards) lists what is required from an applicant for a supplier's license. An applicant must submit: the Supplier Application and Disclosure Information Form; the application fee; a diversity plan; applications for key employees and principals; SEC filings; an affirmation that the applicant and its affiliates, intermediaries, subsidiaries or holding companies does not hold an interest in a manufacturer or slot machine applicant or licensee; and an affirmation that the applicant has developed and implemented safeguards to prevent a violation of 4 Pa.C.S. § 1513. Supplier applicants are also required to provide additional information requested by the Board, comply with Chapters 421a and 423a, demonstrate that the applicant has or will establish a place of business in this Commonwealth; and pay additional cost related to background investigations of the applicant. Additionally, this chapter lists the criteria the Board will use to evaluate these applications.

Section 431a.3 (relating to supplier license term and renewal) is a new section that specifies that a supplier's license is good for 1 year, that renewal applications must be submitted 2 months prior to the expiration of the license and that a license for which a renewal application and fee has been received will remain in effect for up to an additional 6 months until the Board acts on the renewal application.

Section 431a.4 (relating to responsibilities of a supplier) contains supplier responsibilities. These include requirements to: establish a place of business in this Commonwealth within 1 year; secure assets or lines of credit to support the supplier's operations; and submit agreements between the supplier and any manufacturer or slot machine licensee and detailed business plans. This section also requires a supplier to: provide information requested by the Board; report changes in circumstances that could affect the licensee's eligibility for the license; and provide copies of SEC filings within 30 days of submission of the filings to the SEC. It also specifies which employees of the supplier are required to obtain an occupation permit and what activities are permissible for slot machine and manufacturer licensees to perform.

Section 431a.5 (relating to supplier log books) requires suppliers to maintain a log book to register individuals who enter the supplier's principal place of business and a facility where slot machines are stored. It specifies what information must be entered in the log book and that the log book must be readily accessible for inspection by the Board, the Department of Revenue or the Pennsylvania State Police.

Chapter 436a (relating to horsemen's organizations) replaces temporary Chapter 436. The revisions in Chapter 436a were primarily editorial in nature.

Section 436a.1 (relating to definitions) contains definitions of terms that are only used in this chapter.

Section 436a.2 (relating to horsemen's organization registration) requires each horsemen's organization to file a Horsemen's Organization Registration Statement. This section also requires applicants to comply with Chapters 421a and 423a. It specifies that registrations will be valid for 4 years; that renewal applications must be filed at least 120 days prior to expiration; and that if a renewal

application and fee has been received, the current registration shall remain in effect until the Board acts on the renewal application.

Section 436a.3 (relating to permitting of officers, directors, representatives and fiduciaries) requires each officer, director or representative to file a Horsemen's Permit Application Form. This section also requires applicants to comply with Chapters 421a and 423a. It specifies that permits will be valid for 1 year; that renewal applications must be filed at least 60 days prior to expiration; and that if a renewal application and fee has been received, the current permit shall remain in effect until the Board acts on the renewal application. It also precludes any officer, director or representative who has been denied a permit from participating in any activity involving gaming funds allocated to the horsemen's organization. Additionally, third party providers of health and benefit plans and, under certain conditions, attorneys and accountants are not required to obtain a permit.

Section 436a.4 (relating to responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries) outlines the responsibilities of horsemen's organizations and officers, directors or representatives. These include ensuring that all funds are used for the benefit of all horsemen, that adequate records are maintained, that annual independent audits are conducted and that copies of the audits are submitted to the Board. These audits will be available for public inspection at the Board's Harrisburg office. A new provision was added to this section to clarify that these funds can not be used for the personal benefit of any officer, director or representative except to the extent that the benefit is available to all program participants.

Section 436a.5 (relating to fiduciaries) specifies fiduciaries' responsibilities which include: ensuring that funds are used for the benefit of the horsemen; managing health and benefit plans; acting in a prudent manner; complying with any limitations on investments; and funding benefits as required by law or plan rules. This section also requires the filing of quarterly reports with the Board and providing documents requested as part of an investigation.

Section 436a.6 (relating to health and pension benefit plans) requires that health and benefit plan contracts must be submitted to the Board at least 90 days prior to the effective dates and that they cannot go into effect until they have been approved by the Board. It also requires administrative costs to be reasonable and sets a 15% limitation on what the Board will consider to be reasonable.

Chapter 438a (relating to labor organizations) replaces temporary Chapter 438.

Section 438a.1 (relating to definitions) contains definitions of terms that are only used in this chapter.

Section 438a.2 (relating to labor organization notification) requires each labor organization to file a Labor Organization Form and file updates within 30 days of changes.

Section 438a.3 (relating to permitting of labor organization officers, agents and management employees) requires every labor organization officer, agent and management employee to file a Labor Organization Permit Application Form with the permit fee and comply with Chapters 421a and 423a. It also provides that these permits will be valid for 1 year; that renewal applications must be filed at least 60 days prior to expiration; and that if a renewal

application and fee has been received, the current permit shall remain in effect until the Board acts on the renewal application.

Chapter 439a (relating to junket enterprises) replaces temporary Chapter 439.

Section 439a.1 (relating to definitions) contains definitions of terms that are only used in this chapter.

Section 439a.2 (relating to junket enterprise general requirements) specifies who can file a junket enterprise application and that services cannot be provided until a license has been obtained.

Section 439a.3 (relating to junket enterprise license applications) requires an applicant to submit: a Junket Enterprise License Form; the application fee; a Junket Enterprise License Form for each principal entity; and a Junket Enterprise Representative Registration for each principal who is an individual and each key employee. This section also requires applicants to provide additional information requested by the Board, comply with Chapters 421a and 423a and pay additional cost related to background investigations of the applicant.

Section 439a.4 (relating to junket enterprise license term and renewal) is a new section that specifies that a junket enterprise license is good for 1 year, that renewal applications must be submitted 60 days prior to the expiration of the license and that a license for which a renewal application and fee has been received will remain in effect until the Board acts on the renewal application.

Section 439a.5 (relating to junket representative general requirements) requires junket representatives to be registered and employed by a licensed junket enterprise before they can organize junkets and that a junket representative can only be employed by one junket enterprise at a time.

Section 439a.6 (relating to junket representative registration) requires a junket representative applicant to submit a Junket Representative Registration Form and application fee. The applicant is also required to provide additional information requested by the Board and comply with Chapters 421a and 423a. Additionally, it specifies the criteria the Board will use to determine whether or not to grant the application, allows junket enterprises to file an application on behalf of an individual and specifies that registrations do not need to be renewed and are nontransferable.

Section 439a.7 (relating to junket schedules) requires junket schedules and changes thereto to be submitted to the Bureau of Corporate Compliance and Internal Controls. It lists the information to be included in the schedule and the time frames for the submissions.

Section 439a.8 (relating to junket arrival reports) requires the preparation of junket arrival reports, specifies what should be in the reports and when they should be prepared and that the reports must be maintained on premises and made available for inspection.

Section 439a.9 (relating to junket final reports) requires preparation of junket final reports, specifies what should be in the reports and when they should be prepared and that the reports must be maintained on premises and made available for inspection.

Section 439a.10 (relating to monthly junket reports) requires the preparation of monthly junket reports, requires submission of the reports to the Bureau of Corporate Compliance and Internal and requires the reports to be maintained on premises and made available for inspection.

Section 439a.11 (relating to purchase of patron lists) requires the preparation of a report pertaining to the purchase of patron lists, specifies what must be in the report and requires submission of the report to the Bureau of Corporate Compliance and Internal Controls no later than 7 days after the list is received.

Section 439a.12 (relating to junket enterprise and representative prohibitions) contains a list of activities that junket enterprises and representatives may not participate in.

Chapter 440a (relating to management companies) replaces temporary Chapter 440.

Section 440a.1 (relating to general requirements) requires that a management company obtain a license before it provides services and that a management company its affiliates, intermediaries, subsidiaries or holding companies may not apply for or hold a manufacturer or supplier license.

Section 440a.2 (relating to applications) requires a management company to: file the applicable Category 1, 2 or 3 slot machine license application and the applicable fee; promptly provide information requested by the Board; and comply with Chapters 421a and 423a.

Section 440a.3 (relating to management company license and term and renewal) provides that management company licenses will be valid for 1 year; that renewal applications must be filed at least 60 days prior to expiration; and that if a renewal application and fee has been received, the current license shall remain in effect until the Board acts on the renewal application.

Section 440a.4 (relating to management company responsibilities) states that the management company will be deemed to be an agent for violations and that the management company will be jointly and severally liable for violations of the slot machine licensee.

Section 440a.5 (relating to management contracts) specifies that management contracts and amendments must be submitted to and approved by the Board before they can go into effect. This section also requires submission of a business plan, lists a number of provisions that must be in each contract and requires contracts to clearly enumerate specific responsibilities in various areas of operation.

#### *Affected Parties*

This proposed rulemaking imposes requirements on applicants for and holders of slot machine licenses, licensed entity representative registrations, manufacturer licenses, supplier licenses, horsemen permits and registrations, labor organization permits and management company licenses.

#### *Fiscal Impact*

*Commonwealth.* This proposed rulemaking will impose costs on the Board regarding processing initial applications and renewals, conducting investigations and issuing licenses, permits and registrations. When applicable, the Pennsylvania State Police will also experience costs associated with investigations of applicants.

*Political subdivisions.* This proposed rulemaking will have no significant fiscal impact on political subdivisions of the Commonwealth.

*Private sector.* Applicants for the various licenses, permits and registrations will incur costs to complete the applicable applications and pay the applicable application fees and additional costs associated with investigations.



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

*Paperwork Requirements*

Applicants for and holders of licensed entity representative registrations, manufacturer licenses, supplier licenses, horsemen permits and registrations, labor organization permits and management company licenses will be required to complete the applicable initial application and renewal forms.

*Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-61.

*Contact Person*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 26, 2007, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

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

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-61. (1) State Gaming Fund; (2) Implementing Year 2006-07 is \$10,826,000; (3) 1st Succeeding Year 2007-08 is \$10,083,000; 2nd Succeeding Year 2008-09 is \$10,486,000; 3rd Succeeding Year 2009-10 is \$10,906,000; 4th Succeeding Year 2010-11 is \$11,342,000; 5th Succeeding Year 2011-12 is \$11,796,000; (4) 2005-06 Program—\$26,400,000; 2004-05 Program—\$13,200,000; 2003-04 Program—\$2,900,000; (7) State Gaming Board; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

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

**CHAPTER 421a. GENERAL PROVISIONS**

- Sec.
- 421a.1. General requirements.
- 421a.2. Disqualification criteria.
- 421a.3. Investigations; supplementary information.
- 421a.4. Presuitability determination.
- 421a.5. Undue concentration of economic opportunities and control.

**§ 421a.1. General requirements.**

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

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

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

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

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

(3) Consent to execute releases requested by the Board.

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

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

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

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

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

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

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

**§ 421a.2. Disqualification criteria.**

(a) An application for issuance or renewal of a license, permit, certification or registration may be denied, or a license, permit, certification or registration may be suspended or revoked if:

(1) The applicant has failed to prove to the satisfaction of the Board that the applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part.

(2) The applicant for or holder of a license, permit, certification or registration has violated the act or this part.

(3) The applicant for or holder of a license, permit, certification or registration is disqualified under the criteria in the act.

(4) The applicant for or holder of a license, permit, certification or registration has materially departed from a representation made in the application for licensure or renewal.

(5) The applicant for or holder of a license, permit, certification or registration has failed to comply with applicable Federal or state laws or regulations.

(b) A denial of an application or nonrenewal, suspension or revocation of a license, permit, certification or registration may be made for a sufficient cause consistent with the act and the public interest.

**§ 421a.3. Investigations; supplementary information.**

(a) The Board may make an inquiry or investigation concerning an applicant for or holder of a license, permit, certification or registration or any affiliate, intermediary, subsidiary or holding company of the applicant for or holder of a license, permit, certification or registration as it may deem appropriate either at the time of the initial application or at any time thereafter.

(b) It shall be the continuing duty of applicants and a holder of a license, permit, certification or registration to provide full cooperation to the Board in the conduct of an inquiry or investigation and to provide supplementary information requested by the Board.

**§ 421a.4. Presuitability determination.**

(a) Upon request from an eligible applicant for or holder of a license and upon receipt of an application and appropriate fees, the Board will make an inquiry or investigation of a potential purchaser of an applicant for or holder of a license, certification or registration as if the purchaser were an eligible applicant. The eligible appli-

cant for or holder of a license may petition the Board, on behalf of the purchaser, for a Statement of Investigation under § 493.4 (relating to petitions generally).

(b) The applicant for or holder of a license making the request shall reimburse the costs associated with the inquiry or investigation upon request of the Board.

(c) This inquiry or investigation does not replace the application process required under the act and this part which is a requirement for licensure, certification or registration.

**§ 421a.5. Undue concentration of economic opportunities and control.**

(a) In accordance with section 1102(5) of the act (relating to legislative intent), a slot machine license, management company license or other license may not be issued to or held by a person if the Board determines that the issuance or holding will result in the undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth by that person.

(b) For purposes this section, "undue concentration of economic opportunities and control of the licensed gaming facilities" means that a person:

(1) Would have actual or potential domination of the gaming market in this Commonwealth contrary to the legislative intent.

(2) Could substantially impede or suppress competition among licensees.

(3) Could adversely impact the economic stability of the gaming industry in this Commonwealth.

(c) In determining whether the issuance or holding of a license by a person will result in undue concentration of economic opportunities and control of the licensed gaming facilities in this Commonwealth, the Board will consider the following criteria:

(1) The percentage share of the market presently controlled by the person in each of the following categories:

(i) Total number of slot machine licenses available under section 1307 of the act (relating to number of slot machine licenses).

(ii) Total gaming floor square footage.

(iii) Number of slot machines.

(iv) Gross terminal revenue.

(v) Net terminal revenue.

(vi) Total amount of money, vouchers and electronic money transfers through the use of a cashless wagering system made to slot machines.

(vii) Number of persons employed by the licensee.

(2) The estimated increase in the market share in the categories in paragraph (1) if the person is issued or permitted to hold the license.

(3) The relative position of other persons who hold licenses, as evidenced by the market share of each person in the categories in paragraph (1).

(4) The current and projected financial condition of the industry.

(5) Current market conditions, including level of competition, consumer demand, market concentration, any consolidation trends in the industry and other relevant characteristics of the market.

(6) Whether the gaming facilities held or to be held by the person have separate organizational structures or other independent obligations.

(7) The potential impact of licensure on the projected future growth and development of the gaming industry in this Commonwealth and the growth and development of the host communities.

(8) The barriers to entry into the gaming industry, including the licensure requirements of the act, and whether the issuance or holding of a license by the person will operate as a barrier to new companies and individuals desiring to enter the market.

(9) Whether the issuance or holding of the license by the person will adversely impact consumer interests, or whether the issuance or holding is likely to result in enhancing the quality and customer appeal of products and services offered by slot machine licensees to maintain or increase their respective market shares.

(10) Whether a restriction on the issuance or holding of an additional license by the person is necessary to encourage and preserve competition and to prevent undue concentration of economic opportunities and control of the licensed gaming facilities.

(11) Other evidence deemed relevant by the Board.

**CHAPTER 423a. APPLICATIONS**

- Sec.
- 423a.1. General requirements.
- 423a.2. Preliminary submission review.
- 423a.3. Application processing.
- 423a.4. Deficient applications.
- 423a.5. Application withdrawal.
- 423a.6. License, permit, registration and certification issuance and Statement of Conditions.
- 423a.7. Restriction on application after denial or revocation.

**§ 423a.1. General requirements.**

(a) For the purposes of this section, a reference to an applicant includes the applicant's affiliates, intermediaries, subsidiaries and holding companies.

(b) An application shall be submitted on forms supplied or approved by the Board, shall contain the information and documents required by the Board and include the applicable fees.

(c) The applicant shall file with the application supplemental forms required by the Board. The forms require full disclosure of the details relative to the applicant's suitability to conduct business in this Commonwealth under the act.

(d) Upon request of the Board, the applicant shall further supplement information provided in the application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request, or if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

(e) Information provided to the Board must be true and complete. If there is any change in the information provided to the Board, the applicant shall promptly file a written amendment in a form prescribed by the Board.

(f) The application and amendments thereto and other specific documents designated by the Board shall be sworn to or affirmed by the applicant before a notary public.

(g) The Board will deny the application of an applicant that refuses to submit to a background investigation or provide requested information as required under the act.

(h) An applicant that submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. The translation must include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document.

(i) An application that has been accepted for filing and related materials submitted to the Board shall become the property of the Board and will not be returned to the applicant.

**§ 423a.2. Preliminary submission review.**

(a) Upon receipt of an application submission, the Board will review the submission to insure that it contains:

- (1) The applicable application fee.
- (2) The applicable application forms and additional information and accompanying documentation required by the act or the Board's regulations governing the specific type of application.

(3) Completed authorization forms for release of information from Federal and state agencies required for the specific type of application.

(4) For slot machine license applications only, a bond or letter of credit as required by section 1313(c) of the act (relating to applicant's ability to pay license fee).

(b) If an application submission fails to include one or more of the items in subsection (a), the applicant will be notified that the application has not been accepted for filing and the applicant will be given an opportunity to cure the insufficiency.

(c) If the applicant fails or is unable to cure the insufficiency within the time period set by the Board, the submission and related materials will be returned to the applicant.

**§ 423a.3. Application processing.**

(a) Upon a determination that the prerequisites for filing have been met, the Board will:

- (1) Accept the application for filing.
- (2) Notify the applicant or the applicant's attorney, if any, in writing of the fact that the application has been accepted for filing and the date of the acceptance for filing. The Board will also notify the applicant that the acceptance for filing of the application will not constitute evidence that any requirement of the act has been satisfied.
- (3) Obtain and evaluate information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.
- (4) Request the Bureau to promptly conduct an investigation and provide the information necessary to determine the qualifications of the applicant and any matter relating to the application.

(5) Request the Pennsylvania State Police to provide a criminal history background investigation report, determine employee eligibility consistent with § 435.1 (relat-

ing to general provisions), conduct fingerprinting, photograph applicants and perform duties as directed by the Board.

(6) Request the Department to promptly conduct a tax clearance review.

(7) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

(8) Request any agencies, entities or persons to conduct investigations or evaluations or to provide information to the Board as deemed necessary by the Board.

(b) The Board will keep and maintain a list of all applicants under this part together with a record of all actions taken with respect to applicants.

(c) An application submitted under this part and information obtained by the Board relating to the application shall be part of the evidentiary record of the licensing proceeding. The Board's decision to issue or deny a license will be based solely on the evidentiary record before the Board.

#### § 423a.4. Deficient applications.

(a) If an application is found to be deficient, the Board will notify the applicant of the deficiencies in the application and permit the applicant to cure the deficiencies within a time period prescribed by the Board.

(b) Refusal to provide information as required in subsection (a) may result in the immediate denial of the application.

#### § 423a.5. Application withdrawal.

(a) A request for withdrawal of an application for a license, permit, certification or registration may be made by petition to the Board filed at any time prior to issuance by the Board of its determination with respect to the application.

(b) The petition must set forth the reasons for the withdrawal.

(c) An applicant may petition for the withdrawal of its application or an application submitted by one of its affiliates, intermediaries, subsidiaries or holding companies or persons or entities required to be qualified under section 1311 of the act (relating to slot machine license application business entity requirements), or both.

(d) When rendering a decision on a petition for withdrawal, the Board may set the conditions of withdrawal and may deny or grant the request with or without prejudice.

(1) If a petition for withdrawal is granted with prejudice, the person or entity whose application has been withdrawn will not be eligible to apply for a license, permit, certification or registration with the Board until after expiration of 5 years from the date of the withdrawal.

(2) If a petition for withdrawal is granted without prejudice the Board will determine when the person or entity whose application has been withdrawn may be eligible to apply for a license, permit, certification or registration.

(e) The Board may convert an incomplete application to a petition for withdrawal.

(f) Unless the Board otherwise directs, fees or other payments relating to the application will not be refundable by reason of the withdrawal. Additionally, fees and

costs owed to the Board related to the application shall be paid prior to granting a petition to withdraw.

#### § 423a.6. License, permit, registration and certification issuance and Statement of Conditions.

(a) *Issuance criteria.*

(1) In addition to the criteria contained in the act, the Board will not issue or renew a license, permit, certification or registration unless the Board finds that the following criteria have been established by the applicant:

(i) The applicant has paid the applicable fees.

(ii) The applicant has fulfilled each condition set by the Board or contained in the act, including the execution of a Statement of Conditions.

(iii) The applicant is found suitable, consistent with the laws of the Commonwealth and is otherwise qualified to be issued a license, certification, permit, registration or other authorization.

(b) *Statement of Conditions.*

(1) For the purposes of this subsection, the term "executive officer" means the individual holding the highest ranking management position within the entity and who is authorized to contract on behalf of the entity.

(2) If the Board approves an entity's application for a license, certification or registration, or for the renewal of a license, certification or registration, the Board may require the executive officer of the entity whose application has been approved, or other competent individual designated by the entity in accordance with paragraph (3), to execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions shall constitute the acceptance of each provision contained in the Statement of Conditions by both the entity and the executive officer. The executive officer shall ensure that the entity fully complies with each provision contained in the Statement of Conditions.

(3) Prior to the issuance of a license, certification or registration to an entity, the entity shall determine whether the entity will designate its executive officer or another competent individual with a direct reporting relationship to its executive officer to execute the Statement of Conditions on behalf of both the entity and its executive officer. If the entity elects to designate another competent individual with a direct reporting relationship to its executive officer to execute the Statement of Conditions on behalf of the entity and its executive officer, the entity shall adopt a resolution identifying the individual so designated, authorizing that individual to execute the Statement of Conditions on behalf of both the entity and its executive officer, and evidencing the executive officer's concurrence in that individual's designation. A copy of the resolution, certified as true and correct, shall be provided to the Board and attached to the Statement of Conditions.

(4) If the Board approves an individual's application for a license, permit, certification or registration, or for the renewal of a license, permit, certification or registration, the Board may require the individual whose application has been approved to execute a Statement of Conditions in the manner and form required by the Board. The execution of the Statement of Conditions shall constitute the acceptance of each provision contained in the Statement of Conditions by the individual. The individual shall fully comply with each provision contained in the Statement of Conditions.

(5) Failure to fully comply with a provision contained in an executed Statement of Conditions shall constitute a violation of the Statement of Conditions and may result in the imposition of Board-imposed administrative sanctions, up to and including revocation, against the individual to whom the license, permit, certification or registration was issued, and, in the case of an entity, against the entity and its executive officer or other designee under paragraph (3).

**§ 423a.7. Restriction on application after denial or revocation.**

(a) A person whose application has been denied or whose license, permit, registration or certification has been revoked, may not apply for a license, permit, certification or registration for 5 years from the date that the application was denied or the license, permit, certification or registration was revoked.

(b) The 5-year restriction in subsection (a) will not apply:

(1) To applicants for a slot machine license if the denial was for reasons other than unsuitability.

(2) If the denial or revocation was based on pending charges for a disqualifying offense under section 1213 or section 1518 of the act (relating to license or permit prohibition; and prohibited acts and penalties), 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction and the pending charges do not result in conviction of the disqualifying offense.

(c) Two years from the date that the application was denied or the license, permit, certification or registration was revoked, a person may file a petition for permission to apply for a license, permit, certification or registration before the expiration of the 5-year period.

(d) A petition filed under subsection (c) shall be filed in accordance with § 493.4 (relating to petitions generally).

(e) Petitions filed under subsection (c) must contain:

(1) An explanation of how the conditions that were the basis for denial or revocation have been corrected or no longer exist.

(2) Supporting materials that demonstrate that the person meets the requirements for a license, permit, certification or registration.

(3) If the denial or revocation was the result of a conviction, the petition must include evidence of rehabilitation, such as:

(i) The nature and seriousness of the offense or conduct.

(ii) The circumstances under which the offense or conduct occurred.

(iii) The date of the offense or conduct.

(iv) The age of the applicant when the offense or conduct was committed.

(v) Whether the offense or conduct was an isolated or repeated incident.

(vi) Social conditions which may have contributed to the offense or conduct.

(vii) Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correc-

tional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

(viii) Evidence that all obligations for restitution, fines and penalties have been met.

(f) If a petition filed under subsection (c) is denied, a person may not file another petition under subsection (c) for 1 year from the date of the denial of the petition.

**CHAPTER 425a. LICENSED ENTITY REPRESENTATIVES**

Sec.  
425a.1. Registration.

**§ 425a.1. Registration.**

(a) A licensed entity representative shall file a completed Licensed Entity Registration Form with the Bureau of Licensing, which includes the individual's name, employer or firm, address, telephone number and the licensed entity being represented.

(b) A licensed entity representative shall update its registration information on an ongoing basis.

(c) The Board will maintain a list of licensed entity representatives. The registration list will be available for public inspection at the offices of the Board and on the Board's website ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

**CHAPTER 427a. MANUFACTURERS**

Sec.  
427a.1. Manufacturer general requirements.  
427a.2. Manufacturer license applications and standards.  
427a.3. Manufacturer license term and renewal.  
427a.4. Alternative manufacturer licensing standards.  
427a.5. Responsibilities of a manufacturer.

**§ 427a.1. Manufacturer general requirements.**

(a) A manufacturer seeking to manufacture slot machines and associated equipment for use in this Commonwealth shall apply to the Board for a manufacturer license.

(b) In accordance with section 1317.1 of the act (relating to manufacturer licenses), an applicant for or the holder of a manufacturer license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or supplier license.

(c) A licensed manufacturer or a licensed manufacturer designee may supply or repair any slot machine or associated equipment manufactured by the licensee.

(d) A licensed manufacturer may contract with a slot machine licensee or a licensed supplier to supply or repair slot machines or associated equipment manufactured by the manufacturer licensee.

(e) Limitations will not be placed on the number of manufacturer licenses issued or when an application for a manufacturer license may be filed.

**§ 427a.2. Manufacturer license applications and standards.**

(a) An applicant for a manufacturer license shall submit:

(1) An original and three copies of the Manufacturer Application and Disclosure Information Form.

(2) A nonrefundable application fee.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481 (relating to diversity).

(4) An application from every key employee under § 435.3 (relating to key employee license) and principal under Chapter 433 (relating to principal license) as specified by the Manufacturer Application and Disclosure Information Form or as determined by the Board.

(5) If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including annual reports filed with the SEC, under sections 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the SEC, under sections 13 or 15D of the Securities Exchange Act of 1934, current reports filed with the SEC, under sections 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies, holds any direct or indirect ownership interest in any applicant for or holder of a slot machine license or supplier license, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a slot machine applicant or licensee or supplier applicant or licensee. In applying this provision to an applicant for a manufacturer license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder does not exercise managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

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

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

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

(3) Demonstrate that the applicant has the ability to manufacture, build, rebuild, repair, fabricate, assemble, produce, program, design or otherwise make modifications

to slot machines or associated equipment which meet one or more of the following criteria:

(i) Are specifically designed for use in the operation of a slot machine.

(ii) Are needed to conduct an authorized game.

(iii) Have the capacity to affect the outcome of the play of a game.

(iv) Have the capacity to affect the calculation, storage, collection or control of gross terminal revenue.

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

(d) In determining whether an applicant is suitable to be licensed as a manufacturer under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant individually qualify under the standards of section 1317.1 of the act (relating to manufacturer license).

(3) The integrity of all financial backers.

(4) The suitability of the applicant and the principals and key employees of the applicant based on the satisfactory results of:

(i) The background investigation of the principals and key employees.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

#### **§ 427a.3. Manufacturer license term and renewal.**

(a) A manufacturer license or renewal will be valid for 1 year from the date on which the license or renewal is approved by the Board.

(b) A renewal application and renewal fee shall be filed at least 6 months prior to the expiration of the current license.

(c) A manufacturer license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional 6-month period or until acted upon by the Board, whichever occurs first.

#### **§ 427a.4. Alternative manufacturer licensing standards.**

(a) If an applicant for a manufacturer license holds a similar license in another jurisdiction in the United States, the applicant may submit a written request with its application required under § 427a.2(a) (relating to manufacturer license applications and standards) for the Board to adopt an abbreviated licensing process under section 1319 of the act (relating to alternative manufacturer licensing standards) to review a manufacturer license application.

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the jurisdiction in which the applicant is licensed are similarly comprehensive, thor-

ough and provide equal, if not greater, safeguards as provided in the act and that granting the request is in the public interest.

(2) The applicant has provided a copy of its most recent application or renewal for the similar license in the other jurisdiction and a copy of the license or the order issued by the other jurisdiction granting the license.

(3) The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has adequately disclosed and explained the action to the satisfaction of the Board.

(4) There are no pending or ongoing investigations of possible material violations by the applicant in another jurisdiction or the applicant has adequately disclosed and explained the investigation to the satisfaction of the Board.

(c) This section may not be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

#### **§ 427a.5. Responsibilities of a manufacturer.**

(a) A holder of a manufacturer license shall have a continuing duty to:

(1) Provide information requested by the Board relating to the manufacturer's licensing or regulation; cooperate with the Board in investigations, hearings and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a manufacturer license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all SEC filings listed in § 427a.2(a)(5) (relating to manufacturer license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted within 30 days after the date of filing with the SEC.

(b) An employee of a licensed manufacturer whose duties of employment or incidental activities related to employment require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupational permit under § 435.4 (relating to occupational permit).

(c) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility pursuant to a written agreement between the slot machine licensee and the manufacturer licensee that provided the slot machines or associated equipment at the licensed facility.

(d) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries, hardware, including hinges, screws, bolts and custom handles, light bulbs, locks on slot machines and slot cash storage boxes, including the rekeying of the locks, printers, exclusive of printer software and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

## **CHAPTER 431a. SUPPLIER LICENSES**

Sec.	
431a.1.	Supplier general requirements.
431a.2.	Supplier license applications and standards.
431a.3.	Supplier license term and renewal.
431a.4.	Responsibilities of a supplier.
431a.5.	Supplier log books.

### **§ 431a.1. Supplier general requirements.**

(a) A supplier seeking to sell, lease, offer or otherwise provide, distribute or service slot machines or associated equipment to a slot machine licensee within this Commonwealth through a contract with a licensed manufacturer shall apply to the Board for a supplier license.

(b) In accordance with sections 1317 and 1317.1 of the act (relating to supplier licenses; and manufacturer licenses), an applicant for or the holder of a supplier license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a slot machine license or a manufacturer license.

(c) Limitations will not be placed on the number of supplier licenses issued or when an application for a supplier license may be filed.

### **§ 431a.2. Supplier license applications and standards.**

(a) An applicant for a supplier license shall submit:

(1) An original and three copies of the Supplier Application and Disclosure Information Form for the applicant and each of the applicant's affiliated entities.

(2) A nonrefundable application fee.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481 (relating to diversity).

(4) An application from every key employee under § 435.3 (relating to key employee license) and principal under Chapter 433 (relating to principal license) as specified by the Supplier Application and Disclosure Information Form or as determined by the Board

(5) If applicable, copies of all filings required by the SEC during the 2 immediately preceding fiscal years, including annual reports filed under section 13 or section 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a and 78o-6), quarterly reports filed under section 13 or section 15D of the Securities Exchange Act of 1934, current reports filed under section 13 or section 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) An affirmation that neither the applicant nor any of its affiliates, subsidiaries, intermediaries and holding companies holds any direct or indirect ownership interest in an applicant for or holder of a manufacturer license or slot machine licensee, or employs, directly or indirectly, any person who satisfies the definition of a principal or key employee of a manufacturer or slot machine applicant or licensee. In applying this provision to an applicant for a supplier license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the manufacturer or slot machine applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder does not exercise managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy the safeguards and policies.

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

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

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

(3) Demonstrate that the applicant has or will establish a principal place of business in this Commonwealth.

(c) An applicant for a supplier license shall be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(d) In determining whether an applicant is suitable to be licensed as a supplier under this section, the Board will consider the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) If all principals of the applicant individually qualify under the standards of section 1317 of the act (relating to supplier license).

(3) The integrity of financial backers.

(4) The suitability of the applicant and principals and key employees of the applicant based on the satisfactory results of:

(i) A background investigation of the principals and key employees.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

#### **§ 431a.3. Supplier license term and renewal.**

(a) A supplier license or renewal shall be valid for 1 year from the date on which the license or renewal is approved by the Board.

(b) A renewal application and renewal fee shall be filed at least 2 months prior to the expiration of the current license.

(c) A supplier license for which a completed renewal application and fee has been received by the Board will continue in effect for an additional 6-month period or until acted upon by the Board, whichever occurs first.

#### **§ 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.

(b) At the time of licensure, a supplier shall have assets or available lines of credit to support the sale, financing, servicing or repair of all slot machines to be placed in service or repaired by the supplier. The assets and available lines of credit shall be from a source independent of slot machine manufacturers and licensed gaming entities. Notwithstanding the forgoing, a licensed manufacturer may extend financing or payment terms to a licensed supplier, at prevailing market rates and terms, for the acquisition or leasing of slot machines, to be secured by the slot machines sold, leased or transferred.

(c) A supplier shall submit to the Board for review any agreements with a licensed manufacturer or with a slot machine licensee and detailed business plans. The Board's review may include, but not be limited to, financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed supplier from any licensed manufacturer or licensed gaming entity.

(d) A holder of a supplier license shall have a continuing duty to:

(1) Provide information requested by the Board relating to licensing or regulation; cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions; and comply with conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(2) Report a change in circumstances that may render the holder of a supplier license ineligible, unqualified or unsuitable to hold a license under the standards and requirements of the act and of this part.

(3) Provide a copy of all SEC filings listed in § 427a.2(a)(5) (relating to manufacturer license applications and standards) that are filed after the date of issuance of its license. The copy shall be submitted within 30 days after the date of filing with the SEC.

(e) An employee of a licensed supplier whose duties of employment or incidental activities related to employment allow the employee access to slot machines or associated equipment or require the employee to be on the gaming floor or in a restricted area shall be required to obtain an occupational permit under § 435.4 (relating to occupational permit).

(f) A slot machine licensee may service or repair slot machines or associated equipment at its licensed facility pursuant to a written agreement between the licensed gaming entity and the supplier licensee that provided the slot machines or associated equipment for use or play at the licensed facility.

(g) A slot machine licensee may perform routine maintenance directly related to the availability of slot machines for play, customer service or a clean and gracious playing environment. The routine maintenance includes installation or replacement of the following: batteries, hardware, including hinges, screws, bolts and custom



handles, light bulbs, locks on slot machines and slot cash storage boxes, including the rekeying of the locks, printers, exclusive of printer software and paper stock. Routine maintenance also includes external cleaning and the clearing of paper, bill and coin jams which do not require removal or dismantling of the mechanisms.

(h) A licensed manufacturer or a manufacturer's designee may supply, install, service or repair slot machines or associated equipment manufactured by the licensed manufacturer.

**§ 431a.5. Supplier log books.**

(a) A supplier licensee shall maintain a log book to register the individuals who enter the licensee's principal place of business and each physical facility utilized by the licensee to house inventory, replacement parts, supplies, transportation or delivery equipment.

(b) The supplier licensee shall record or cause to be recorded in the log book the following:

- (1) The date, entrance time and departure time of each individual.
- (2) The name of each individual entering the place of business or physical facility and who they represent.
- (3) The signature of each individual.
- (4) The purpose for the visit.
- (5) If applicable, the individual's Board license, permit, certification or registration number.

(c) Licensed, permitted or registered employees of a supplier are not required to register in the log book.

(d) Each log book required by this section shall be maintained at the entrance of the location to which it pertains and shall be made readily accessible for examination and inspection upon the demand of any agent, employee or representative of the Board, the Department of Revenue or the Pennsylvania State Police.

**CHAPTER 436a. HORSEMEN'S ORGANIZATIONS**

Sec.	
436a.1.	Definitions.
436a.2.	Horsemen's organization registration.
436a.3.	Permitting of officers, directors, representatives and fiduciaries.
436a.4.	Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.
436a.5.	Fiduciaries.
436a.6.	Health and pension benefit plans.

**§ 436a.1. Definitions.**

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

*Fiduciary*—A person who is entrusted by a horsemen's organization or its members to hold or manage any funds received for horsemen under section 1406 of the act (relating to distributions from Pennsylvania Race Horse Development Fund) or who exercises control or discretionary authority over selection or management of a health or pension benefit plan, disposition of its assets or distribution of its funds.

*Health benefits*—A plan, fund or program which is maintained by a horsemen's organization and that provides healthcare benefits to horsemen at licensed racetracks, their families and employees, and others designated by the rules and eligibility requirements of the organization consistent with the act.

*Horsemen*—A thoroughbred or standardbred horse owner or trainer who enters and runs a horse at a licensed racing entity in the current or prior calendar

year and meets the membership requirements of a horsemen's organization to participate in the receipt of benefits there from.

*Horsemen's organization*—A trade association which represents the majority of horsemen at a licensed racetrack and which exists for the purpose, in whole or in part, of negotiating a horsemen's contract and resolving grievances, disputes or other matters with management of a licensed racing entity, as defined by section 1103 of the act (relating to definitions).

*Horsemen's organization officer*—An officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a horsemen's organization, and any member of its board of directors or similar governing body.

*Horsemen's organization representative*—A person, compensated or not, who is authorized to represent a horsemen's organization or members thereof in matters relating to horsemen's agreements with a licensed racing entity, or who undertakes on behalf of a horsemen's organization or members thereof to promote, facilitate or otherwise influence the relations between a horsemen's organization and a licensed racing entity.

*Pension benefits*—A plan, fund or program which is maintained by a horsemen's organization and that funds a program which provides retirement income to horsemen at licensed racetracks, their families and employees, and any others so designated by the rules and eligibility requirements of the organization consistent with the act.

**§ 436a.2. Horsemen's organization registration.**

(a) Each horsemen's organization or affiliate representing horsemen shall register with the Board in accordance with this section.

(b) Each horsemen's organization shall file a completed Horsemen's Organization Registration Statement with the registration fee established by the Board.

(c) Horsemen's organization applicants and registrants shall be subject to the general application requirements of Chapters 421a and 423a (relating to general provisions; and applications).

(d) Horsemen's organization registrations will be valid for 4 years from the date on which the registration is approved by the Board. Renewals will be valid for 4 years and shall be filed no later than 120 days prior to the expiration of the current registration period. A registration for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the horsemen's organization that the Board has approved or denied the renewal of the registration.

**§ 436a.3. Permitting of officers, directors, representatives and fiduciaries.**

(a) Every officer, director or representative of a horsemen's organization who is currently elected or appointed and authorized to act on behalf of the horsemen's organization, or an individual authorized to act in a fiduciary capacity on behalf of horsemen shall be permitted in accordance with this section.

(b) Every officer, director or representative of a horsemen's organization who is currently elected or appointed and authorized to act on behalf of the horsemen's organization, or an individual authorized to act in a fiduciary capacity on behalf of horsemen shall file a completed Horsemen's Permit Application Form with the permit fee established by the Board.

(c) Applicants and permittees under this section shall be subject to the general application requirements of Chapters 421a and 423a (relating to general provisions; and applications).

(d) Permits issued under this section will be valid for 1 year from the date on which the permit is approved by the Board. Renewals will be valid for 1 year and shall be filed at least 60 days prior to the expiration of the current permit. A permit for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the permittee that the Board has approved or denied the renewal of the permit.

(e) If a current officer, director or representative of a horsemen's organization is denied a permit required by this section, that officer, director or representative shall be precluded from engaging in any activity of the horsemen's organization involving gaming funds allocated to, received by, or distributed from the horsemen's organization.

(f) A person who is a third-party provider of a health or pension benefit plan to a horsemen's organization shall be exempt from the requirements of this section. A licensed attorney or accountant representing a horsemen's organization who does not meet the conditions in subsection (a) shall also be exempt this section.

**§ 436a.4. Responsibilities of horsemen's organizations, officers, directors, representatives and fiduciaries.**

(a) Horsemen's organizations, officers, directors, representatives and fiduciaries shall ensure that the funds allocated to the horsemen and horsemen's organizations are used for the benefit of all horsemen of this Commonwealth.

(b) Funds allocated to horsemen's organizations for benevolent programs are not to be used for the personal benefit of any officer, director, representative or fiduciary of a horsemen's organization except to the extent that the officer, director, representative or fiduciary of the horsemen's organization is a participant in the benevolent programs on the same basis as other eligible program participants.

(c) Horsemen's organizations shall maintain adequate records of receipts and distributions of the funds allocated to them under the act.

(d) By March 30 of each calendar year, each horsemen's organization shall file with the Board two copies of its audited financial statements together with any management letters or reports written thereon as prepared by its independent auditor. These filings will be available for public inspection during the normal operating hours of the Board at its Harrisburg office.

**§ 436a.5. Fiduciaries.**

Fiduciaries shall:

(1) Ensure that the funds received for the benefit of the horsemen are distributed pursuant to the act.

(2) Manage health and pension benefit plans for the exclusive benefit of participants and beneficiaries.

(3) Carry out their duties in a prudent manner and refrain from conflict-of-interest transactions.

(4) Comply with limitations on certain plans' investments in particular securities and properties.

(5) Fund benefits in accordance with applicable law and plan rules.

(6) File quarterly reports with the Board within 20 days of the end of each calendar quarter. The reports must detail the expenditure of funds designated by the act for the benefit of horsemen and be in a format and manner designated by the Board.

(7) Provide documents to the Board as may be requested in the conduct of investigations or to ensure compliance with the act and this chapter.

**§ 436a.6. Health and pension benefit plans.**

(a) Contracts for health and pension benefit plans established for the benefit of members of a horsemen's organization must:

(1) Be submitted to the Board for review at least 90 days prior to the proposed effective date of the contract.

(2) Not be effective until approved by the Board.

(b) Administrative and overhead costs incurred by the horsemen's organization for the administration of health and pension benefit plans must be reasonable. Administrative costs that do not exceed 15% of the statutory allocation are considered reasonable.

**CHAPTER 438a. LABOR ORGANIZATIONS**

Sec.

438a.1. Definitions.

438a.2. Labor organization notification.

438a.3. Permitting of labor organization officers, agents and management employees.

**§ 438a.1. Definitions.**

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

*Labor organization*—An organization, union, agency, employee representation committee, group, association or plan in which employees participate which exists for the purpose, in whole or in part, of dealing with a slot machine licensee or licensed management company concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment, including any conference, general committee, joint or systems board or international labor organization.

*Labor organization agent*—A person, compensated or not, who is authorized to represent a labor organization in an employment matter relating to employees who are employed by a slot machine licensee or licensed management company, or who undertakes on behalf of the labor organization to promote, facilitate or otherwise influence the relations between the labor organization and a slot machine licensee or licensed management company.

*Labor organization officer*—An officer or person authorized to perform the functions of president, vice president, secretary/treasurer or other executive function of a labor organization, and a member of its executive board or similar governing body who exercises authority, discretion or influence with regard to matters relating to employees who are employed at a licensed facility.

*Labor organization management employee*—An employee of a labor organization who serves in a management, supervisory or policy making position, who exercises authority, discretion or influence with regard to matters relating to employees who are employed at a licensed facility.

**§ 438a.2. Labor organization notification.**

(a) Each labor organization shall file a completed Labor Organization Notification Form in a format prescribed by the Board.

(b) Labor organizations shall file an updated version of the Labor Organization Notification Form within 30 days of a change in the information contained on the form.

**§ 438a.3. Permitting of labor organization officers, agents and management employees.**

(a) Every labor organization officer, agent and management employee shall be permitted in accordance with this section.

(b) Every labor organization officer, agent and management employee shall file a completed Labor Organization Permit Application Form with the permit fee established by the Board.

(c) Applicants and permittees under this section shall be subject to the general application requirements of Chapters 421a and 423a (relating to general provisions; and applications).

(d) Permits issued under this section will be valid for 1 year from the date on which the permit is approved by the Board. Renewals will be valid for 1 year and shall be filed no later than 60 days prior to the expiration of the current permit. A permit for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the permittee that the Board has approved or denied the renewal of the permit.

**CHAPTER 439a. JUNKET ENTERPRISES**

Sec.	
439a.1.	Definitions.
439a.2.	Junket enterprise general requirements.
439a.3.	Junket enterprise license applications.
439a.4.	Junket enterprise license term and renewal.
439a.5.	Junket representative general requirements.
439a.6.	Junket representative registration.
439a.7.	Junket schedules.
439a.8.	Junket arrival reports.
439a.9.	Junket final reports.
439a.10.	Monthly junket reports.
439a.11.	Purchase of patron lists.
439a.12.	Junket enterprise and representative prohibitions.

**§ 439a.1. Definitions.**

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

*Junket*—

(i) An arrangement made between a slot machine licensee and a junket enterprise or a junket representative, the purpose of which is to induce a person, selected or approved, to come to a licensed facility for the purpose of gambling and pursuant to which, and as consideration for which, some or all of the cost of transportation, food, lodging and entertainment for that person is directly or indirectly paid by a slot machine licensee. The person shall be selected or approved on the basis of one or more of the following:

(A) The ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble, which shall be deemed to occur whenever a person, as an element of the arrangement is required to perform one or more of the following:

- (I) Establish a customer deposit with a slot machine licensee.
- (II) Demonstrate to a slot machine licensee the availability of a specified amount of cash or cash equivalent.
- (III) Gamble to a predetermined level at the licensed facility.
- (IV) Comply with similar obligations.

(B) The propensity to gamble, which shall be deemed to occur whenever a person has been selected or approved on the basis of one or more of the following:

(I) The previous satisfaction of a financial qualification obligation in accordance with the provisions of clause (A).

(II) An evaluation that the person has a tendency to participate in gambling activities as the result of:

(-a-) An inquiry concerning the person's tendency to gamble.

(-b-) The use of other means of determining that the person has a tendency to participate in gambling activities.

(ii) A rebuttable presumption that a person has been selected or approved for participation in an arrangement on a basis related to the person's propensity to gamble shall be created whenever the person is provided, as part of the arrangement, with one or more of the following:

- (A) Complimentary accommodations.
- (B) Complimentary food, entertainment or transportation which has a value of \$200 or more.

*Junket enterprise*—A person, other than a slot machine licensee, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed facility, regardless of whether or not the activities occur within this Commonwealth.

*Junket representative*—

(i) A natural person who negotiates the terms of, engages in the referral, procurement or selection of persons who may participate in a junket to a licensed facility, regardless of whether or not those activities occur within this Commonwealth.

(ii) A gaming employee of a slot machine licensee who performs the duties and functions listed in subparagraph (i) for the licensed facility is not a junket representative.

**§ 439a.2. Junket enterprise general requirements.**

(a) A slot machine licensee seeking to conduct business with a junket enterprise or a junket enterprise seeking to conduct business with a slot machine licensee shall file a Junket Enterprise License Form with the Board.

(b) A junket enterprise shall be licensed as a junket enterprise prior to a slot machine licensee permitting a junket involving that junket enterprise to arrive at its licensed facility. A junket enterprise shall be considered "involved" in a junket to a licensed facility if it receives any compensation whatsoever from any person as a result of the conduct of the junket. A slot machine licensee may not engage the services of any junket enterprise which has not been licensed.

(c) A junket enterprise may not employ or otherwise engage the services of a junket representative except in accordance with § 439a.5 (relating to junket representative general requirements).

**§ 439a.3. Junket enterprise license applications.**

(a) A Junket Enterprise License Form shall be submitted by a slot machine licensee or junket enterprise applicant with a verification provided by the slot machine licensee that the junket enterprise's services will be utilized at the licensed facility.

(b) In addition to the Junket Enterprise License Form, an applicant for a junket enterprise license shall submit:

- (1) A nonrefundable application fee.

(2) A Junket Enterprise License Form for any principal that is an entity, and for each affiliate, intermediary, subsidiary and holding company of the applicant.

(3) A Junket Enterprise Representative Registration for each principal who is a natural person and for each key employee.

(c) In addition to the materials required under subsections (a) and (b), an applicant for a junket enterprise license shall:

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

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

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

**§ 439a.4. Junket enterprise license term and renewal.**

(a) A junket enterprise license issued under this chapter will be valid for 1 year from the date of Board approval.

(b) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a junket enterprise license.

(c) A junket enterprise license for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the holder of the junket enterprise license that the Board has approved or denied the junket enterprise license.

**§ 439a.5. Junket representative general requirements.**

(a) A person may not act as a junket representative in connection with a junket to a licensed facility unless the person has been registered as a junket representative and is employed by a junket enterprise that has been licensed by the Board.

(b) A junket representative may only be employed by one junket enterprise at a time. For the purposes of this section, to qualify as an employee of a junket enterprise, a junket representative shall:

(1) Receive all compensation for his services as a junket representative within this Commonwealth through the payroll account of the junket enterprise.

(2) Exhibit other appropriate indicia of genuine employment, including Federal and State taxation withholdings.

**§ 439a.6. Junket representative registration.**

(a) A natural person applying for a junket representative registration shall submit:

- (1) A Junket Representative Registration Form.
- (2) A nonrefundable application fee.

(b) In addition to the materials required under subsection (a), an applicant for a junket representative registration shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooper-

ate with the Board in investigations, hearings and enforcement and disciplinary actions.

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

(c) After review of the information submitted under subsections (a) and (b), including a background investigation, the Board may issue a junket representative registration if the individual has proven that he is a person of good character, honesty and integrity and is qualified to hold a junket representative registration.

(d) An individual who wishes to receive a junket representative registration under this chapter may provide the junket enterprise with written authorization to file an application on the individual's behalf.

(e) A junket representative registration issued under this section does not require renewal and is nontransferable.

**§ 439a.7. Junket schedules.**

(a) A junket schedule shall be prepared by a slot machine licensee for each junket that is arranged through a junket enterprise or its junket representative.

(b) A junket schedule shall be filed with the Bureau of Corporate Compliance and Internal Controls by a slot machine licensee by the 15th day of the month preceding the month in which the junket is scheduled. If a junket is arranged after the 15th day of the month preceding the arrival of the junket, an amended junket schedule shall be filed with the Bureau of Corporate Compliance and Internal Controls by the slot machine licensee by the close of the next business day.

(c) Junket schedules shall be certified by an employee of the slot machine licensee and include the following:

- (1) The origin of the junket.
- (2) The number of participants in the junket.
- (3) The arrival time and date of the junket.
- (4) The departure time and date of the junket.
- (5) The name and registration number of all junket representatives and the name and license number of all junket enterprises involved in the junket.

(d) Changes in the information which occur after the filing of a junket schedule or amended junket schedule with the Bureau of Corporate Compliance and Internal Controls shall be reported in writing to the Bureau of Corporate Compliance and Internal Controls by the slot machine licensee by the close of the next business day. These changes, plus other material changes in the information provided in a junket schedule, shall also be noted on the arrival report.

**§ 439a.8. Junket arrival reports.**

(a) A junket arrival report shall be prepared by a slot machine licensee for each junket arranged through a junket enterprise or its junket representative with whom the slot machine licensee does business.

(b) Junket arrival reports shall:

(1) Include a junket guest manifest listing the names and addresses of the junket participants.

(2) Include information required under § 439a.7 (relating to junket schedules) that has not been previously provided to the Bureau of Corporate Compliance and Internal Controls in a junket schedule pertaining to the particular junket, or an amendment thereto.

(3) Be certified by an employee of the slot machine licensee.

(c) Junket arrival reports shall be prepared by a slot machine licensee in compliance with the following:

(1) A junket arrival report involving complimentary accommodations shall be prepared within 12 hours of the arrival of the junket participant.

(2) A junket arrival report involving complementary services that does not involve complementary accommodations shall be filed by 5 p.m. of the next business day following arrival. A junket arrival which occurs after 12 a.m. but before the end of the gaming day shall be deemed to have occurred on the preceding calendar day.

(3) Junket arrival reports shall be maintained on the premises of the licensed facility and made available to the Board for inspection during normal business hours.

**§ 439a.9. Junket final reports.**

(a) A junket final report shall be prepared by a slot machine licensee for each junket for which the slot machine licensee was required to prepare either a junket schedule or a junket arrival report.

(b) A junket final report must include the actual amount of complimentary services provided to each junket participant.

(c) A junket final report shall be:

(1) Prepared within 7 days of the completion of the junket.

(2) Maintained on the premises of its licensed facility and made available to the Board for inspection during normal business hours.

**§ 439a.10. Monthly junket reports.**

(a) Each slot machine licensee shall, on or before the 15th day of the month, prepare and file with the Bureau of Corporate Compliance and Internal Controls a monthly junket report listing the name and registration number of each person who performed the services of a junket representative during the preceding month.

(b) Copies of the monthly junket reports shall be maintained by the slot machine licensee on the premises of its licensed facility and made available to the Board for inspection during normal business hours.

**§ 439a.11. Purchase of patron lists.**

(a) Each slot machine licensee, junket representative and junket enterprise shall prepare and maintain a report with respect to each list of names of junket patrons or potential junket patrons purchased from or for which compensation was provided to any source whatsoever.

(b) The report required by subsection (a) must include:

(1) The name and address of the person or enterprise selling the list.

(2) The purchase price paid for the list or any other terms of compensation related to the transaction.

(3) The date of purchase of the list.

(c) The report required by subsection (a) shall be filed with the Bureau of Corporate Compliance and Internal Controls, no later than 7 days after the receipt of the list by the purchaser.

**§ 439a.12. Junket enterprise and representative prohibitions.**

A junket enterprise or junket representative may not:

(1) Engage in collection efforts.

(2) Individually receive or retain a fee from a patron for the privilege of participating in a junket.

(3) Pay for services, including transportation or other items of value, provided to or for the benefit of a patron participating in a junket, unless otherwise disclosed to and approved by the Board.

(4) Extend credit to or on behalf of a patron participating in a junket.

**CHAPTER 440a. MANAGEMENT COMPANIES**

Sec.

- 440a.1. General requirements.
- 440a.2. Applications.
- 440a.3. Management company license and term and renewal.
- 440a.4. Management company responsibilities.
- 440a.5. Management contracts.

**§ 440a.1. General requirements.**

(a) A management company shall be required to obtain a management company license from the Board prior to providing any service to a slot machine applicant or licensee under this chapter.

(b) An applicant for or holder of a management company license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, may not apply for or hold a manufacturer or supplier license.

**§ 440a.2. Applications.**

(a) An applicant for a management company license shall file:

(1) A completed applicable Category 1, Category 2 or Category 3 slot machine license application and disclosure information forms with the applicable appendices as if the management company license applicant were an affiliated entity of the slot machine applicant or licensee.

(2) A nonrefundable application fee.

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

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

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

**§ 440a.3. Management company license and term and renewal.**

(a) A management company license issued under this chapter will be valid for 1 year from the date of Board approval.

(b) A renewal application shall be submitted to the Board at least 60 days prior to the expiration of a management company license.

(c) A management company license for which a completed renewal application and fee has been received by the Board will continue in effect until the Board sends written notification to the holder of the management company license that the Board has approved or denied the management company license.

**§ 440a.4. Management company responsibilities.**

(a) Notwithstanding any provision to the contrary in a management contract, a management company will be deemed to be an agent of the slot machine licensee for

purposes of imposing liability for any act or omission of the management company in violation of the act or this part.

(b) Notwithstanding any provision to the contrary in a management contract, a management company shall be jointly and severally liable for any act or omission by the slot machine licensee in violation of the act or this part, regardless of actual knowledge by the management company of the act or omission.

**§ 440a.5. Management contracts.**

(a) A management contract between a slot machine applicant or licensee and management company licensee may not become effective until the Board has reviewed and approved the terms and conditions of the management contract.

(b) A management company licensee shall submit any amendment to a management contract 30 days prior to the effective date of the proposed amendment. The amendment may not become effective until the Board has reviewed and approved the terms and conditions of the amendment.

(c) A management contract or amendment will not be approved by the Board unless the management company proves by clear and convincing evidence that the approval of the contract would not create a monopoly on the control of licensed gaming facilities in this Commonwealth. A management company that seeks Board approval of a management contract shall disclose its financial interests in the slot machine licensee or applicant and, if applicable, proposed or contemplated changes in ownership or control of a slot machine licensee.

(d) Requests for approval of a management contract must include a business plan which sets forth the parties' goals and objectives for the term of the management contract.

(e) A management contract, submitted to the Board for approval, must contain the following:

(1) A provision that provides the grounds and mechanisms for modifying or terminating the contract.

(2) A provision that states that the contract will not be effective unless it is approved by the Board.

(3) A provision that describes with particularity the method of compensating and reimbursing the management company.

(4) Provisions that contain a mechanism to resolve patron disputes and disputes between the slot machine licensee and the management company.

(5) A provision that indicates whether and to what extent contract assignments and subcontracting are permissible.

(6) A provision that specifies the duration of the management contract. A management contract may not contain a provision that provides for the automatic renewal of the management contract.

(f) A management contract submitted for Board review and approval must enumerate with specificity the responsibilities of the slot machine applicant or licensee and management company under the terms and conditions of the management contract. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

(1) Operation of the following departments:

(i) Information technology.

(ii) Internal audit.

(iii) Slot accounting.

(iv) Slot management.

(v) Security.

(vi) Surveillance.

(2) Design, construction, improvement or maintenance, or both, of the licensed facility.

(3) Provision of operating capital and finance for the development of the licensed facility.

(4) Payment of the slot machine license fee.

(5) Purchase or lease of slot machines or associated equipment.

(6) Design, implementation or amendment, or both, of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.

(7) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.

(8) The payment of local, State and Federal taxes and slot machine license deposit required under the act and this part and any penalties imposed by the Board for violations thereof.

(9) Advertising, player incentive or marketing programs.

(10) Compliance with section 1325(b)(1) of the act (relating to license or permit issuance).

(11) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.

(12) Procurement of vendors and junkets.

(13) Selection of the licensed facility's independent auditor.

(g) Notwithstanding subsections (a)—(f), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

[Pa.B. Doc. No. 07-841. Filed for public inspection May 11, 2007, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1249]

#### Rescission of the Statement of Policy Clarifying the Conditions under Which Medical Assistance Recipients May Be Considered Homebound

##### *Scope*

This statement of policy applied to providers enrolled in the Medical Assistance (MA) Program who prescribe Home Health Agency (HHA) services and HHAs enrolled in the MA Program systems.

##### *Purpose*

The purpose of this statement of policy is to rescind § 1249.2a, which clarified the conditions under which MA recipients may be considered homebound.

##### *Background*

Based on *Olmstead v. L.C.*, 527 U.S. 681 (1999), the Health Care Financing Administration, now the Centers for Medicare and Medicaid Services, clarified its position that requiring that a person be "homebound" to qualify for Medicaid HHA services violates Federal regulatory requirements in 42 CFR 440.230(c) and 440.240(b) (relating to sufficiency of amount, duration, and scope; and comparability of services for groups). See "Olmstead Update No. 3," Attachment 3(g), available at [www.cms.hhs.gov/smdl/downloads/smd072500b.pdf](http://www.cms.hhs.gov/smdl/downloads/smd072500b.pdf).

As a result, the Department of Public Welfare (Department) revised the HHA regulations to remove the requirement that an MA recipient be homebound to receive HHA services. The regulatory change conforms to the Department's direction of emphasizing home-and-community-based services when appropriate, rather than more restrictive and expensive alternatives such as nursing home care.

##### *Discussion*

Because the Department revised the HHA regulations to remove the requirement that an MA recipient be homebound to receive HHA services, a statement of policy that clarifies the conditions under which MA recipients may be considered homebound is no longer needed. Therefore, the Department is rescinding the statement of policy in § 1249.2a.

##### *Effective Date*

This rescission of this statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

##### *Contact Person*

Questions and comments regarding the rescission of this statement of policy should be directed to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120.

(*Editor's Note:* Title 55 of the *Pennsylvania Code* is amended by deleting a statement of policy in § 1249.2a to read as set forth in Annex A.)

(*Editor's Note:* For a final-form rulemaking relating to this statement of policy, see 37 Pa.B. 2185 (May 12, 2007).)

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-BUL-071. No fiscal impact; (8) recommends adoption.

#### Annex A

**TITLE 55. PUBLIC WELFARE**  
**PART III. MEDICAL ASSISTANCE MANUAL**  
**CHAPTER 1249. HOME HEALTH AGENCY SERVICES**  
**GENERAL PROVISIONS**

#### § 1249.2a. (Reserved).

[Pa.B. Doc. No. 07-842. Filed for public inspection May 11, 2007, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, 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 May 1, 2007.

#### BANKING INSTITUTIONS

##### Charter Applications

<i>Date</i>	<i>Name of Trust Company</i>	<i>Location</i>	<i>Action</i>
5-1-07	DM Trust Company Philadelphia Philadelphia County	30 South 17th Street Philadelphia Philadelphia County	Commenced Operations

##### Interim Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-25-07	Elderton Interim Bank Elderton Armstrong County	Elderton	Filed

Application being filed in conjunction with the reorganization of Elderton State Bank into a bank holding company form of business, which will become the wholly-owned subsidiary of Keystrong Financial, Inc., a new holding company in formation.

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-25-07	First Priority Bank, Malvern, and First Priority Interim Bank, Malvern Surviving Institution— First Priority Bank, Malvern	Malvern	Approved

The subject merger is in conjunction with First Priority Bank's reorganization into a holding company form of business by forming a Pennsylvania holding company to be known as "First Priority Financial Corp.," Malvern.

4-26-07	Fulton Bank Lancaster Lancaster County	Lancaster	Approved
---------	--	-----------	----------

Purchase of Assets/Assumption of Liabilities of Lebanon Valley Farmers Bank, Lebanon. Both institutions are wholly-owned subsidiaries of Fulton Financial Corporation, Lancaster.

4-26-07	Berkshire Bank Wyomissing Berks County	Wyomissing	Approved
---------	--	------------	----------

Purchase of Assets/Assumption of Liabilities of Two Branch Offices of Fleetwood Bank, Fleetwood, Located at:

5-1-07	555 Penn Avenue West Reading Berks County	2493 Bernville Road Reading Berks County	Effective
--------	---	--	-----------

All branch offices of Citizens Trust Company will become branches of Citizens & Northern Bank, including the former main office of Citizens Trust Company.



**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-16-07	Abington Savings Bank Jenkintown Montgomery County	4000 Fox Hound Drive Lafayette Hill Montgomery County (Limited Service Facility) (Correction from) 37 Pa.B. 2100 (May 5, 2007)	Opened
4-23-07	CommunityBanks Millersburg Dauphin County	233 Hershey Road Hummelstown Dauphin County	Opened
4-23-07	Northwest Savings Bank Warren Warren County	2470 Longstone Lane Marriottsville (Previously Woodstock) Howard County, MD	Opened
4-25-07	Valley Green Bank Philadelphia Philadelphia County	23 West Highland Avenue Philadelphia Philadelphia County	Approved
4-26-07	CNB Bank Clearfield Clearfield County	1925-2055 Edinboro Road Millcreek Erie County	Filed
4-26-07	CNB Bank Clearfield Clearfield County	101 10th Street Erie Erie County	Filed
4-26-07	Abington Savings Bank Jenkintown Montgomery County	329 North Main Street Chalfont Bucks County	Opened
4-30-07	Embassy Bank for the Lehigh Valley Bethlehem Northampton County	1142 South Cedar Crest Boulevard Allentown Salisbury Township Lehigh County	Filed

**Branch Relocations/Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-27-07	AmeriServ Financial Bank Johnstown Cambria County	<i>Into:</i> 1404 Eisenhower Boulevard Johnstown Richland Township Cambria County  <i>From:</i> 1213 Scalp Avenue Johnstown Richland Township Cambria County	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

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

VICTORIA A. REIDER,  
*Acting Secretary*

[Pa.B. Doc. No. 07-843. Filed for public inspection May 11, 2007, 9:00 a.m.]

# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

## Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources will hold a meeting on Wednesday, May 23, 2007, 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 07-844. Filed for public inspection May 11, 2007, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

---

### APPLICATIONS

---

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

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

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

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060020	Milford Senior Care & Rehabilitation Center 264 Route 6 and 209 Milford, PA 18337	Pike County Westfall Township	Delaware River 01D	Y
PA0061336 (Minor Industrial Waste)	PA American Water Company Nesbitt WTP R. R. 2, Box 195 Aston Mountain Road Pittston, PA 18640-9502	Pittston Township Luzerne County	Trout Creek 5A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0043567 (SEW)	York Springs Municipal Authority P. O. Box 175 York Springs, PA 17372-0222	Adams County Huntingdon Township	Gardner Run 7F	Y
PA0088480 (SEW)	Double L Partners Centennial Meadows Development 982 Bollinger Road Littlestown, PA 17340	Adams County Mount Pleasant Township	UNT Conewago Creek 7F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0103471	Shenango Township Municipal Authority P. O. Box 266 West Middlesex, PA 16159	Shenango Township Mercer County	UNT to Shenango River 20-A	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.*

**PA0051365**, Industrial Waste, SIC 4941, **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This existing facility is located in East Bradford Township, **Chester County**.

Description of Proposed Activity: This application is for the renewal of an NPDES permit for an existing discharge of treated filter backwash and sedimentation basin water from the Ingrams Mill WTP, which is a surface water treatment plant and booster station.

The receiving stream, East Branch Brandywine Creek, in State Water Plan Watershed 3H, is classified for: WWF, MF, aquatic life, water supply and recreation. East Branch Brandywine Creek is tributary to Brandywine Creek. There are no downstream potable water supply intakes identified in PA. The discharge is located approximately 13 river miles from the State Line. A Wilmington, DE, water supply intake is located on Brandywine Creek approximately 7.5 river miles downstream from the State Line.

The proposed effluent limits for Outfall 001, based on an average flow of 0.233 mgd are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	20		40	50
Iron, Total	2.0		4.0	5.0
Aluminum, Total	4.0		8.0	10.0
Manganese, Total	1.0		2.0	2.5
Total Residual Chlorine	0.35		0.70	0.73
Chloroform	Monitor and Report		Monitor and Report	
Chlorodibromomethane	Monitor and Report		Monitor and Report	
Dichlorobromomethane	Monitor and Report		Monitor and Report	
Turbidity	Monitor and Report average daily during dewatering of sedimentation basins			
pH	Within limits of 6.0 to 9.0 standard units at all times			

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

1. Notification of Designation of Operator
2. Effective Disinfection
3. Remedial Measures if Unsatisfactory Effluent
4. BAT/ELG Reopener
5. Change of Ownership
6. Total Residual Chlorine Requirement
7. Sludge Disposal Requirement
8. I-Max
9. Sedimentation Basin Cleaning
10. Laboratory Certification

---

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

**PA No. 0062693**, Industrial, **Municipal Authority of the Township of Blythe**, 375 Valley Street, New Philadelphia, PA 17959. This proposed facility is located in Schuylkill Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES permit.

The receiving stream, Big Creek, is in the State Water Plan Watershed No. 3A and is classified for: CWF. The nearest downstream public water supply intake for Pottstown Borough Water Authority is located on the Schuylkill River over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.026 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Total Suspended Solids			30.0	60.0
Total Aluminum	0.90	1.80	2.7	5.4
Total Iron			2.0	4.0
Total Manganese			1.0	2.0
pH			6.0 to 9.0 standard units	
Total Residual Chlorine			0.5	

---

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

**PA0253405**, Industrial Waste, SIC 6552, **Kacin Brothers, Inc.**, 795 Pine Valley Drive, Suite 24, Pittsburgh, PA 15239. This application is for issuance of an NPDES permit to discharge treated acid mine drainage from the Briarwood Lane Mine Drainage in Plum Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to Little Plum Creek, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Wilkesburg-Penn Joint Water Authority, located at 2200 Robinson Boulevard, Wilkesburg, PA 15221, 12 miles below the discharge point.

*Outfall 001: new discharge, design flow of 0.0144 mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Suspended solids			35	70	90
Aluminum				Monitor and Report	
Copper				Monitor and Report	

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Iron			3.0	6.0	7.0
Iron, dissolved				Monitor and Report	
Manganese			2.0	4.0	5.0
Nickel				Monitor and Report	
Zinc				Monitor and Report	
pH	not less than 6.0 nor greater than 9.0				

Alkalinity greater than acidity at all times.

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. 4807404**, Sewerage, **City of Bethlehem**, City Hall, 10 East Church Street, Bethlehem, PA 18018-6025. This proposed facility is located in City of Bethlehem, **Northampton County**, PA.

Description of Proposed Action/Activity: This project is for the construction of a wastewater collection and conveyance facilities to include a gravity sanitary sewer, pump station and force main that will serve a Brownfield Redevelopment located in vicinity of Easton Road, Bethlehem City with proposed sewage flows of 13,000 gpd.

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

**WQM Permit No. 6707406**, Sewerage, **Wrightsville Municipal Sewer Authority**, P. O. Box 187, Wrightsville, PA 17368. This proposed facility is located in Wrightsville Township, **York County**.

Description of Proposed Action/Activity: Seeking permit authorization for the upgrade to their treatment plant to meet the future nitrogen and phosphorus effluent concentrations. The upgrade will not increase the hydraulic capacity of the plant.

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

**WQM Permit No. 1407405**, Sewerage, SIC 4952, **Judith A. Taylor**, 168 Hastings Road, Bellefonte, PA 16823. This proposed facility will be located in Union Township, **Centre County**.

Description of Proposed Action/Activity: Applicant seeks a permit authorizing the design, construction and operation of a small flow treatment facility, consisting of a septic tank, effluent filter, effluent pump, peat biofilter and an erosion chlorinator. Discharge will be to Dewitt Run, a CWF.

**WQM Permit No. 1407406**, Sewerage, SIC 4952, **Eric S. Durante**, 4663 Route 322, Brookville, PA 15825. This proposed facility will be located in Taylor Township, **Centre County**.

Description of Proposed Action/Activity: Applicant seeks a permit authorizing the design, construction and operation of a small flow treatment facility, consisting of a septic tank, effluent filter, sand filter and an erosion chlorinator. Discharge will be to a UNT to Bald Eagle Creek, a CWF.

**WQM Permit No. WQG02140701**, Sewerage, SIC 4952, **Centre Hall-Potter Sewer Authority**, P. O. Box 497, 2940 Penns Valley Pike, Centre Hall, PA 16828. This proposed facility will be located in Potter Township, **Centre County**.

Description of Proposed Action/Activity: Applicant seeks a permit to authorize the design, construction and operation of a pump station to serve the proposed first phase of Mountainview Estates residential development, which will consist of 27 EDUs and the existing 111 unit Rud-Cor mobile home park.

**WQM Permit No. 5507403**, Sewerage, **Penns Creek Municipal Authority**, P. O. Box 148, Penns Creek, PA 17862. This proposed facility is located in Center Township, **Snyder County**.

Description of Proposed Action/Activity: Application for installation of a fine screen on the influent and replacement of the existing baffle at the existing treatment facility.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. WQG016145**, Sewerage, **Anthony Sculli**, 3241 Parkview Avenue, Pittsburgh, PA 15213. This proposed facility is located in Marshall Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single-residence sewage treatment plant.

**WQM Permit No. 0296403-A1**, Sewerage, **Ohio Township Sanitary Authority**, 1719 Roosevelt Road, Pittsburgh, PA 15237. This existing facility is located in Ohio Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for amendment to reflect installation of a motor-driven macerator at the Verland Pump Station.

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

**WQM Permit No. 1682401**, Sewerage Amendment No. 2, **Municipal Authority of Strattanville Borough**, P. O. Box 139, 361 Virgin Alley, Strattanville, PA 16258. This proposed facility is located in Borough of Strattanville, **Clarion County**.

Description of Proposed Action/Activity: This project is for the installation of a fine screen on the influent to the treatment plant and a larger chlorine contact tank at the plant and an upgrade to the plant's capacity.

---

#### **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**

---

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

*Luzerne County Conservation District: Smith Pond Road, Route 485, Lehman, PA 18627-0250, (570) 674-7991.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024006009	SADG-2, Inc. 100 Colliery Lane Dickson City, PA 18519	Luzerne	White Haven Borough	Lehigh River HQ-CWF

*Lackawanna County Conservation District: 1300 Old Plank Road, Mayfield, PA 18433, (570) 281-9495.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023507006	First Industrial 200 Phillips Road Exton, PA 19341	Lackawanna	Covington Township	Roaring Brook HQ-CWF Meadow Brook HQ-CWF
PAI023507007	Allan Mykalo Jefferson Township Sewer Authority 487 Cortez Road Lake Ariel, PA 18436	Lackawanna	Jefferson Township	West Branch of Wallenpaupack Creek HQ-CWF

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Armstrong County Conservation District, Armsdale Administration Building, Suite B-2, 124 Armsdale Road, Kittanning, PA 16201, (724) 548-3425/3428.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050307001	Jeffrey and Kristen Christy 138 Horseshoe Drive Freeport, PA 16229	Armstrong	South Buffalo Township	Buffalo Creek HQ

*Somerset County Conservation District, Somerset County Agricultural Center, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814) 445-4652.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055607001	Shaffer Mountain Wind, LLC One South Broad Street Philadelphia, PA 19107	Somerset and Bedford Counties	Somerset County Ogle and Shade Townships Bedford County Napier Township	Piney Run EV Clear Shade Creek EV Beaverdam Run HQ-CWF

*Central Office: Bureau of Abandoned Mine Reclamation, 400 Market Street, Floor 5, P. O. Box 8476, Harrisburg, PA 17105-8476.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI101707002	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311	Clearfield County	Goshen and Lawrence Townships	Flegals Run to Lick Run HQ-CWF

---

**VII. List of NOIs for NPDES and/or Other General Permit Types**


---

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

---

## 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 any 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, or 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 below, 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 below. During this comment period the municipality may request that the person identified below, 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department of Environmental Protection has received the following Notices of Intent to Remediate:

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Bud Friend, Inc.**, Emmaus Borough, **Lehigh County**. Brian Evans, B & B Diversified Enterprises, Inc., P. O. Box No. 188, Gwynedd, PA 19436 has submitted a Notice of Intent to Remediate (on behalf of his client, Arland and Judith Friend, 700 Chestnut Street, Emmaus, PA 18049, concerning the remediation of soil found to be impacted by a release of used motor oil as the result of the removal of an unregulated underground storage tank. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in the *East Penn Publishing Group* on September 13, 2006.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Clay's Service Station / Former Exxon Station No. 2-3303**, Mechanicsburg Borough, **Cumberland County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of James Clay, Clay's Service Center, 138 West Main Street, Mechanicsburg, PA 17055-6229 and Exxon Mobil Corporation, 7715 Crittenden Street, No. 309, Philadelphia, PA 19118-4421, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX. The property is a former automobile service center and will be used as a commercial property in the future. The applicant intends to remediate to both the Site-Specific and Statewide Health Standards.

**Lebanon Steel-Bachman Site**, Swatara Township, **Lebanon County**. Spotts, Stevens, and McCoy, Inc., 1047 North Park Road, P. O. Box 6307, Reading, PA 19610, on behalf of Washington Street Castings, 376 Mountville Drive, Lebanon, PA 17046, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by nickel and lead from historical foundry sand disposal. The property will be used for nonresidential development. The applicant intends to remediate to the Site-Specific Standard.

#### **DETERMINATION OF APPLICABILITY FOR INFECTIOUS AND CHEMOTHERAPEUTIC WASTE GENERAL PERMITS**

---

**Determination of Applicability for General Permit WMGI005 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 Infectious and Chemotherapeutic Waste Regulations for a General Permit to Operate Infectious and Chemotherapeutic Waste Processing Facilities.**

*Southcentral Region: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**General Permit No. WMGI005SC001. GlaxoSmithKline Biologicals N.A.**, 325 North Bridge Street, Marietta, PA 17547. The Department has received a determination of applicability (DOA) under the Infectious and Chemotherapeutic Waste General Permit (No. WMGI005) for the GlaxoSmithKline facility, located in East Donegal Township, **Lancaster County**. This general permit is the processing of infectious waste by means of chemical and thermal inactivation. The Department determined the DOA application to be administratively complete on April 12, 2007.

Persons interested in obtaining more information about the general permit application may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable

requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

## PLAN APPROVALS

**Plan Approval Applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**01-05027B: McDermitt Concrete, Inc.** (P. O. Box 3219, Gettysburg, PA 17325) for construction of a hot mix batch asphalt plant controlled by a fabric collector at their Hanover Plant in Oxford Township, **Adams County**. The asphalt plant is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

**36-05002C: Armstrong World Industries, Inc.** (1067 Dillerville Road, Lancaster, PA 17603) for installation of a replacement wet scrubber on the No. 6 Roto Line at the flooring plant in the City of Lancaster, **Lancaster County**.

**67-05112A: Kinsley Manufacturing, Inc.** (1110 East Princess Street, York, PA 17403) for construction of two portable spray paint units with dry panel filters for control of PM emissions at their steel fabrication shop (East York Facility) in Springettsbury Township, **York County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**04-00044B: Horsehead Corp.** (300 Frankfort Road, Monaca, PA 15061) for installation of swing column at Monaca Zinc Smelter Facility in Potter Township, **Beaver County**.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0061A: Department of Corrections—Graterford State Correctional Institute** (Route 29, Graterford, PA 19426) for replacement of a control device on Boiler No. 3 at the existing facility in Skippack Township, **Montgomery County**. This facility is a Title V facility. The replacement control device on Boiler No. 3 will be a multicyclone to control PM emissions. The Plan Approval will contain recordkeeping requirements, monitoring requirements, operating conditions and performance testing requirements designed to keep the facility operating within the allowable emission limitations and all applicable air quality requirements.

**15-0068A: Spring City Electrical Manufacturing Co.** (P. O. Box 19, Spring City, PA 19475) for modification of a sandblasting shed and installation of a dust collector to control the sandblasting operation at the Spring City



Electrical Manufacturing Company steel product manufacturing facility at 1 South Main Street, Spring City, PA 19475, Spring City Borough, **Chester County**. The modification of sandblasting shed with the installation of its control device may result in the emissions of: 5.48 tpy of PM10 or smaller and 5.48 tpy of PM. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**21-03078A: Carlisle Coatings and Waterproofing, Inc.** (1275 Ritner Highway, Carlisle, PA 17013) for installation of a rubberized asphalt sheeting line in Carlisle Borough, **Cumberland County**. The line is subject to 40 CFR Part 60, Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. Potential emissions of PM from the facility are estimated at less than 1 tpy. The plan approval will contain emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulation.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**08-00028A: Wyalusing Area School District** (115 Main Street, Wyalusing, PA 18853) for construction and operation of a wood-fired boiler (Source ID 031), and installation of a multiclone collector (ID C031) to control the PM emissions from the wood-fired boiler, and a No. 2 fuel oil fired boiler at the Jr./Sr. High School in Wyalusing Township, **Bradford County**.

The Department's review of the plan approval application and information submitted by Wyalusing Area School District indicates that the proposed boilers and the multiclone collector will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the construction of the wood-fired boiler with the installation of a multiclone collector and for the construction of the No. 2 fuel oil fired boiler. Additionally, if the Department determines that the boilers and the multiclone collector are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into the State-only operating permit No. 08-00028 by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the NOx emissions from the exhaust of ID C031 associated with Source ID 031 shall not exceed 0.182 lb/mmBtu of heat input and 7.18 tons in any 12-consecutive month period and the NOx emissions from the exhaust of Source ID 032 shall not exceed 0.12 lb/mmBtu of heat input, 1.18 tons in any 12-consecutive month period, and 90 ppmdv when corrected to 3% oxygen.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the CO emissions from the exhaust

of ID C031 associated with Source ID 031 shall not exceed 0.164 lb/mmBtu of heat input and 6.48 tons in any 12-consecutive month period and the CO emissions from the exhaust of Source ID 032 shall not exceed 0.04 lb/mmBtu of heat input, 0.39 ton in any 12-consecutive month period, and 300 ppmdv when corrected to 3% oxygen.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the PM emissions from the exhaust of ID C031 associated with Source ID 031 shall not exceed 0.22 lb/mmBtu of heat input and 8.68 tons in any 12-consecutive month period and the PM emissions from the exhaust of Source ID 032 shall not exceed 0.03 lb/mmBtu of heat input and 0.29 ton in any 12-consecutive month period.

4. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the SOx emissions from the exhaust of ID C031 associated with Source ID 031 shall not exceed 0.002 lb/mmBtu of heat input and 0.08 ton in any 12-consecutive month period and the SOx emissions from the exhaust of Source ID 032 shall not exceed 0.21 lb/mmBtu of heat input and 2.06 tons in any 12-consecutive month period.

5. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the VOC emissions from the exhaust of ID C031 associated with Source ID 031 shall not exceed 0.004 lb/mmBtu of heat input and 0.16 ton in any 12-consecutive month period and the VOC emissions from the exhaust of Source ID 032 shall not exceed 0.025 lb/mmBtu of heat input and 0.25 ton in any 12-consecutive month period.

6. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not emit into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission from Source ID 032 and ID C031, associated with Source ID 031, is equal to or greater than 10% each at any time.

7. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID 031 shall be fired on virgin hardwood sawdust and wood chips consisting of green and kiln-dried wood only. No coated or treated wood, laminated wood, particleboard, flakeboard or materials other than kiln-dried and green wood shall be burned in the boiler.

8. The permittee shall perform PM and NOx stack tests from the exhaust of ID C031 associated with Source ID 031 within 180 days from the commencement of operation of Source ID 031 to demonstrate compliance with the PM and NOx emission limitations. The permittee shall perform opacity readings at the exhaust of ID C031 during the stack tests in accordance with EPA Method 9 to demonstrate compliance with the opacity limitation. All testing is to be done while Source ID 031 is operating at its maximum rate and using reference method test procedures acceptable to the Department.

9. Upon Department request, the permittee shall provide analyses or samples of the wood used as fuel in Source ID 031 and the permittee shall provide analyses and/or samples of the virgin No. 2 fuel oil being fired in Source ID 032 upon request from the Department.

10. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, ID C031 shall be equipped with instrumentation to measure the differential pressure across the collector and shall monitor the differential pressure across the collector on a continuous basis.

11. The permittee shall keep records of the following information for Source ID 031:

- a. The amount of wood fired in Source ID 031 each day.
- b. The number of hours Source ID 031 is operated each day.
- c. The test reports used to verify compliance with the NO<sub>x</sub> and PM emission limitations.
- d. The supporting calculations on a monthly basis used to verify compliance with the NO<sub>x</sub>, CO, SO<sub>x</sub>, VOC and PM emission limitations in any 12-consecutive month period.
- e. The differential pressure across ID C031 at least once per day. The differential pressure operating range of ID C031 will be established upon issuance of the revised State-only operating permit.

These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request

12. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the multiclone collector ash discharge system shall remain sealed from the open air at all times except when changing flyash disposal drums. Additionally, the level of accumulated ash in the flyash disposal drum shall be checked daily and the drum shall be emptied prior to becoming full.

13. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not operate Source ID 031 without the simultaneous operation of ID C031.

14. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the screener and wood conveyors for Source ID 031 shall be completely enclosed, except for the top of the screener loading hopper, to minimize the amount of fugitive emissions from the screening operation.

15. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the front end loader bucket-to-hopper fall height shall be kept a minimum during loading of wood into the screener hopper for Source ID 031.

16. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, this plan approval is issued for the construction of a 12.0 mmBtu/hr Advanced Recycling Equipment (ARE) Model Challenger CCUE 412 W wood-fired boiler (Source ID 031), the air contaminant emissions from Source ID 031 shall be controlled by a Clarage Model C9YT multiclone collector (ID C031). Source ID 031 shall be equipped with a programmable logic controller (PLC) that regulates the speeds of the augers, fans by means of variable speed drives to be fed into the boiler, and temperatures depending upon the steam load. This plan approval is also issued for the construction of a 12 mmBtu/hr Cleaver Brooks Model F fired only on virgin No. 2 fuel oil.

17. Source ID 031 and Source ID 032 are subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources, 40 CFR Part 60 Sections 60.40c–60.48c. The permittee shall comply with all applicable requirements of this subpart, including any recordkeeping and reporting requirements.

18. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the HAP emissions from the exhaust of Source ID 032 shall not exceed 0.004 lb/mmBtu of heat input and 0.01 ton in any 12-consecutive month period.

19. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID 032 shall only be fired on

virgin No. 2 fuel oil that has a maximum sulfur content of 0.2% by weight and does not contain any reclaimed/reprocessed oil, waste oil and any other waste material.

20. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12 the permittee shall not fire more than 140,000 gallons of virgin No. 2 fuel oil in Source ID 032 in any 12-consecutive month period.

21. (a) For each separate load of virgin No. 2 fuel oil delivered to the facility for use in Source ID 032, the permittee shall obtain from the virgin No. 2 fuel oil suppliers a fuel certification report which contains the following information:

- (1) The date of delivery and the name of the suppliers,
- (2) The results of analyses performed on the virgin No. 2 fuel oil for sulfur content, ash content and heat content,
- (3) The location of the virgin No. 2 fuel oil when the sample was collected for the performance of the analyses listed previously.
- (4) Identification of the specific analytical methods used to perform the analyses listed previously.

(b) If the virgin No. 2 fuel suppliers does not provide a fuel certification report for the load which contains all of the above required information, the permittee shall not accept delivery of the load nor shall the permittee accept delivery of the load if the virgin No. 2 fuel oil suppliers provides a fuel certification report for the load which shows that the sulfur content of the load is in excess of 0.2%.

22. (a) The permittee shall keep records of the following for Source ID 032:

(1) The amount of virgin No. 2 fuel oil burned in Source ID 032 on a monthly basis, and the supporting calculations used to verify compliance with the respective throughput limitation in any 12-consecutive month period,

(2) The emission of CO, NO<sub>x</sub>, PM, SO<sub>x</sub> and VOCs and the supporting calculations on a monthly basis and verify compliance with the respective emission limitation in any 12-consecutive month period,

(3) Fuel certifications for each delivery of virgin No. 2 fuel oil.

(b) These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request.

A copy of the plan approval application and the Department's review are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

**59-00021A: Phoenix Resources, Inc.** (782 Antrim Road, Wellsboro, PA 16901) for construction and demolition (C & D) of a waste landfill by expansion of the landfill and by increasing the average daily volume (ADV) of C & D waste from 1,250 tpd to 1,500 tpd at the Phoenix Resources Landfill in Duncan Township, **Tioga County**. PMs from the expansion of the landfill and

increase in ADV of C & D waste will be controlled by a pressurized water truck (ID C101).

The Department's review of the information contained in the application submitted by Phoenix Resources indicates that the expansion of landfill and increase in ADV of C & D waste will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, and the fugitive air contaminant emission requirement of 25 Pa. Code Section 123.1. The plan approval, if issued, will subsequently be incorporated in an operating permit by means of an administrative amendment in accordance with 25 Pa. Code Section 127.450 at a later date.

Based upon this finding, the Department intends to issue a plan approval for the proposed project. The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

(1) This plan approval authorizes the expansion of 86.4 acres of disposal area at the existing landfill and increase in ADV of C & D waste from 1,250 to 1,500 tpd.

(2) The permittee shall not process more than 1,500 tpd of C & D waste at this facility.

(3) The VOCs emissions from the landfill expansion shall not exceed 1.86 tons in any 12-consecutive month period.

(4) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the PM/PM10 emissions from the site haul roads and construction/operation activities associated with the expansion of landfill shall not exceed 42.8 tons and 11.8 tons respectively in any 12-consecutive month period.

(5) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall pave the 0.7 mile of site haul road that begins at intersection with public highway and extends to the edge of the expansion area.

(6) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, an operable water truck equipped with a pressurized water spray mechanism with at least two spray nozzles shall be kept onsite and shall be used for the prevention and control of fugitive air contaminant emissions from site haul roads and construction/operation activities associated with the expansion of landfill. The water truck shall be filled with water at all times while the facility is in operation.

(7) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall water each site haul road and construction/operation area at the facility at least twice per day while the facility is in operation. Each application of water shall sufficiently wet the site haul road and construction/operation area to maintain the moisture ratio at or above 4.18. Provisions may be made for rainfall. If during the day of operation, rainfall application maintains the moisture ratio at or above 4.18, the rainfall may be substituted for a watering of site haul roads and construction/operation area. If rainfall application is not sufficient to maintain moisture ratio at or above 4.18, watering of site haul roads and construction/operation area must be performed to make up the difference.

(8) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall implement any effective winterization measures necessary to render the water truck capable of use under all weather conditions.

(9) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall establish and enforce, vehicle speed limits of no higher than 15 mph on paved roads and 10 mph on unpaved roads within the site as described in the plan approval application. The speed limits shall be posted in highly visible locations within the Roadway 1—4.

(10) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, all loaded waste hauling vehicles entering the facility shall have their loads tarped.

(11) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, drop heights shall be kept at a minimum when loading and unloading of materials including, but not limited to, overburden, daily/intermediate cover soil, cell construction soils to prevent fugitive PM from becoming airborne.

(12) Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall promptly remove dirt and/or earthen material that falls from waste hauling vehicles onto the paved portion of the access road.

(13) If at any time the fugitive dust emissions exceeds the limitations of 25 Pa. Code Section 123.1, the company shall take such control measures as are necessary to reduce the air contaminant emissions to within the acceptable limitations.

(14) The permittee shall keep records of the following:

a. The supporting documentation/calculations used to verify compliance with the twice per day water application frequency and/or moisture ratio requirements.

b. The C & D waste delivered to site each day used to verify compliance with tpd throughput limitation.

c. The supporting documentation/calculations on a monthly basis used to verify compliance with the PM/PM10 and VOCs emission limitations in any 12-consecutive month period.

These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

(15) The permittee shall submit semi-annual reports to the Department which contains the supporting documentation/calculations on a monthly basis used to verify compliance with the PM/PM10 and VOCs emission limitations in any 12-consecutive month period. The semi-annual reports shall be submitted to the Department no later than March 1 (for January 1 through December 31 of the previous year) and September 1 (for July 1 of the previous year through June 30 of the current year).

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

*Department of Public Health, Air Management Services:  
321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**AMS 06021: Kinder Morgan Liquid Terminals, LLP** (3300 North Delaware Avenue, Philadelphia, PA 19134) for addition of a new loading position to one

loading rack and switch the vapor recovery from a second loading rack to a third loading rack in the City of Philadelphia, **Philadelphia County**. The project will increase potential VOC emissions from the facility by 2.0 tons per rolling 12-month period. The plan approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

**AMS 07019: Sunoco Chemicals—Frankford Plant** (Margaret and Bermuda Streets, Philadelphia, PA 19137) for an increase to the capacity of a cooling tower, for an increase to the PM emission limits for the cooling tower 1—14.0 tons per rolling 12-month period, and for shut down of another cooling tower. The net potential PM increase for the project is 4.17 tons per rolling 12-month period. The plan approval will contain operating, testing, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

**AMS 06170: Sunoco, Inc.—R and M** (3144 Passyunk Avenue, Philadelphia, PA 19145) for reduction of the frequency of some monitoring requirements in Plan Approval No. 98005, issued March 23, 1998, for a Sewer Odor Treatment Unit (Biofilter) at 3200 South 26th Street in the City of Philadelphia, **Philadelphia County**. Emissions are not expected to increase as a result of this change.

**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, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**15-00046: Sunoco Pipeline L.P.—Icedale Pump Station** (1824 Horseshoe Pike, Honey Brook, PA, Chester County 19344) for a non-Title V Facility, State-only, Synthetic Minor Operating Permit in West Brandywine Township, **Chester County**. The Icedale Pump Station is used primarily for the storage of petroleum products (such as, gasoline or No. 2 fuel oil). The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**01-05026: Bituminous Paving Materials of York—Hanover Plant** (100 Green Springs Road, Hanover, PA 17331) for a renewal of their State-only operating permit for operation of their asphalt paving plant in Berwick Township, **Adams County**. This is a renewal of the State-only operating permit issued in 2002.

**22-03051: Buse Funeral Home** (9066 Jonestown Road, Grantville, PA 17028) for operation of a crematorium in East Hanover Township, **Dauphin County**. This is a renewal of the State-only operating permit issued in 2002.

**67-03041: County Line Quarry, Inc.** (99 Horseshoe Road, Leola, PA 17540) for operation of their quarry and stone crushing facility in Wrightsville Borough, **York County**. This is a renewal of the State-only operating permit issued in 2002.

**67-03059: Hill Street Veterinary Hospital** (555 Hill Street, York, PA 17403) for operation of an animal incinerator controlled by an afterburner in Spring Garden

Township, **York County**. This is a renewal of the State-only operating permit issued in March of 2002.

**67-05074: Bituminous Paving Materials of York, York Plant** (1300 Zinn's Quarry Road, York, PA, 17404) for renewal of their State-only operating permit for operation of their asphalt paving plant in West Manchester Township, **York County**. This is a renewal of the State-only operating permit issued in 2002.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**18-00026: First Quality Products, Inc.** (P. O. Box 270, McElhattan, PA 17748) for operation of a sanitary paper products manufacturing facility in Wayne Township, **Clinton County**.

The facility incorporates 25 converting (absorbent products manufacturing) lines, one pantliner manufacturing line, 53 natural gas-fired space heaters (with a total combined heat input of 17,906,000 Btu/hr), a 375 horsepower diesel-fired fire pump, an 80 horsepower natural gas-fired emergency generator and four solvent parts washers. The PM10 emissions from the 25 converting lines are controlled by seven drum filter units, two fabric collectors, and 15 Osprey/Ibis units (each incorporating a drum filter, cartridge filter and HEPA filter).

The air contaminant emissions from the facility are not expected to exceed 14.57 tons of VOCs, 8.61 tons of NOx, 6.68 tons of CO, 2.50 tons of volatile HAP, .71 ton of PM (including .71 ton of PM10) and .047 ton of SOx per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approval 18-315-002, issued on May 24, 2005, Plan Approval 18-315-002A, issued on August 9, 2005, and a plan approval exemption granted on June 13, 2005.

The conditions previously contained in Plan Approvals 18-315-002 and 18-315-002A and the June 13, 2005, plan approval exemption include:

1. Conditions requiring any air compressor supplying compressed air to a PM control device to be equipped with an air dryer and oil trap.

2. A condition requiring the filter bags in the fabric collector associated with converting lines 2—4 to be cleaned at least once every 12 hours of operation.

3. Conditions restricting the adhesives used on converting lines 2—6, 8, 11—23, JP1 and JP2 to hot melt adhesives which do not contain, as an intentionally-added ingredient, any VOC or volatile HAP.

4. Conditions prohibiting the use of ink on converting lines 2—6, 8, 11—23, JP1 and JP2 which contain more than 5.92 pounds of VOCs and zero pounds of volatile HAP per gallon except that up to 15 gallons of ink with a VOC and volatile HAP content of up to 7.25 pounds per gallon may be used in any 12-consecutive month period.

5. Conditions prohibiting the use of a combined total of more than 1,800 gallons of cleanup solvent in any 12-consecutive month period on converting lines 2—6, 8, 11—23, JP1 and JP2, no more than 400 gallons of which may contain any volatile HAP, and limiting the maximum

volatile HAP content of the volatile HAP-containing cleanup solvent to 6.69 pounds per gallon.

6. A condition restricting the adhesives used on converting lines UP2, UP3, BC2 and JP3 to hot melt adhesives which do not contain as an intentionally-added ingredient, any VOC or volatile HAP (except as allowed by 17).

7. A condition prohibiting the use of ink on converting lines UP2, UP3, BC2 and JP3 which has a VOC content in excess of 5.46 pounds per gallon or a volatile HAP content in excess of zero pounds per gallon (except as allowed by 17).

8. A condition prohibiting the use of cleanup solvents with a VOC content in excess of 2.85 pounds per gallons on converting lines UP2, UP3, BC2 and JP3 except that a total of up to 468.2 gallons of cleanup solvent with a VOC content of up to 6.34 pounds per gallon may be used on these lines in any 12-consecutive month period and up to another 50.2 gallons of cleanup solvent with a VOC content of up to 6.59 pounds per gallon may be used in any 12-consecutive month period (except as allowed by 17).

9. A condition prohibiting the use of cleanup solvents on converting lines UP2, UP3, BC2 and JP3 which contain any volatile HAP (except as allowed by 17).

10. Conditions requiring all containers of VOC—containing, volatile HAP—containing and acetone—containing materials to be closed except when placing material into, or removing material from, the container and all cleaning cloths/rags containing such materials to be stored in closed containers except when in actual use.

11. Conditions requiring the maintenance and annual submission, of records of the identity and amount of each adhesive, ink, cleanup solvent, and the like used on the converting lines and the pantliner line.

The Department additionally proposes to incorporate several new conditions into the operating permit to be issued including:

12. A condition allowing the use of a combined total of up to 10 gallons of adhesive, ink and/or cleanup solvent on converting lines UP2, UP3, BC2 and JP3 in any 12-consecutive month period with a VOC or volatile HAP content that exceeds the limitations specified in 11—14.

13. Conditions restricting the operation of the 375 horsepower fire pump and 80 horsepower emergency generator to no more than 500 hours each in any 12-consecutive month period.

14. Conditions restricting the fuel used in the 375 horsepower fire pump to virgin diesel fuel with a maximum sulfur content of .0015% by weight to which no reclaimed or reprocessed oil, waste oil or other waste materials have been added and the fuel used in the 80 horsepower emergency generator and the 53 space heaters to natural gas.

15. A condition limiting the combined VOC emissions from the 4 solvent parts washers to less than 2.7 tons in any 12-consecutive month period and the combined volatile HAP emissions to zero tons in any 12-consecutive month period.

16. Conditions identifying the applicable 25 Pa. Code § 129.63 requirements for the four solvent parts washers.

17. Conditions requiring the maintenance, and annual submission, of records of the number of hours the 375 horsepower fire pump and 80 horsepower emergency generator operate each month, the delivery date and

sulfur content of each load of diesel fuel, the amount of natural gas burned each month, the date of each occasion solvent is added to or removed from, a solvent parts washer and the amount of solvent added or removed on each such occasion.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.*

**25-00558: Products Finishing, Inc.** (2002 Greengarden Road, Erie, PA 16502-2132) for reissuance of a Natural Minor Operating Permit to operate a chrome plating facility in the City of Erie, **Erie County**. The facility's primary emission sources include eleven chrome electroplating tanks, an acid stripping tank and two natural gas fueled boilers.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Brawn, Chief, (215) 685-9476.*

**S05-002: T.D.P.S. Materials—DePaul Concrete** (2nd Street and Erie Avenue, Philadelphia, PA 19120) for operation of an asphalt and concrete facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include a hot mix asphalt plant, a concrete crushing plant, and fugitive emissions from material handling and vehicle traffic. The hot mix asphalt plant is controlled by baghouse.

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 30 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 Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particu-

lar proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or Local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code

Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

#### *Coal Applications Received*

*Effluent Limits*—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**11070201 and NPDES No. PA0262391. Fuel Recovery, Inc.** (2593 Wexford-Bayne Road, Suite 100, Sewickley, PA 15143), commencement, operation and restoration of a bituminous surface refuse reprocessing mine in Washington Township, **Cambria County**, affecting 87.8 acres. Receiving streams: UNT to Bear Rock Run, Bear Rock Run and Burgoon Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received on April 16, 2007.

**32990104 and NPDES No. PA0235059. ABM Mining Co., Inc.** (3330 Johnston Road, Smicksburg, PA 16256), transfer of an existing bituminous surface mine from ABM Mining Co., 3330 Johnston Road, Smicksburg, PA 16256 located in Grant Township, **Indiana County**, affecting 112.0 acres. Receiving streams: UNT to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received on April 19, 2007.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**37910107 and NPDES Permit No. PA0210994. The East Fairfield Coal Co.** (Box 217, 10900 South Avenue, North Lima, OH 44452-9792). Renewal of an existing bituminous surface strip operation in Little Beaver Township, **Lawrence County** affecting 165.1 acres. Receiving streams: UNT to Sugar Creek, classified for the following use: HQ-CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received on April 23, 2007.

**16070103 and NPDES Permit No. PA0258326. RFI Energy, Inc.** (555 Philadelphia Street, Indiana, PA 15701). Commencement, operation and restoration of a bituminous surface strip operation and beneficial use of coal ash operation in Perry Township, **Clarion County** affecting 116.0 acres. Receiving streams: Two UNTs to the Clarion River, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is West Freedom Water Association. Application received on April 17, 2007.

**5974-16070103-E-1. RFI Energy, Inc.** (555 Philadelphia Street, Indiana, PA 15701). Application for a stream encroachment to temporarily remove and reconstruct a section of UNT to the Clarion River No. 1 for the purpose of coal removal and reclamation of pre-act spoil in Perry Township, **Clarion County** affecting 116.0 acres. Receiving streams: Two UNTs to the Clarion River, classified for the following use: CWF. The first downstream potable

water supply intake from the point of discharge is West Freedom Water Association. Application received on April 17, 2007.

**5974-16070103-E-2. RFI Energy, Inc.** (555 Philadelphia Street, Indiana, PA 15701). Application for a stream encroachment to reclaim and reconstruct a section of UNT to the Clarion River No. 2 in Perry Township, **Clarion County** affecting 116.0 acres. Receiving streams: Two UNTs to the Clarion River, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is West Freedom Water Association. Application received on April 17, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17010106 and NPDES No. PA0243086. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), permit renewal for the continued operation and restoration of a bituminous surface mine in Woodward Township, **Clearfield County**, affecting 286.7 acres. Receiving streams: UNT to Morgan Run, UNT to North

Branch of Upper Morgan Run and a UNT to Goss Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received on April 19, 2007.

**17010110 and NPDES No. PA024132. River Hill Coal Company, Inc.** (P. O. Box 141, Kylertown, PA 16847), revision of an existing bituminous surface mine for a boundary correction in Bigler and Woodward Townships, **Clearfield County**, affecting 245 acres. Receiving streams: UNT to Upper Morgan Run, Upper Morgan Run to Clearfield Creek. There are no potable water supply intakes within 10 miles downstream. Application received on April 23, 2007.

#### *Noncoal Applications Received*

*Effluent Limits*—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended Solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity <sup>1</sup>			
pH <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**Permit No. 50820303 and NPDES Permit No. PA0613169, Pennsy Supply, Inc.** (P. O. Box 331, Harrisburg, PA 17105), renewal of NPDES Permit, Oliver Township, **Perry County**. Receiving stream: Little Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received on April 23, 2007.

**Permit No. 7075SM1 and NPDES Permit No. PA0612120, Pennsy Supply, Inc.** (P. O. Box 331, Harrisburg, PA 17105), renewal of NPDES Permit, Spring Township, **Perry County**. Receiving stream: Sherman Creek classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Newport Borough Water Authority. NPDES renewal application received on April 23, 2007.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**04960302 and NPDES Permit No. PA0201677. Kathryn I. Paumier** (303A Smiths Ferry Road, Midland, PA 15059). NPDES renewal of an existing noncoal surface mine, located in Ohioville Borough, **Beaver County**, affecting 31.9 acres. Receiving stream: Upper Dry Run, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point

of discharge: East Liverpool Water Department. Renewal application received on April 24, 2007.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118*

**7473SM2AC10 and NPDES Permit No. PA0118460. Hercules Cement Co., LP d/b/a Buzzi Unicem USA**, (501 Hercules Drive, Stockertown, PA 18083), correction to an existing quarry operation to update the NPDES Permit for discharge of treated mine drainage from a quarry in Upper Nazareth Township, **Northampton County** affecting 301.3 acres, receiving streams: Bushkill and Schoeneck Creeks, classified for the following uses: HQ, WWF. Application received on April 24, 2007.

**4874SM1A1C10 and NPDES Permit No. PA0119628. County Line Quarry, Inc.** (P. O. Box 99, Wrightsville, PA 17368), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Wrightsville Borough and Hellam Township, **York County**, receiving stream: Kreutz Creek, classified for the following use: WWF. Application received on April 25, 2007.

## 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**

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

**E15-486. The Hankin Group**, 707 Eagleview Boulevard, Exton, PA 19341, West Whiteland Township, **Chester County**, ACOE Philadelphia District.

To Reissue E15-486 which authorized to relocate and maintain 1,700 linear feet of Lionville Run, a tributary to West Valley Creek at a point approximately 300 feet west of the existing stream channel, to facilitate development on the Chandler Tract. This site is located 2,300 feet west of the northwest corner of the Route 100 and Route 30 intersection (Downingtown, PA Quadrangle N: 5.2 inches; W: 1.6 inches).

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

**E07-409: Team Ten, LLC**, American Eagle Paper Mill, 1600 Pennsylvania Avenue, Tyrone, PA 16686, Snyder Township, **Blair County**, ACOE Baltimore District.

To construct and maintain a 14-foot high by 40-foot long concrete wall and related work along the right bank of Bald Eagle Creek (TSF) located at the American Eagle Paper Mill (Tyrone, PA Quadrangle N: 8.99 inches; W: 16.00 inches, Latitude: 40° 40' 28.2"; Longitude: 78° 14' 25.63") in Snyder Township and Tyrone Borough, Blair County.

**E38-156: Jackson Township Authority**, 60 North Ramona Drive, Myerstown, PA 17067, Jackson Township, **Lebanon County**, ACOE Philadelphia District.

To construct and maintain a wastewater treatment facility outfall and associated gravity sanitary sewer line connections involving:

1. An 18-inch PVC outfall pipe and rock apron in a UNT of Tulpehocken Creek (CWF);
2. A utility line crossing of a PEM Exceptional Value wetland by means of conventional boring;
3. Two utility line stream crossings of UNTs of Tulpehocken Creek (CWF); and
4. A temporary road crossing of a UNT of Tulpehocken Creek (CWF).

The outfall and facility is situated just north of SR 0422 (Richland, PA Quadrangle; N: 21.4 inches, W: 12.5 inches; Latitude: 40° 22' 03", Longitude: 76° 20' 21.5"). The new, 18-inch PVC sewer line will connect to the existing line just west of the Arbor Gate Residential Community (Richland, PA Quadrangle; N: 21.9 inches; W: 13.0 inches, Latitude: 40° 22' 14.2"; Longitude: 76° 20' 32.5") and run parallel to a UNT of Tulpehocken Creek for approximately 7,300 feet where it will connect to an existing pump station along Stracks Dam Road (Bethel, PA Quadrangle; N: 2.5 inches; W: 12.3 inches, Latitude: 40° 23' 19.8"; Longitude: 76° 20' 14.8") all in Jackson Township, Lebanon County. The wetland crossing will result in no permanent impacts, therefore replacement is not required.

**E36-822: Hawk Valley Developers, LLC**, 1319 Crestview Drive, Denver, PA 17517, Brecknock Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain (1) a 126.0-ft. long, 30.0-in. SLCPP culvert pipe (Terre Hill, PA Quadrangle N: 14.15 inches; W: 4.45 inches, Latitude: 40° 12' 11"; Longitude: 76° 01' 53"), two 19.0-in. by 30.0-in. RCP for a total length of 70.0-ft. (Terre Hill, PA Quadrangle N: 13.80 inches; W: 4.35 inches, Latitude: 40° 12' 05"; Longitude: 76° 01' 51"), three 30.0-inch SLCPP's for a total length of 151.0-ft. (Terre Hill, PA Quadrangle N: 13.65 inches; W: 4.60 inches, Latitude: 40° 12' 01"; Longitude: 76° 01' 58"), and two 24.0-in. SLCPP's for a total length of 85.0-ft. (Terre Hill, PA Quadrangle N: 13.40 inches; W: 4.20 inches, Latitude: 40° 11' 56"; Longitude: 76° 01' 48") all in a UNT to Muddy Creek (WWF), (2) to place 30.0-cubic yards of fill in an existing pond, Pond 3, and to replace the existing standpipe and existing 18.0-in. CPP pipe connection with an adjoining pond with 18.0-in. SLCPP for the purpose of roadway improvements of Crest View Drive (Terre Hill, PA Quadrangle N: 14.05 inches; W: 5.00 inches, Latitude: 40° 12' 09"; Longitude: 76° 02' 08"), (3) to place 750.0-cubic yards of fill in existing pond, Pond 5, (Terre Hill, PA Quadrangle N: 14.00 inches; W: 4.80 inches, Latitude: 40° 12' 08"; Longitude: 76° 02' 03") and 1,800.0-cubic yards of fill in existing pond, Pond 6, (Terre Hill, PA Quadrangle N: 13.85 inches; W: 4.75 inches, Latitude: 40° 12' 05"; Longitude: 76° 02' 01") for the purpose of establishing a road crossing, East Valley Road, and to provide for additional stormwater management capacity, designating pond 5 as stormwater management basin E (SWM basin E), and Pond 6 to stormwater management basin F (SWM basin F) (4) to install and maintain a 24.0-in. SLCPP pipe, 120.0-ft. in length, to connect SWM basin E and SWM basin F, (Terre Hill, PA Quadrangle N: 13.95 inches; W: 4.90 inches, Latitude: 40° 12' 07"; Longitude: 76° 02' 02"), (5) to construct and maintain two stormwater outfalls into SWM basin E (Terre Hill, PA Quadrangle N: 14.00 inches; W: 4.80 inches, Latitude: 40° 12' 08"; Longitude: 76° 02' 31"), and three stormwater outfalls into SWM basin F, (Terre Hill, PA Quadrangle N: 13.85 inches; W: 4.75 inches, Latitude: 40° 12' 05"; Longitude: 76° 02' 01"), (6) to alter the existing 67.0-ft. long, 18.0-in. SLCPP outfall into SWM



basin F, (Terre Hill, PA Quadrangle N: 13.85 inches; W: 4.75 inches, Latitude: 40° 12' 05"; Longitude: 76° 02' 01"), (7) to dewater and remove an existing on-line pond, (Pond 8), and to restore the stream channel of the UNT to Muddy Creek (WWF) where the removal will occur (Terre Hill, PA Quadrangle N: 13.70 inches; W: 4.30 inches, Latitude: 40° 12' 02"; Longitude: 76° 01' 51"), (8) and to construct and maintain 3 stormwater management outfall structures, EW-A (Terre Hill, PA Quadrangle N: 14.15 inches; W: 4.45 inches, Latitude: 40° 12' 11"; Longitude: 76° 01' 53"), EW-C (Terre Hill, PA Quadrangle N: 13.65 inches; W: 4.60 inches, Latitude: 40° 12' 01"; Longitude: 76° 01' 58"), and EW-1 (Terre Hill, PA Quadrangle N: 13.40 inches; W: 4.05 inches, Latitude: 40° 11' 56"; Longitude: 76° 01' 47") into a UNT to Muddy Creek (WWF), all located on the existing Hawk Valley Golf Course on Crestview Drive in Brecknock Township, Lancaster County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E55-212. PR Monroe Limited Partnership**, 200 South Broad Street, Philadelphia, PA 19102. Monroe Market Place, in Monroe Township, **Snyder County**,

ACOE Baltimore District (Sunbury, PA Quadrangle Latitude 40° 50' 15.1"; Longitude 76° 49' 57.8").

This project proposes to construct a 710,000 square foot retail shopping center on a 125-acre site. The proposed impacts associated with this project are 0.291 acre of permanent wetland impacts and 0.220 acre of temporary wetland impacts. A UNT to the Susquehanna River, WWF, is located on site is proposed to be enclosed for 550 linear feet and have 200 linear feet of temporary impacts associated with the construction of the enclosure.

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

**E24-247, Johnsonburg Municipal Authority**, 520 A Market Street, Johnsonburg, PA 15845. Johnson Run Pump Station, in Johnsonburg Borough, **Elk County**, ACOE Pittsburgh District (Ridgway, PA Quadrangle N: 41° 29' 19.5"; W: 78° 40' 53.5").

To construct and maintain a sanitary sewage pump station and gravel access road within the 100-year floodplain and floodway of Johnson Run approximately 500 feet upstream of the mouth along the left (north) bank and to install and maintain two gravity and one force main sewer line crossings of Johnson Run.

**ACTIONS**

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0248398 (CAFO)	Bert Waybright Mason Dixon Farm, Inc. 1800 Mason Dixon Road Gettysburg, PA 17325	Adams County Freedom Township	Marshall Creek 13-D	Y
PA0084565 (SEW)	East Prospect Borough Authority P. O. Box 334 East Prospect, PA 17317	York County Windsor Township	Cabin Creek 7-I	Y

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA, 15222-4745.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0043648 Industrial Waste	EME Homer City Generation, LP 1750 Power Plant Road Homer City, PA 15748-9558	Indiana County Center Township	UNT of Cherry Run	Y
PA0097390 Sewage	Marion Township 485 Hartzell School Road Fombell, PA 16123	Beaver County Marion Township	Connoquenessing Creek	Y
PA0205061 Sewage	Hopewell Area School District 2354 Brodhead Road Aliquippa, PA 15000-4501	Beaver County Raccoon Township	Tributary of Gum Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0221902	Matson Timberland Co., LLP 132 Main Street Brookville, PA 15825	Union Township Jefferson County	UNT to Little Mill Creek Outfall 001 Coder Run Outfall 003 17-C	Y

### II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0248355**, CAFO, **David and Cathy Reifsneider, Gobbler's Knob Farm**, 2596 New Bridgeville Road, Felton, PA 17322. This proposed facility is located in Chanceford Township, **York County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 447-AEU turkey operation in Watershed 7-I.

**NPDES Permit No. PAS113501**, Stormwater, **DME Company**, 977 Loop Road, Lewistown, PA 17044. This proposed facility is located in Granville Township, **Mifflin County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to UNT Juniata River in Watershed 12-A.

**NPDES Permit No. PAS603505**, Stormwater, **Harry J. Darrah, J & K Salvage, Inc.**, 1099 Kings Mill Road, York, PA 17403. This proposed facility is located in Spring Garden Township, **York County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to Codorus Creek in Watershed 7-H.

**NPDES Permit No. PAS213504**, Stormwater, **New Enterprise Stone & Lime Company, Inc., Ashcom Batch & Blacktop Plant**, 526 Ashcom Road, Everett, PA 15537. This proposed facility is located in Spring Township, **Bedford County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to Cove Creek in Watershed 11-C.

---

**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. 4807402**, Sewerage, **Northampton Borough**, 1401 Laubach Avenue, Northampton, PA 18067-0070. This proposed facility is located in Northampton Borough, **Northampton County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit consisting of upgrade to pumping station to include modifications to wet well and dry well, ventilation and electrical upgrades and installation of two larger capacity suction lift pumps. Also, the existing force main will be replaced with a larger sized main.

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

**WQM Permit No. 2207401**, Sewerage, **Lower Paxton Township Authority**, 425 Prince Street, Suite 139, Harrisburg, PA 17109. This proposed facility is located in Lower Paxton Township, **Dauphin County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of replacement of approximately 2,600 lineal feet of existing 10-inch pipe with 15-inch pipe on Valley Road and approximately 2,000 lineal feet of existing 8-inch pipe with 10-inch pipe on Winfield Road.

**WQM Permit No. 6706411**, Sewerage, **East Prospect Borough Authority**, P. O. Box 334, East Prospect, PA 17317. This proposed facility is located in Lower Windsor Township, **York County**.

Description of Proposed Action/Activity: Approval for the modifications of sewerage facilities consisting of upgrade/expansion of their sewage treatment plant.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WQM Permit No. 0206403**, Sewerage, **Borough of Oakmont**, Fifth Street and Virginia Avenue, P. O. Box 206, Oakmont, PA 15139-0206. This proposed facility is located in Oakmont Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of pump station and main replacement.

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

**WQM Permit No. 1606404**, Sewerage, **Borough of Shippenville**, P. O. Box 244, Shippenville, PA 16254-0244. This proposed facility is located in Borough of Shippenville, **Clarion County**.

Description of Proposed Action/Activity: This project is to permit the use of the abandoned sludge drying beds as alternative drying means when necessary.

---

**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**


---

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

*NPDES*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032807002	Rich Yencha Columbia Gas Transmission Corp. 216 Firetower Road Milford, PA 18337	Franklin	Antrim Township	UNT to Muddy Run HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033106002	Dominion Transmission Inc. 445 West Main Street Clarksburg, WV 26301	Juniata	Lack and Tuscarora Townships	Lick Run CWF Tuscarora Creek CWF
		Mifflin	Bratton, Oliver, Granville and Union Townships	Willow Run HQ-CWF Dougherty Creek HQ-CWF
		Huntingdon	Jackson Township	Blacklog Creek HQ-CWF East Licking Creek HQ-CWF Dougherty Run HQ-CWF Barn Run HQ-CWF Minehart Run HQ-CWF Carlisle Run WWF Juniata River WWF Strode's Run HQ-CWF Little Kishacoquillas Creek HQ-CWF Frog Hollow CWF Wakefield Run HQ East Branch Standing Stone Creek HQ-CWF

*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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041406013	Department of Conservation and Natural Resources P. O. Box 8451 Harrisburg, PA 17105-8451	Centre	Penn Township	Big Poe Creek HQ-CWF

*Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI091107001	DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Cambria County	Jackson Township	Saltlick Run HQ-CWF

---

## **VII. Approvals to Use NPDES and/or Other General Permits**

---

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

---

### **List of NPDES and/or Other General Permit Types**

---

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems

PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional 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-02*

*Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Hamilton Township Adams County	PAG2000106034	Timothy Ferrence Cross Keys Fellowship 150 Little Avenue New Oxford, PA 17325	Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Straban, Mount Pleasant, Oxford, Hamilton and Berwick Townships New Oxford and Abbottstown Boroughs Adams County	PAG2000106037	Michael Gillespie Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Beaver Creek; Pine Run and tributaries; South Branch Conewago; Brush Run; Swift Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Conewago Township Adams County	PAG2000107006	Richard B. Jensen Rx Systems, Inc. 121 Point West Boulevard St. Charles, MO 63301	UNT to Plum Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Cumberland Township Adams County	PAG2000104024(1)	Barbara Sardella/ Gettysburg Foundation 6259 Reynolds Mill Road Seven Valleys, PA 17360 Dr. John Latschar, Super./Gettysburg National Military Park 97 Taneytown Road Gettysburg, PA 17325	UNT to Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Mifflintown Municipal Authority Milford and Fermanagh Township Mifflintown Borough Juniata County	PAG2033407001	Mifflintown Municipal Authority P. O. Box 36 Mifflintown, PA 17059	Schweyer Run CWF UNT to Juniata River CWF Juniata River WWF	Juniata County Conservation District R. R. 5, Box 35 Stoney Creek Drive Mifflintown, PA 17059 (717) 436-8953 Ext. 5
Smithfield Township Huntingdon County	PAG2003106006	Mark Austin Building 0-47 Fort Indiantown Gap Annville, PA 17003	UNT Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Swatara Township Lebanon County	PAG2003807006	William Vander Lyn Texas Eastern Transmission, LP 5400 Westheimer Court 50-40-2 Houston, TX 77056	Tributary to Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext. 4
Jackson Township Lebanon County	PAG2003807010	Sam Nelson T & S Dental & Plastics Co., Inc. 52 W. King Street P. O. Box 264 Myerstown, PA 17067	Tulpehocken Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908 Ext. 4
Antis and Snyder Township Tyrone Borough Blair County	PAG2000707008	Department of Transportation Douglas R. Bagley 1620 N. Juniata Street Hollidaysburg, PA 16648	Little Juniata River TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877 Ext. 5
North Woodbury Township Blair County	PAG2000707009	Marcus Zimmerman 394 Spring Farm Road Martinsburg, PA 16662	UNT to Plum Creek (Cove Creek) WWF-CWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877 Ext. 5
Washington Township Franklin County	PAG2002806053	Sheffield Manor Mike Henicle M & H Construction 5172 Salem Church Road Waynesboro, PA 17268	UNT to East Branch Antietam Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Peters Township Franklin County	PAR10M236R	Upton Fields—Phase IIC Fox & Fox 600 Coldsprings Road Dillsburg, PA 17019	UNT to Conococheague Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Waynesboro Borough Franklin County	PAG2002806066	Otterbein Church 912 South Potomac Street Waynesboro, PA 17268	East Branch Antietam Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
Peters Township Franklin County	PAG2002807007	Tharp & Hollenshead Daniel Hollenshead P. O. Box 154 Lemasters, PA 17231	UNT to West Branch Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5

## NOTICES

2239

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Peters and aSt. Thomas Townships Franklin County	PAG2002807009	Texas Eastern Bill VanderLyn 5400 Westheimer Court Houston, TX 77156	UNT to West Branch Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074 Ext. 5
City of Reading Berks County	PAG2000606104	Thomas Chapman The Reading School District 800 Washington Street Reading, PA 19601	Schuylkill River WWF	Berks County Conservation Dist. 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657 Ext. 201
Allegheny County Pine Township	PAR10A590	SGS Associates 11279 Perry Highway Wexford, PA 15090	Pine Creek CWF	Allegheny County CD (412) 241-7645
Allegheny County Marshall Township	PAR10A594R	The Estate of James A. Herbert P. O. Box 297 Wexford, PA 15909	Pine Creek CWF	Allegheny County CD (412) 241-7645
Allegheny County Jefferson Hills Borough	PAG2000206032	Blackwood Acres Associates, LP 1001 Corporate Drive Canonsburg, PA 15317	Lick Run TSF	Allegheny County CD (412) 241-7645
Allegheny County Elizabeth Township	PAG2000206099	Quail Creek Development Co., LLC 523 Howell Street Elizabeth, PA 15037	Youghiogheny River WWF	Allegheny County CD (412) 241-7645
Allegheny County Pine Township	PAG2000206110	Thomas K. Dimond 11584 Perry Highway Wexford, PA 15090	Pine Creek CWF	Allegheny County CD (412) 241-7645
Allegheny County Sewickley Heights Borough	PAG2000206114	Keith D. Kronk 9031 Sherwood Court Presto, PA 15142	Kilbuck Run CWF	Allegheny County CD (412) 241-7645
Allegheny County Moon Township	PAG2000206115	Moon Area School District 8353 University Boulevard Coraopolis, PA 15108	Montour Run TSF	Allegheny County CD (412) 241-7645
Allegheny County McCandless Township	PAG2000206119	Sunrise Senior Living 771 East Lancaster Avenue Villanova, PA 19085	Pine Creek TSF	Allegheny County CD (412) 241-7645
Allegheny County Monroeville	PAG2000206120	Patalsky Homes, Inc. 1209 Route 286 Export, PA 15632	Turtle Creek WWF	Allegheny County CD (412) 241-7645
Allegheny County Harmar Township	PAG2000206122	Echo Harmar Associates, LP 701 Alpha Drive Pittsburgh, PA 15238	Deer Creek CWF	Allegheny County CD (412) 241-7645
Allegheny County Ohio Township	PAG2000206123	Charles Lenzner 665 Duff Road Sewickley, PA 15143	Bear Run TSF	Allegheny County CD (412) 241-7645
Allegheny County Pine Township	PAG2000206124	Allegheny County Department of Public Works 501 County Office Building 542 Forbes Avenue Pittsburgh, PA 15219-2904	Pine Creek TSF	Allegheny County CD (412) 241-7645
Allegheny County Bethel Park	PAG2000206126	The Paradise Group PNC Bank @ North Shore 115 Federal Street Pittsburgh, PA 15212	Saw Mill Run WWF	Allegheny County CD (412) 241-7645

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name & Address*

*Receiving Water/Use*

*Contact Office &  
Phone No.*

Allegheny County Bethel Park	PAG2000206127	Municipality of Bethel Park 5100 West Library Avenue Bethel Park, PA 15102	Peters Creek TSF	Allegheny County CD (412) 241-7645
Allegheny County Indiana Township	PAG2000207018	Chapelier, LP 3560 Harts Run Road Pittsburgh, PA 15238	Little Pine Creek TSF	Allegheny County CD (412) 241-7645
Allegheny County Franklin Park Borough	PAG2000207020	Kress Properties, LP 4930 Pioneer Road Gibsonia, PA 15044	Fish Run CWF	Allegheny County CD (412) 241-7645
Allegheny County Franklin Park Borough	PAG2000207027	Spectra Development Company 2591 Wexford-Bayne Road Sewickley, PA 15143	Fish Run CWF	Allegheny County CD (412) 241-7645
Allegheny County Plum Borough	PAG2000207040	Angelo Development Company 100 Springwood Drive Verona, PA 15147	Plum Creek WWF	Allegheny County CD (412) 241-7645
Allegheny County Robinson and North Fayette Townships	PAG2000207041	Robinson Peripheral Developers 300 Park Manor Drive Pittsburgh, PA 15105-1046	Montour Run TSF	Allegheny County CD (412) 241-7645
Armstrong County Plumcreek Township	PAG2000307002	Reliant Energy Northeast Management Company 121 Champion Way Suite 200 Canonsburg, PA 15317	Crooked Creek WWF	Armstrong County CD (724) 548-3425
Fayette County North Union Township	PAG2002607003	Frank Kempf Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Redstone Creek WWF	Fayette County CD (724) 438-4497
Fayette County Dunbar Township	PAG2002607008	Jessie Wallace Joe Hardy/Connellsville Airport 874 Airport Road Lemont Furnace, PA 15456	UNT to Redstone Creek WWF	Fayette County CD (724) 438-4497
Greene County Jefferson and Cumberland Townships	PAG2003007003	Atlas America, Inc. 751 S-T Drive Uniontown, PA 15401	Pumpkin Run UNT Pumpkin Run UNT South Fork Ten Mile Creek WWF	Greene County CD (724) 852-5278
Indiana County Indiana Borough	PAG2003207004	Chris M. Holuta Foundation for IUP Sutton Hall, Room 103 1011 South Drive Indiana, PA 15705	Stoney Run CWF	Indiana County CD (724) 463-8547
Washington County Canton Township	PAG2006307004	Michael R. and Georgetta V. Williamson Brick Ridge Estates 1029 Nevada Street Washington, PA 15301	UNT to Chartiers Creek WWF	Washington County CD (724) 228-6774
Butler County Slippery Rock Township	PAG2001006026	Rockview Subdivision David Meese Slippery Rock Real Estate 102 Good Luck Lane Mars, PA 16046	Wolf Creek CWF	Butler Conservation District (724) 284-5270
Erie County City of Erie	PAG2002507004	Hamot Sterling Square Hamot Medical Center 201 State Street Erie, PA 16550	City of Erie Storm Sewers	Erie Conservation District (814) 825-6403
Erie County Summit Township	PAR10K187R	Bianchi Honda Bianchi Motors, Inc. 5305 Peach Street Erie, PA 16505	UNT to Walnut Creek CWF; MF	Erie Conservation District (814) 825-6403



NOTICES

2241

*Facility Location:  
Municipality &  
County*

City of Bethlehem  
Northampton County

*Permit No.*  
PAG2154807001

*Applicant Name & Address*  
Las Vegas Sands Corp.  
3355 Las Vegas Boulevard  
South  
Las Vegas, NV 89109

*Receiving Water/Use*  
Lehigh River  
WWF

*Contact Office &  
Phone No.*  
Bureau of Watershed  
Management  
400 Market Street  
Floor 10  
P. O. Box 8775  
Harrisburg, PA  
17105-8775  
(717) 787-6827

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

Lehighon Borough  
Carbon County

*Permit No.*  
PAR202230

*Applicant Name & Address*  
Blue Ridge Pressure Casting  
P. O. Box 208  
Lehighon, PA 18235-0208

*Receiving Water/Use*  
Mahoning Creek  
CWF

*Contact Office &  
Phone No.*  
DEP—NERO  
Water Management  
Program  
2 Public Square  
Wilkes-Barre, PA  
18711-2511  
(570) 826-2511

Dauphin County  
Lower Swatara  
Township

PAR113554

Tyco Electronics—Fulling Mill  
Road Campus  
P. O. Box 3608  
Harrisburg, PA 17105-3608

UNT Laurel Run  
WWF

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4707

Bradford Township  
Clearfield County

PAR224831

Domtar Paper Company, LLC  
100 Center Street  
Johnsonburg, PA 15845

Roaring Run to  
Clearfield Creek  
CWF

Northcentral  
Regional Office  
Water Management  
Program  
208 West Third  
Street  
Suite 101  
Williamsport, PA  
17701  
(570) 327-3664

McKees Rocks  
Borough  
Allegheny County

PAR806262

FedEx National LTL, Inc.  
1144 West Griffin Road  
Lakeland, FL 33805

Ohio River

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

Clinton Township  
Butler County

PAR608321

Saxonburg Boulevard Auto  
Parts, Inc.  
P. O. Box 152  
Mars, PA 16046

Bull Creek TSF

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

Sugarcreek Borough  
Venango County

PAR708311

IA Construction Corporation  
158 Lindsay Road  
Zelienople, PA 16063

Allegheny River

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

Washington Township  
Jefferson County

PAR808319

Clearfield—Jefferson Counties  
Regional Airport Authority  
Dubois Jefferson County Airport  
P. O. Box 299  
Falls Creek, PA 15840

UNT to Horm Run

DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

*General Permit Type—PAG-4*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bedford County West St. Clair Township	PAG043581	Gregory N. Miller 5890 Courtland Road Alum Bank, PA 15521	UNT Dunning Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
LeBoeuf Township Erie County	PAG048797	Julie L. Schwindt 14890 Vincent Road Union City, PA 16438-8508	UNT to French Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG048405	Michael D. Holman 13771 Arneman Road Edinboro, PA 16412-1968	UNT to Conneauttee Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Lackawannock Township Mercer County	PAG048839	Michael A. Sloan 6899 Dermond Road Hermitage, PA 16148	UNT to Magargee Run 20A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Franconia Township Montgomery County	PAG050034	Getty Properties Corporation 125 Jericho Turnpike Suite 202 Jericho, NY 11753	Indian Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401

*General Permit Type—PAG-7*

<i>Facility Location &amp; County &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Lancaster County Manor Township	PAG073506 (renewal)	Borough of Millersville 10 Colonial Avenue Millersville, PA 17551		DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-9*

<i>Facility Location &amp; County &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Huntingdon County Shirley Township	PAG093537	Lake's Septic Tank Cleaning 17164 Croghan Place Shirleysburg, PA 17260		DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Montoursville Borough Lycoming County	PAG094830	Kremser Brothers 1300 Jordan Avenue Montoursville, PA 17754	Montoursville Borough Lycoming County	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664

*General Permit Type—PAG-12*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lebanon County Swatara Township	PAG123620	Jeffrey Werner Jeffrey Werner Farm 897 N. Lancaster Street Jonestown, PA 17038	7-D	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

**PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

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

<b>Permit No. Minor Amendment, Public Water Supply.</b>	
Applicant	<b>Upper Saucon Township</b> 5500 Camp Meeting Road Center Valley, PA 18034 Upper Saucon Township
County	<b>Lehigh</b>
Type of Facility	PWS

Consulting Engineer	Steven R. Henning, P. E. The Pidcock Company Oxford Drive at Fish Hatchery Road 2451 Parkwood Drive Allentown, PA 18103-9608
Permit to Construct Issued	April 16, 2007
<i>Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.</i>	
<b>Permit No. 5905501—Operation. Public Water Supply.</b>	
Applicant	<b>United States Army Corps of Engineers</b>
Township or Borough	Middlebury Township
County	<b>Tioga</b>
Responsible Official	Marilyn Jones United States Army Corps of Engineers 710 Ives Run Road Tioga, PA 16946
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Douglas Gottschal Gottschal Environmental Control Systems 432 South Main Street Jersey Shore, PA 17740
Permit Issued Date	April 27, 2007
Description of Action	Operation of the existing Ives Run Recreation Area water system, including Well No. 1, a 150,000 gallon finished water storage tank, distribution system, chlorination facility and the recently constructed EPD pressure sand filtration plant.

<b>Permit No. 1807501—Construction. Public Water Supply.</b>	
Applicant	<b>Booneville Mutual Water Association</b>
Township or Borough	Logan Township
County	<b>Clinton</b>
Responsible Official	Frank Mark, President Booneville Mutual Water Association 1446 West Valley Road Loganton, PA 17747
Type of Facility	Public Water Supply—Construction

Consulting Engineer	Jacqueline Peleschak, P. E. Alfred Benesch and Company 400 One Norwegian Plaza Pottsville, PA 17901
Permit Issued Date	April 30, 2007
Description of Action	Construction of a new source of supply, known as Well No. 1, transmission line and sodium hypochlorite distribution system.

**Galeton Borough Authority** (Public Water Supply), **Potter County**. The Source Water Protection (SWP) report for the Galeton Borough Authority has been approved on April 26, 2007. Galeton Borough Authority personnel are to be commended for taking this proactive step to protect the source water for the community. Development of the program was funded, in part, by a SWP grant (L. Richard Adams, (570) 321-6581).

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

**Operations Permit** issued to: **Erie Water Authority**, 340 West Bayfront Parkway, Erie, PA 16507, PWSID No. 6250028, City of Erie, **Erie County**, on April 3, 2007, for the operation of the Sigsbee Pump Station upgrades, as approved under construction permit 4189-T1-MA2, dated February 17, 2005.

**Operations Permit** issued to: **Municipal Authority of the Borough of Conneaut Lake**, P. O. Box 345, Conneaut Lake PA 16316, PWSID No. 620015, Conneaut Lake Borough, **Crawford County**, on April 4, 2007, for the removal of arsenic and iron; distribution line replacement and chlorine contact line installation, as approved under Permit Number 2002501, issued August 1, 2002, and the Innovative Technology operations approved October 7, 2005.

**Operations Permit** issued to: **Millcreek Township Water Authority**, 3608 West 26th Street, Erie, PA 16506, PWSID No. 6250076, Millcreek Township, **Erie County**, on April 24, 2007, for the operation of the Grubb Road Booster Station and waterline extension, as approved under construction permit 2504502, dated July 29, 2005.

**Operations Permit** issued to: **Youngsville Borough**, 40 Railroad Street, Youngsville, PA 16371, PWSID No. 6620039, Youngsville Borough, **Warren County**, on April 25, 2007, for the operation of the liquid chlorination system and the modifications made to the transmission lines to and from the storage tanks, as approved under construction permit 6200501-MA2, dated June 15, 2006.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of

contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**John R. Hollingsworth**, Schuylkill Township, **Chester County**. Craig Herr, RET Env. Inc., 215 W. Chester Road, Suite 300, King of Prussia, PA 19406 on behalf of James Shrawder, Brownfield's LP, 1000 Township Line Road, Phoenixville, PA 19460 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with inorganic. The report is intended to document remediation of the site to meet the Site-Specific Standards.

**Caneda Residence**, New Hanover Township, **Montgomery County**. Richard D. Trimpi, Trimpi Assoc., Inc., 1635 Old Plains Road, Pennsburg, PA 18703 on behalf of Carlos Caneda, Paul Moyer, 2452 and 2450 Swamp Pike, Gilbertsville, PA 19525 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with no. 2 fuel oil and PAH's. The report is intended to document remediation of the site to meet the Statewide Health Standards.

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Sand Island Site**, City of Bethlehem, **Northampton County**. Sean M. Damon, P. G., Langan Engineering and Environmental Services, Inc., P. O. Box 1569, Doylestown, PA 18901-0219 has submitted a Final Report (on behalf of his client, City of Bethlehem, Department of Parks and Recreation, 10 East Church Street, Bethlehem, PA 18010-6025) concerning the remediation of site soils found to have been impacted by volatile organics, base neutrals and acid extractables, priority pollutant metals, polychlorinated biphenyls and pesticides. The report was submitted to document attainment of the Statewide Health and the Site-Specific Standards for soils.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Misco Products Corporation**, Bern Township, **Berks County**. Elk Environmental Services, 1420 Clarion Street, Reading, PA 19601, on behalf of Misco Products Corporation, 1048 Stinson Drive, Reading, PA 19605-9440, submitted a Final Report concerning remediation of site soils contaminated with ethylene glycol. The report is intended to document remediation of the site to the Statewide Health Standard, and was submitted within 90 days of the release that occurred during a fire on January 11, 2007.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Trinity Industries**, City of Butler, Butler Township, **Butler County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205, on behalf of Trinity Industries and Community Development Corporation of Butler County, has submitted a Risk Assessment concerning remediation of site soil contaminated with lead, arsenic, barium, iron, nickel and polychlorinated biphenyls on the former Trinity Industries property located on Hansen Avenue, Butler, PA 16003. 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 reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and in-

clude a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Bucks County Intermediate Unit**, Bristol Township, **Bucks County**. Michael Sarcinello, Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Patricia Frank, Bucks County Intermediate Unit, 705 North Shady Retreat Road, Doylestown, PA 18901 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Site Specific-Standards and Statewide Health Standards and was approved by the Department on March 11, 2007.

**Dupont Glenolden Facility**, Glenolden Borough, **Delaware County**. Paul Michaels, Jacques Whitford Co., 450 S. Gravers Road, Suite 105, Plymouth Meeting, PA 19462 on behalf of Kyle Rostao, University of Pennsylvania, 3160 Chestnut Street, Suite 400, Philadelphia, PA 19104 has submitted a Remedial Investigation and Final Report concerning the remediation of site soil contaminated with arsenics. The Remedial Investigation Report and Final Report was approved by the Department on March 5, 2007.

**Sunoco Inc. R & M, Andover Road Site**, Abington Township, **Chester County**. Lisa Holderbach, Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Thomas Finley, 47 Andover Road, Glenmoore, PA 19343, Reginald and Barbara Owens, 1709 Norwood House Road, Downingtown, PA 19355 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standards and Site-Specific Standards and was approved by the Department on March 7, 2007.

**Penn Tanks Lines Truck Accident**, Nockamixon Township, **Bucks County**. Gilbert Marshall, Marshall Geosciences, Inc., 170 E. First Avenue, Collegeville, PA 19426 on behalf of Suzanne Walski, 4089 Durham Road, Ottsville, PA 18949 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on February 26, 2007.

**Philadelphia Phillies Ball Park & Parking Areas**, City of Philadelphia, **Philadelphia County**. Keith Kowlaski, PG < URS Corp., 335 Commerce Drive, Ft. Washington, PA 19034 on behalf of John Stranix, The Phillies, 1 Citizen Park Way, Philadelphia, PA 19148 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with inorganics, solvents and PCB's. The Final Report demonstrated attainment of the Site Specific Standards and was approved by the Department on February 23, 2007.

**George Pacific/Philadelphia Container Facility**, Lower Merion Township, **Montgomery County**. Jeffrey Walsh, Penn Env. and Remediation Inc., 2755 Bergery Road, Hatfield, PA 19440 on behalf of Richard Heany, Righter Ferry Assoc., LP, 700 S. Henderson Road, Suite 225, King of Prussia, PA 19406 has submitted a Remedial Investigation/Risk Assessment Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PAHs. The Remedial Investigation/Risk Assessment Report and Cleanup Plan was approved by the Department on March 2, 2007.

**Apex on York**, City of Philadelphia, **Philadelphia County**. Robert E. Edwards, RETTEW Assoc., Inc., 3020 Columbia Avenue, Lancaster, PA 17603 on behalf of Greg Pellathy, Pell Partners, 116 Greenwood Avenue, Wyncote, PA 19095 has submitted a Remedial Investigation Report/Risk Assessment Report and Cleanup Plan concerning the remediation of site soil contaminated with SVOC's and metals. The Remedial Investigation Report/Risk Assessment and Cleanup Plan was approved by the Department on January 25, 2007.

**Route 322 and Level Sklep Road**, East Bradford Township, **Chester County**. Jim Arthur, Env. Standards, Inc., 11140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19148 on behalf of Laura Herzig, Peco Energy Co., 2301 Market Street, Philadelphia, PA 19101, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standards and was approved by the Department on February 26, 2007.

**Essington Sunoco Pipeline**, Tinicum Township, **Delaware County**. Lisa Strobridge, Aquaterra Technologies, Inc., 122 S. Chester Street, West Chester, PA 19381 on behalf of Brad Fish, Sunoco, Inc., (R & M) P. O. Box 1135 Post Road, Blue Bell Avenue, Marcus Hook, PA 19061 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final report demonstrated attainment of the Statewide Health Standards and was approved by the Department on January 25, 2007.

**Penn Tanks Lines**, West Caln Township, **Chester County**. Gilbert J. Marshall, P. G., Marshall Geoscience, Inc., 170 E. First Avenue, Collegeville, PA 19426 on behalf of Michael W. Rebert, P. E. Department of Transportation, Maintenance District 6-2, 401 Montgomery Avenue, Chester, PA 19380 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on March 1, 2007.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Chambersburg Armory**, Hamilton Township, **Franklin County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veteran Affairs, Environmental Section, Building 11-19, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with petroleum hydrocarbons. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department on April 24, 2007.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Lingle Property, Lynwood Mobile Home Park**, Lawrence Township, **Clearfield County**. Chambers Environmental Group, 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of Andrew Lingle, c/o Law Offices of T. Andrew Lingle, P. C., 9211 Forest Hill Avenue, Suite 201, Richmond, VA 23235 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 heating oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 27, 2007.

**Former Pickelner Fuel Company, Inc.**, Loyalsock Township, **Lycoming County**. D & A Environmental, Inc., 120 N. Abington Road, Clarks Summit, PA 18411 on behalf of Pickelner Fuel Company, Inc., 210 Locust Street, Williamsport, PA 17701 has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with leaded and unleaded gasoline. The report was disapproved on April 24, 2007.

#### RESIDUAL WASTE GENERAL PERMITS

**Permits revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit No. WMGR090R042**. Salford Township, 139 Ridge Road, Tylersport, PA 18971-0054. General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. The permittee requested the general permit be revoked due to the utilization of the RAP materials under the industry-wide co-product determination. Central Office revoked this general permit on April 26, 2007.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit No. 101392. Lehigh Valley Recycling, Inc.**, Solid Waste Services, Inc. (DBA J. P. Mascaro & Sons), 2650 Audubon Road, Audubon, PA 19403. A permit renewal authorizing the continued operation of this municipal waste transfer facility located in North Whitehall Township, **Lehigh County**. The permit was issued in the Regional Office on April 11, 2007, with an expiration date of April 11, 2017.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**15-301-090GP: Coventry Animal Hospital** (1620 New Schuylkill Road, Pottstown, PA 19465) on April 24, 2007, to operate a crematory in East Fallowfield Township, **Chester County**.

**09-302-088GP: The Flynn Co.** (1621 Wood Street, Philadelphia, PA 19103) on April 26, 2007, to operate two natural gas fired boilers in Bensalem Township, **Bucks County**.

**09-323-008GP: Arkema, Inc.** (100 PA Route 413, Bristol, PA 19007) on April 26, 2007, to operate a pyrolysis furnace/burn off oven in Bristol Township, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**GP3-38-03051: Pennsy Supply, Inc.—Prescott Quarry** (200 Prescott Road, Lebanon, PA 17042) on April 25, 2007, for Portable Nonmetallic Mineral Processing Plants under GP3 in South Lebanon Township, **Lebanon County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0048C: Wyeth Pharmaceuticals** (500 Arcola Road, Collegeville, PA 19426) on April 24, 2007, to operate two No. 2 fuel oil-fired, generators in Upper Providence Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**ER-67-05009A: STI Capital Co.** (P. O. Box 85376, San Diego, CA 92186-5376) on April 25, 2007, for an Emission Reduction Credit approval for 8.75 tpy of NOx resulting from the shutdown of two natural gas-fired turbines at their York Cogeneration Facility in Springettsbury Township, **York County**.

**67-05079A: York Building Products Co., Inc.** (P. O. Box 1708, 1020 N. Hartley Street, York, PA 17405) on April 25, 2007, to replace the fabric filter baghouse at their existing asphalt plant in Jackson Township, **York County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**20-193A: Lord Corp.** (124 Grant Street, Cambridge Springs, PA 16403) on April 24, 2007, to install a new

filter system to control emissions from existing surface coating operations at the their facility, in the municipality of Cambridge Springs, **Crawford County**. This is a Title V facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0187: Fairless Iron and Metal** (P. O. Box 5575, Trenton, NJ 08638) on April 27, 2007, to operate metal shredding equipment in Falls Township, **Bucks County**.

**15-0054A: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on April 26, 2007, to operate a dryer burner in East Whiteland Township, **Chester County**.

**15-0094: Metallurgical Products Co.** (P. O. Box 598, West Chester, PA 19381-0598) on April 30, 2007, to operate a bag filter dust collector in West Goshen Township, **Chester County**.

**09-0007B: Waste Management Disposal Services of PA, Inc.** (1121 Bordentown Road, Morrisville, PA 19067) on April 30, 2007, to modify the geological reclamation operations and waste system in Falls Township, **Bucks County**.

**09-0024E: Waste Management Disposal Services of PA, Inc.** (1121 Bordentown Road, Morrisville, PA 19067) on April 30, 2007, to modify the Tullytown resource recovery facility in Tullytown Borough, **Bucks County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.*

**41-327-003A: PMF Industries, Inc.** (2601 Reach Road, Williamsport, PA 17701) on April 27, 2007, to operate a batch vapor degreaser on a temporary basis until August 25, 2007, in the City of Williamsport, **Lycoming County**. The plan approval has been extended.

**49-00020B: Truck Accessories Group, Inc.—d/b/a Leer East**, (3560 Housels Run Road, Milton, PA 17847) on April 27, 2007, to operate a mold maintenance area, a wet-out reinforcement area, a secondary lamination area, a base rail lamination area, a truck cap and tonneau cover headliner adhesive process, fiberglass reinforced plastic truck cap and tonneau cover assembly and final finish operations, an aluminum welding operation and an aluminum truck cap assembly, final finish and installation operation in a fiberglass reinforced plastic and aluminum truck cap manufacturing facility on a temporary basis to August 24, 2007, in Milton Borough, **Northumberland County**. The plan approval has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**32-00059B: Reliant Energy** (121 Champion Way, Suite 200, Canonsburg, PA 15317) on April 25, 2007, to correct an error in the plan approval document issued to the Conemaugh Power Station in West Wheatfield Township, **Indiana County**. This plan approval has been modified.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**61-185C: Heath Oil Co.** (SR 8, Barkeyville, PA 16038) on March 31, 2007, for the post construction approval of the bulk storage terminal, tank wagon loading rack and vapor balancing and burn off system in Barkeyville Borough, **Venango County**. This is a State-only 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, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00047: Mueller Streamline Co.** (287 Wissahickon Avenue, North Wales, PA 19454) on April 24, 2007, for renewal of the Title V Operating Permit in Upper Gwynedd Township, **Montgomery County**, PA. The initial permit was issued on December 31, 2001. Mueller Streamline Company is a manufacturing plant, which operates two batch vapor degreasers (solvent used: Methylene chloride CAS No. 75-09-20), numerous tube straightener units and various combustion units. The vapor degreasers are regulated by 40 CFR 63 Subpart T (National Emission Standards for Halogenated Solvent Cleaning). As a result of the potential levels of VOCs emitted, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments. No changes have taken place at this facility that were not previously permitted. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The sources at this facility are not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

---

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**46-00220: Micro-Coax, Inc.** (206 Jones Boulevard, Pottstown, PA 19464) on April 26, 2007, to operate coaxial cable and electrometallurgical equipment at their manufacturing facility in Limerick Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility's potential to emit criteria pollutants is less than major thresholds; therefore the facility is a Natural Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-03055: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506-0550) on April 24, 2007, to operate the limestone crushing/screening plant at their Limeville Quarry in Salisbury Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**36-05139: AFP, Advanced Food Products, LLC** (158 West Jackson Street, New Holland, PA 17557-1607) on April 26, 2007, for their food processing operations in New Holland Borough, **Lancaster County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**04-00600: Rosebud Mining Co.** (301 Market Street, Kittanning, PA 16201) on April 24, 2007, for a State-only operating permit to operate the Beaver Valley Mine Coal Preparation Plant in Greene Township, **Beaver County**.

**04-00687: Penn State Special Metals** (7544 Route 18, P. O. Box Q, Koppel, PA 16136) on April 24, 2007, to manufacture precision cold drawn metal tubing. The facility cuts, draws, anneals, cleans and otherwise processes metal tube to manufacture cold drawn metal tubing in Beaver Borough, **Beaver County**.

**26-00546: Atlas Pipeline PA, LLC—Prah Compressor Station** (311 Rouser Road, Moon Township, PA, 15108-2719) on April 24, 2007, for two natural gas compressor engines and a tri-ethylene glycol dehydrator controlled by an incinerating flare at their plant in German Township, **Fayette County**.

**26-00477: BAE Systems Land & Armaments LP** (2198 University Drive, Lemont Furnace, PA 15456) on April 27, 2007, to operate a refurbishing and paint shop in North Union Township, **Fayette County**.

**32-00385: CQ Hardwood Finishers, LLC** (28 Kendall Road, Blairsville, PA 15717) on April 27, 2007, to operate a hardwood flooring manufacturing facility in Burrell Township, **Indiana County**.

---

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**23-00059: Lyondell Chemical Co.** (3801 West Chester Pike, Newtown Square, PA 19073-2320) on April 24, 2007, for a non-Title V, Synthetic Minor Facility in Newtown Township, **Delaware County**. The State-only Operating Permit was revised to incorporate the conditions of plan approval PA-23-0059 for the addition of an Integrated Propylene Oxide Pilot Unit and an associated Flameless Thermal Oxidizer to the facility in accordance with 25 Pa. Code § 127.450(a)(5). The addition of the Integrated Propylene Oxide Pilot Unit will not result in an increase of emissions for the facility.

---

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

---

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**65-00873: Pace Industries—Airo Die Casting** (1004 Industrial Boulevard, Loyahanna, PA 15661) on May 1, 2007, for De Minimis emission increase of 0.8 ton PM per year, 0.006 ton SOx per year, 1.0 ton NOx per year, 0.06 ton VOC per year and 0.9 ton CO per year resulting from the installation of a new RGF TO 150 Wastewater Evaporator at the Main Plant in Derry Township, **Westmoreland County**. Source is restricted to 8,333 hours of operation per year and recordkeeping is required.



## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### *Coal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**32060102 and NPDES No. PA0249939. Thomas J. Smith, Inc.,** 2340 Smith Road, Shelocta, PA 15774, commencement, operation and restoration of a bituminous surface auger mine in South Mahoning Township, **Indiana County**, affecting 50.3 acres. Receiving streams: UNT to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. The applicant is requesting a variance to construct erosion and sediment controls up to 50 feet on two UNTs of Little Mahoning Creek. The first variance area begins where UNT "A" flows under Banks Road (T-404) and extends upstream for approximately 1,100 feet. The second variance begins upstream approximately 250 feet from where UNT "B" flows under Banks Road (T-404) and extends upstream for approximately 425 feet. Application received February 23, 2006. Permit issued April 25, 2007.

**56920104 and NPDES No. PA0599468. Commercial Coal Sales, Inc.,** P. O. Box 148, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Milford Township, **Somerset County**, affecting 71.0 acres. Receiving streams: UNTs to Middle Creek, Middle Creek, UNTs to Casselman River and Casselman River classified for the following uses: TSF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 5, 2007. Permit issued April 26, 2007.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**65020101 and NPDES Permit No. PA0250082. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Unity Township, **Westmoreland County**, affecting 68.0 acres. Receiving streams: UNT to Nine Mile Run. Application received March 8, 2007. Renewal issued April 24, 2007.

**03980101 and NPDES Permit No. PA0202541. Walter L. Houser Coal Company, Inc.** (12968 US Route 422, Kittanning, PA 16201-5446). Permit revised to

change the land use from forestland to unmanaged natural habitat at an existing bituminous surface/auger mining site located in Kittanning Township, **Armstrong County**, affecting 207 acres. Receiving streams: Mill Run and UNTs to Mill Run. Application received February 15, 2007. Revised permit issued April 26, 2007.

**63980101 and NPDES Permit No. PA0202151. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16528). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site located in Somerset Township, **Washington County**, affecting 173.0 acres. Receiving streams: three UNTs to Pigeon Creek. Application received January 22, 2007. Renewal issued April 26, 2007.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**16920104 and NPDES Permit No. PA0211206. Ancient Sun, Inc.** (P. O. Box 129, Shippenville, PA 16254) Renewal of an existing bituminous strip operation in Perry and Toby Townships, **Clarion County** affecting 89.9 acres. This renewal is issued for reclamation only. Receiving stream: UNT to Black Fox Run. Application received March 7, 2007. Permit Issued April 25, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17070105 and NPDES No. PA0256510. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine in Chest Township, **Clearfield County**, affecting 50.0 acres. Receiving streams: UNTs to Chest Creek and Chest Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 8, 2007. Permit issued April 23, 2007.

**17860108 and NPDES No. PA0596949. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849), permit renewal for reclamation only of a bituminous surface mine-auger mine in Lawrence Township, **Clearfield County**, affecting 57.7 acres. Receiving streams: UNTs of Wolf Run to Wolf Run; Wolf Run to West Branch Susquehanna River. There are no potable water supply intakes within 10 miles downstream. Application received April 6, 2007. Permit issued April 24, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**GFCC No. 17-06-10. Earthmovers Unlimited, Inc.,** Knox Township, **Clearfield County** (Clearfield Creek—Upper West Branch Watershed): A Government-Financed Construction Contract has been awarded to Earthmovers Unlimited, Inc., that will result in the reclamation of 650-feet of open highwall, the reclamation of approximately 1.5 acres of abandoned underground mines and the reclamation of approximately 5.1 acres of abandoned mine land in Knox Township, Clearfield County. The reclamation of the abandoned mine land will also reduce the amount of sediment entering a UNT to Clearfield Creek. The value of this reclamation is estimated at \$35,700 (Contact: John Varner; (814) 342-8200, Moshannon).

### *Noncoal Permits Actions*

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**03950401 and NPDES Permit No. PA0096661. Bradys Bend Corporation** (930 Cass Street, New

Castle, PA 16101). NPDES renewal issued for continued operation and reclamation of a noncoal underground limestone mine located in Bradys Bend Township, **Armstrong County**, affecting 3,804.6 acres. Receiving stream: Cove Run. Application received April 16, 2007. NPDES Renewal issued April 26, 2007.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**10030302. Allegheny Mineral Corporation** (P. O. Box 1022, Kittanning, PA 16201). Renewal of NPDES Permit No. PA0242472 in Brady Township, **Butler County**. Receiving streams: UNTs to Big Run and Big Run. Application received February 21, 2007. Permit Issued April 23, 2007.

**24020301. Veolia ES Greentree Landfill, LLC** (635 Toby Road, Kersey, PA 15846) Renewal of an existing clay operation in Fox Township, **Elk County** affecting 57.0 acres. Receiving streams: UNT to Sawmill Run. Application received February 20, 2007. Permit Issued April 23, 2007.

**10020306. Allegheny Mineral Corporation** (P. O. Box 1022, Kittanning, PA 16201). Renewal of NPDES Permit No. PA0242250 in Worth Township, **Butler County**. Receiving streams: UNT to Slippery Rock Creek. Application received February 21, 2007. Permit Issued April 23, 2007.

**10010310. Allegheny Mineral Corporation** (P. O. Box 1022, Kittanning, PA 16201). Renewal of NPDES Permit No. PA0241962 in Mercer and Pine Townships, **Butler and Mercer Counties**. Receiving streams: UNT to Swamp Run. Application received February 21, 2007. Permit Issued April 23, 2007.

**20072801. R. Hunter, Incorporated** (29780 Hickory Corners Road, Guys Mills, PA 16327). Commencement, operation and restoration of a small noncoal sand and gravel operation in Steuben Township, **Crawford County** affecting 10.0 acres. Receiving streams: UNT to Muddy Creek. Application received February 7, 2007. Permit Issued April 25, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08060805. Donald E. Johnson, Jr.** (R. R. 2, Box 48H, Wysox, PA 18854). Commencement, operation and restoration of a bluestone operation in Asylum Township, **Bradford County**, affecting 5.0 acres. Receiving streams: UNT, tributary to Bennets Creek. There are no potable water supply intakes within 10 miles downstream. Application received March 17, 2006. Application returned April 19, 2007.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**58060875. Lynn D. Joines**, (R. D. 1, Box 113A, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Gibson Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received November 15, 2006. Permit issued April 25, 2007.

**6276SM2A1C10. Martin Limestone, Inc.**, (P. O. Box 550, Blue Ball, PA 17506), boundary correction for an existing quarry operation in East Earl Township, **Lancaster County** affecting 232.0 acres, receiving stream: Conestoga Creek. Application received January 22, 2007. Correction issued April 25, 2007.

## 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.*

**28074121. David H. Martin Excavating, Inc.**, 4961 Cumberland Highway, Chambersburg, PA 17201-9655, blasting activity permit issued for commercial development in Chambersburg Borough, **Franklin County**. Blasting activity permit end date is April 17, 2008. Permit issued April 18, 2007.

**21074133. John W. Gleim, Jr., Inc.**, 625 Hamilton Street, Carlisle, PA 17013-1925, blasting activity issued for warehouse in North Middleton Township, **Cumberland County**. Blasting activity permit end date is December 15, 2007. Permit issued April 20, 2007.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**63074001. Alex Paris Contracting** (P. O. Box 369, Atlasburg, PA 15044). Blasting activity permit for construction of the Alta Vista Business Park, located in Fallowfield Township, **Washington County**. Permit expires April 26, 2008. Permit issued April 26, 2007.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**14074008. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Forest Heights house foundations, Lot 80 to Lot 100, in Spring Township, **Centre County**. Permit issued April 20, 2007. Permit expires April 15, 2008.

**14074009. Triangle Construction** (1076 East Bishop Street, Bellefonte, PA 16823), construction blasting for Stony Pointe, Phase VI, in Walker Township, **Centre County**. Permit issued April 24, 2007. Permit expires October 24, 2007.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**36074139. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Gordonville Masonry in East Township, **Lancaster County** with an expiration date of May 30, 2007. Permit issued April 23, 2007.

**48074105. Austin Powder Company**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Parkview Estates in Palmer Township, **Northampton County** with an expiration date of April 18, 2008. Permit issued April 23, 2007.

**64074103. Holbert Explosives, Inc.**, (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Trails End Camp in Berlin Township, **Wayne County** with an expiration date of April 15, 2008. Permit issued April 23, 2007.

**15074001. N. Abbonizio Contractors, Inc.**, (1250 Conshohocken Road, Conshohocken, PA 19428) and KGA Drilling and Blasting, (1250 Conshohocken Road,

Conshohocken, PA 19428), construction blasting at the East Cedarville Road, Earl Drive, Buckwalter Road Area Sanitary Sewer Extension in East Coventry Township, **Chester County** with an expiration date of November 15, 2007. Permit issued April 24, 2007.

**54074001. Anrich, Inc.**, (1271 South Gulph Road, Wayne, PA 19087) and **Bernard J. Hasara**, (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting for the West Mahanoy Township Sanitary Sewer Collection in West Mahanoy Township, **Schuylkill County** with an expiration date of October 31, 2007. Permit issued April 25, 2007.

**06074107. J. Roy's, Inc.**, (Box 125, Bowmansville, PA 17507), construction blasting for Woods Edge in Amity Township, **Berks County** with an expiration date of December 31, 2007. Permit issued April 25, 2007.

**09074109. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Warrington Shopping Center in Warrington Township, **Bucks County** with an expiration date of April 19, 2008. Permit issued April 25, 2007.

**54074102. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Highridge Shell Building in Cass Township, **Schuylkill County** with an expiration date of April 23, 2008. Permit issued April 25, 2007.

**36074140. Gerlach's Drilling & Blasting**, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Brubaker Farm Expansion in East Donegal Township, **Lancaster County** with an expiration date of May 1, 2008. Permit issued April 27, 2007.

**36074141. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Butterfield Development in Manheim Township, **Lancaster County** with an expiration date of May 1, 2008. Permit issued April 27, 2007.

**36074142. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for a single dwelling in West Lampeter Township, **Lancaster County** with an expiration date of May 1, 2008. Permit issued April 27, 2007.

**39074110. Brubacher Excavating, Inc.**, (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Boulder West in Upper Macungie Township, **Lehigh County** with an expiration date of December 31, 2007. Permit issued April 27, 2007.

**47074103. Kesco, Inc.**, (127 Oneida Valley Road, Butler, PA 16001), construction blasting US Gypsum site development in Washingtonville Borough, **Montour County** with an expiration date of October 19, 2007. Permit issued April 27, 2007.

**48074106. Austin Powder Company**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for the Estates at Steeple Chase in Forks and Upper Macungie Townships, **Northampton County** with an expiration date of April 20, 2008. Permit issued April 27, 2007.

**52074118. Ed Wean Drilling & Blasting, Inc.**, (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Saw Creek Estates in Lehman Township, **Pike County** with an expiration date of April 24, 2008. Permit issued April 27, 2007.

**64074104. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Giles Fenc-

ing Company in Mt. Pleasant Township, **Wayne County** with an expiration date of April 22, 2008. Permit issued April 27, 2007.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

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

**E44-128: Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301 in Bratton, Oliver, Granville and Union Townships, **Mifflin County**, ACOE Baltimore District.

To construct and maintain a 24-inch natural gas pipeline from the Juniata/Mifflin County line (McVeytown, PA

Quadrangle N: 15.54 inches; W: 4.33 inches, Latitude: 40° 27' 38", Longitude: 77° 39' 22") to the Mifflin/Huntingdon County line (Barrville, PA Quadrangle N: 7.26 inches; W: 11.29 inches, Latitude: 40° 39' 54", Longitude: 77° 42' 23") in Bratton, Oliver, Granville and Union Townships, Mifflin County including:

1. Utility line stream crossings of the following streams:

- 6 crossings of UNTs to East Licking Creek (HQ-CWF)

- 1 crossing of East Licking Creek (HQ-CWF)
- 1 crossing of Minehart Run (HQ-CWF)
- 4 crossings of UNTs to Carlisle Run (HQ-CWF)
- 1 crossing of Juniata River (WWF)
- 10 crossings of UNTs to Strodes Run (HQ-CWF)
- 1 crossing of Kishacoquillas Creek (CWF)
- 1 crossing of Frog Hollow (CWF)

2. Temporary road crossings of the following streams:

- 14 crossings of UNTs to East Licking Creek (HQ-CWF)

- 1 crossing of East Licking Creek
- 1 crossing of Minehart Run (HQ-CWF)
- 4 crossings of UNTs to Carlisle Run (HQ-CWF)
- 11 crossings of UNTs to Strodes Run (HQ-CWF)
- 1 crossing of Kishacoquillas Creek (CWF)
- 2 crossings of UNTs to Laurel Creek (HQ-CWF)
- 1 crossing of Laurel Creek (HQ-CWF)

3. 3 utility line wetland crossings and 3 temporary road crossings of wetlands impacting:

- 68 acres of temporary impacts to PEM wetlands which includes 0.03 acre of Exceptional Value wetlands and 4.65 acres of other wetlands;

- 0.02 acre of temporary impacts to PFO wetlands which includes 0.02 acre of Exceptional Value wetlands and 0 acre of other wetlands;

- Tand 0.01 acre of permanent impacts to PFO wetlands which includes 0.01 acre of Exceptional Value wetlands and 0 acre of other wetlands.

The applicant is required to replace a minimum of 0.32 acre of PFO wetland. The proposed mitigation site is 0.91 acre in size and is located on the proposed Perulack Compressor Station property in Lack Township, Juniata County. The mitigation site accounts for impacts in Juniata, Huntingdon and Mifflin Counties.

The project will impact 4,549 linear feet of stream, 4.70 acres of temporary wetland impacts and 0.01 acre of permanent wetland impacts.

**E31-207:** Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301 in Jackson Township, **Huntingdon County**, ACOE Baltimore District.

To construct and maintain a 24-inch natural gas pipeline from the Mifflin/Huntingdon County line (Huntingdon, PA Quadrangle N: 19.88 inches; W: 0.66 inches; Latitude: 40° 29' 04", Longitude: 78° 00' 17") to the Huntingdon/Centre County line (Huntingdon, PA Quadrangle N: 19.88 inches; W: 0.66 inches; Latitude: 40° 29' 04", Longitude: 78° 00' 17") in Jackson Township, Huntingdon County involving:

1. Utility line stream crossings of the following streams:

- 1 crossing of East Branch of Standing Stone Creek (HQ-CWF);

- 9 crossings of UNTs to Standing Stone Creek (HQ-CWF);

- and 1 crossing of Standing Stone Creek (HQ-CWF).

2. Temporary road crossings of the following streams:

- 1 crossing of East Branch of Standing Stone Creek;

- 17 crossings of UNTs to Standing Stone Creek;

- 3 crossings of Standing Stone Creek;

- 7 crossings of UNTs to East Branch of Standing Stone Creek (HQ-CWF);

- and 3 crossings of UNTs to Lingle Creek (HQ-CWF).

3. 3 utility line wetland crossings and 3 temporary road crossings of wetlands involving:

- 1.66 acres of temporary impacts to PEM wetlands which includes 0.11 acre of Exceptional Value wetlands and 1.55 acres of other wetlands;

- 0.08 acre of temporary impacts to PFO wetlands which includes 0 acre of Exceptional Value wetlands and 0.08 acre of other wetlands;

- and 0.01 acre of permanent impacts to PFO wetlands which includes 0 acre of Exceptional Value wetlands and 0.01 acre of other wetlands.

The applicant is required to replace a minimum of 0.32 acre of PFO wetland. The proposed mitigation site is 0.91 acre in size and is located on the proposed Perulack Compressor Station property in Lack Township, Juniata County. The mitigation site accounts for impacts in Juniata, Huntingdon and Mifflin Counties.

The project will impact 3,810 linear feet of stream, 1.74 acres of temporary wetland impacts and 0.01 acre of permanent wetland impacts.

**E34-117:** Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301 in Tuscarora Township, **Juniata County**, ACOE Baltimore District.

To construct and maintain a 24-inch natural gas pipeline from the existing end of Dominion Transmission, Inc.'s PL-1 pipeline near Perulack, PA in Lack Township, Juniata County (Blairs Mills, PA Quadrangle; Latitude: 40° 21' 26", Longitude: 77° 39' 29"; North: 19.5", West: 4.6") to the Juniata/ Mifflin County line (McVeytown, PA Quadrangle; Latitude: 40° 27' 37", Longitude: 77° 39' 24"; North: 15.5", West: 4.4") in Tuscarora Township, Juniata County involving:

1. Utility line stream crossings of the following streams:

- 8 crossings of UNTs to Lick Run (CWF);

- 1 crossing of Lick Run (CWF);

- 2 crossings of UNTs to Willow Run (HQ-CWF);

- 2 crossings of Willow Run (HQ-CWF);

- 9 crossings of UNTs to Dougherty Run (HQ-CWF);

- 1 crossing of Dougherty Run (HQ-CWF);

- 2 crossings of UNTs to Blacklog Creek (HQ-CWF);

- and 1 crossing of Blacklog Creek (HQ-CWF).

2. Stream relocations at the proposed Perulack Compressor Station in Lack Township, Juniata County:

- 80-feet of channel relocation and maintenance of a UNT to Lick Run (CWF);

- 575-feet of channel relocation and maintenance of a UNT to Lick Run (CWF).

3. Temporary road crossings of the following streams:

- 2 crossings of UNTs to Lick Run (CWF);
- 1 crossing of a UNT to Willow Run (HQ-CWF);
- 6 crossings of UNTs to Blacklog Creek (HQ-CWF);
- 1 crossing of Blacklog Creek (HQ-CWF);
- and 2 crossings of UNTs to Barn Run (HQ-CWF).

4. 13 utility line wetland crossings and 4 temporary road crossings of wetlands involving:

- 1.60 acres of temporary impacts to PEM wetlands which includes 0.87 acre of Exceptional Value wetlands and 0.73 acre of other wetlands;

- 1.22 acres of temporary impacts to PFO wetlands which includes 0.02 acre of Exceptional Value wetlands and 1.20 acres of other wetlands;

- and 0.16 acre of permanent impacts to PFO wetlands which includes 0.01 acre of Exceptional Value wetlands and 0.15 acre of other wetlands.

The applicant is required to replace a minimum of 0.32 acre of PFO wetland. The proposed mitigation site is 0.91 acre in size and is located on the proposed Perulack Compressor Station property in Lack Township, Juniata County. The mitigation site accounts for impacts in Juniata, Huntingdon and Mifflin Counties.

The project will involve 4,565 linear feet of stream channel impact, 2.82 acres of temporary wetland impacts and 0.16 acre of permanent wetland impacts.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E18-418. Eldred Chappell Properties, LLC**, 677 East End Mountain Road, Mill Hall, PA 17751. 253-257 Main Street, in Mill Hall Borough, **Clinton County**, ACOE Baltimore District (Mill Hall, PA Quadrangle N: 18.7 inches; W: 15.1 inches).

To remove, construct, operate and maintain a residential building with a maximum foot print of 3,000 square feet elevated on core filled cement block pier walls with at grade cement slabs to allow the 100-year floodway waters of Fishing Creek to flow under the first floor elevation of 586.42 feet located 180 feet north on Main Street from the intersection of Arch Street. This permit was issued under Section 105.13(e) "Small Projects."

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

**E20-551, Robert C. Hilton, Paula A. Hilton, Allison M. Jones and Kevin M. Jones**, 12360 Walnut Drive, Conneaut Lake, PA 16316. Hilton Property House in Floodway, in West Fallowfield, **Crawford County**, ACOE Pittsburgh District (Hartstown, PA Quadrangle N: 8.3 inches; W: 0.2 inch).

The applicant proposes to construct and maintain a 1,500 square foot house on concrete piers within the floodway of a tributary to Crooked Creek (Hartstown, PA Quadrangle N: 8.3 inches; W: 0.2 inch) in West Fallowfield, Crawford County approximately 0.5 mile SE of the intersection of SR 322 and SR 18. The house has already been constructed and the application resulted from an enforcement activity. The tributary to Crooked Creek is a perennial stream classified as a WWF. The project proposes to impact approximately 1,500 square feet of floodway.

**SPECIAL NOTICES**

**Notice of Certification to Perform Radon-Related Activities in Pennsylvania**

In the month of April 2007, the Department of Environmental Protection, under the authority contained in the Radon Certification Act, (63 P. S. Sections 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed below to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>NAME</i>	<i>ADDRESS</i>	<i>TYPE OF CERTIFICATION</i>
Accredited Radon Technicians Eastern PA Division	2909 Keenwood Road Norristown, PA 19403	Mitigation
Bauder Basement Systems, Inc.	3 Yoder Lane Newmanstown, PA 17073	Mitigation
Matthew Beinhaur Harris Environmental, Inc.	600 Stone House Road Clairion, PA 16214	Mitigation
Chuck Berthoud	47 Brookside Avenue Hershey, PA 17033	Testing
Scott Bobowicz Historic Home Inspections, LP	2865 South Eagle Road No. 334 Newtown, PA 18940	Testing
G. Frank Burditt	387 Winfred Manor Drive Bethel Park, PA 15102	Testing
George Curry	505 Philmar Court Springfield, PA 19064	Testing

<i>NAME</i>	<i>ADDRESS</i>	<i>TYPE OF CERTIFICATION</i>
Kim Fella	109 North Richmond Street Fleetwood, PA 19522	Testing
Michael Fella	P. O. Box 543 Fleetwood, PA 19522	Testing
Timothy Gentry	474 Easton Road Horsham, PA 19044	Mitigation
Frank Klopp, Jr.	230 South Brobst Street Shillington, PA 19607	Testing
Ray Knecht	2843 North Front Street Harrisburg, PA 17110	Testing
Gene Kucharski	22163 Daisy Avenue Meadville, PA 16335	Testing
Mark Marino Radon-Rid, LLC	2340 Old Forty Foot Road Harleysville, PA 19438	Testing and Mitigation
Karl May, Jr.	117 Whitetail Circle Wellsboro, PA 16901	Mitigation
Joseph McGinley	40 West Morris Road Bryn Mawr, PA 19010	Testing
Troy Mickle	2843 North Front Street Harrisburg, PA 17110	Mitigation
Ira Nerenberg	151 Indian Drive Greentown, PA 18426	Testing
Ariel Odell	1508 West Norwegian Street No. 3 Pottsville, PA 17901	Mitigation
Richard Onega	333 Lindsay Road Zelienople, PA 16063	Testing
Philip E. Parke, Sr.	3201 Addison Drive Wilmington, DE 19808	Testing
Robert Pecca	404 Richmond Road Bangor, PA 18013	Testing
Fernando Ramos	2265 Suburban Lane Effort, PA 18330	Testing
Harvey Ricci SPY Inspection Services, Inc.	16 East Main Street Lansdale, PA 19446	Testing
Laird Ritter	717 Oak Hall Street Boalsburg, PA 16827	Testing
Ronald Rusnock	P. O. Box 2245 Hazleton, PA 18201	Testing
Brian Silowash	1730 Jamestown Place Pittsburgh, PA 15235	Testing
Dennis Swindell	227 Locust Street Box 12 Alum Bank, PA 15521	Testing
Dale Thorson	800 Antietam Drive Douglassville, PA 19518	Testing
Peter Weber	6 Boor Cove Lane West Grove, PA 19390	Mitigation

[Pa.B. Doc. No. 07-845. Filed for public inspection May 11, 2007, 9:00 a.m.]

## High Energy Demand Day Memorandum of Understanding Approved by the Ozone Transport Commission

The Department of Environmental Protection (Department) will hold a public meeting, May 30, 2007, to present an overview and to receive comments regarding the high-energy demand day (HEDD) Memorandum of Understanding (MOU) adopted by the Ozone Transport Commission (OTC). On March 2, 2007, the Commonwealth's representatives on the OTC abstained when action was taken on the MOU and indicated that under State law an opportunity must be provided for public comment in this Commonwealth prior to final action on a resolution or MOU that would commit the Commonwealth to pursue the adoption of control measures. This meeting is being held consistent with the requirements of section 7.4 of the Air Pollution Control Act (35 P. S. § 4007.4), Interstate Transport Commission, which states the following:

(a) The Commonwealth, through its representatives on an interstate transport commission formed under the Clean Air Act, shall provide public review of recommendations for additional control measures prior to final commission action consistent with the commission's public review requirements under section 184(c)(1) of the Clean Air Act. The opportunity for public review established under this section shall run concurrently with the commission's public comment period established under section 184(c)(1) of the Clean Air Act.

(b) Control strategies approved by an interstate transport commission and by the Commonwealth's representatives and set forth in resolutions or memoranda of understanding shall be considered commitments by the executive to pursue subsequent legislative, regulatory or other administrative actions to implement the control strategies.

(c) The Commonwealth strongly recommends that an interstate transport commission adopt formal procedures, which allow for an open public review and comment period prior to the adoption of resolutions, consideration of memoranda of understanding or other actions that recommend that States adopt control strategies. The Commonwealth's representatives shall take actions consistent with this recommendation.

At the March 2, 2007, meeting of the OTC, the Environmental Commissioners of the Ozone Transport Region (OTR) jurisdictions voted on a HEDD MOU to be considered by the OTR jurisdictions for implementation to reduce ground-level ozone and its precursors.

Specifically, the Department is requesting public comment regarding the following HEDD issues:

1. The appropriateness of the emission reduction and the way it was calculated by the OTC. OTC's MOU includes HEDD units that operated less than 50% of the ozone season and calculated the potential reductions from those units based upon the operation of those units on the HEDD that occurred on July 26, 2005, and the normal demand day of June 4, 2005.
2. Any recommendations regarding the various ways to achieve the reductions in the MOU.
3. Comments concerning the future impacts on HEDD units from the developing Advanced Energy Portfolio Standard Implementation; new Federal CO<sub>2</sub>

initiatives; and any proposed electric law changes, if they will have any overlap with this initiative and if they may otherwise provide emissions reductions, change the economics, operations of the electric system, and the like.

Written comments should be sent by June 1, 2007, to J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, [jhavens@state.pa.us](mailto:jhavens@state.pa.us). The Department will consider and retain all comments, but will not prepare a comment and response document. The Department will consider the comments prior to deciding whether to pursue the adoption of HEDD measures in PA.

Persons with a disability who wish to attend a meeting and require an auxiliary aid, service or other accommodation to participate in the meeting should contact Yvette House at (717) 787-9498, [yhouse@state.pa.us](mailto:yhouse@state.pa.us). TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Information regarding the OTC action and the HEDD MOU can be found at [www.otcair.org/document.asp?fview=meeting#](http://www.otcair.org/document.asp?fview=meeting#).

The OTC is a multistate organization created under the Federal Clean Air Act. The OTC is responsible for advising Environmental Protection Agency on transport issues and for developing and implementing regional solutions to the groundlevel ozone problem in the Northeast and Mid-Atlantic regions. The Commonwealth is a member of the OTC.

The public meeting will be held Wednesday, May 30, 2007, 9 a.m.—11:30 a.m., Sixth Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-846. Filed for public inspection May 11, 2007, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

Real Estate for Sale  
Lehigh County

State-owned real estate for sale in the City of Allentown, Lehigh County, PA. The Department of General Services, through its broker, Studley, Inc., will accept bids for the purchase of 4.2471 gross acres +/- of improved land zoned B-3 Highway Business District located at 1713 Lehigh Street in the City of Allentown. Bids are due July 31, 2007. Interested parties wishing to receive a copy of Solicitation No. 94110 should call Bradford Mills, Studley, Inc., at (267) 256-7575, [bmills@studley.com](mailto:bmills@studley.com).

JAMES P. CREEDON,  
*Secretary*

[Pa.B. Doc. No. 07-847. Filed for public inspection May 11, 2007, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Dubois Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Dubois Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Health Care Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 2.1.3.1 (relating to space requirement for treatment rooms).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 07-848. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Application for Request for Exception to 28 Pa. Code § 123.25(2)

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to control of anesthesia explosion hazards): Windber Hospital, Highlands Hospital and Meyersdale Medical Center.

These requests are 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.

The facilities are 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 Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.H.P.,  
*Secretary*

[Pa.B. Doc. No. 07-1566-46. Filed for public inspection May 11, 2007, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Expansion of the Long-Term Care Capitated Assistance Program; Request for Information

The Long-Term Care Capitated Assistance Program (LTCCAP) is the Commonwealth's replication of the Program of All-inclusive Care for the Elderly (PACE) Model. Under this request for information, the Department of Public Welfare (Department) is asking organizations interested in participating as an LTCCAP provider to contact the Department. Providers will be responsible to provide a specific package of services to individuals enrolled in the program, who are eligible for Medical Assistance (MA) and have been determined to require nursing facility services. To be considered for an LTCCAP site, organizations must be enrolled in the MA Program, meet the requirements included in the PACE Protocol and LTCCAP Provider Agreement and have a completed feasibility study through an approved PACE Technical Assistance Center. The feasibility study must evaluate and address at least the following:

- Market analysis to determine potential demand for PACE services in the proposed service area.
- Organization's commitment to principles consistent with PACE model; depth of leadership and experience required to develop PACE; evidence of primary acute or long-term care services, or both; and experience in serving eligible dual populations.
- Financial capacity of organization to fund program development, assume financial risk and fund risk reserve.
- Project design.
- Projected 5-year start-up budget.

The Department will consider, among other things, the following factors when determining site selection for LTCCAP:

- MA service need.
- MA service availability (such as availability of nursing facility services and home and community based services).
- Project location (such as suburban versus urban locations and existing project sites).



- Uniqueness of project design (such as closing existing nursing facility beds and collaboration efforts with affordable housing providers, hospitals, nursing facilities and referral sources).

- Time line for program development.
- Demonstration of plan to achieve solvency and fund risk reserve.

Questions regarding the PACE Protocol or the feasibility study through a PACE Technical Assistance Center should be directed to Cindy M. Proper at (717) 772-2525.

Organizations that meet the criteria listed in this notice that are interested in being considered to provide services under LTCCAP should submit a letter of interest, along with a copy of their completed feasibility study no later than 30 days from the date of this notice, to LTCCAP, Division of LTC Client Services, Department of Public Welfare, 6th Floor, Bertolino Building, P. O. Box 2675, Harrisburg, PA 17105.

Current LTCCAP providers interested in expanding beyond their designated zip code area are also invited to respond to this request. Responses should be directed to the address previously given and include a letter of interest, along with a market analysis of the area of interest.

ESTELLE B. RICHMAN,  
*Secretary*

[Pa.B. Doc. No. 07-850. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Medical Assistance Program Fee Schedule Revision; Change to Conversion Factor for Anesthesia Services

The Department of Public Welfare (Department) will adjust the conversion factor applied in the payment methodology for anesthesia services on the Medical Assistance (MA) Program fee schedule. The changes are effective with dates of service on and after May 21, 2007.

#### *Methodology*

Since June 2004, the Department has used a payment methodology to establish fees for anesthesia services that conforms to the Medicare payment methodology and was developed in consultation with the Pennsylvania Medical Society and the Pennsylvania Society of Anesthesiologists. Fees are established using the following pricing formula: (base unit assigned to each procedure code × conversion factor) + (conversion factor × time units). For select obstetrical anesthesia services (procedure codes 01960, 01961, 01962, 01963 and 01967), the Department uses the same pricing formula but adjusts the base units by adding four units to the Medicare base units, to account for the particular manner in which these services are provided.

The Department has applied the 2004 Pennsylvania-specific Medicare conversion factor to the pricing formula since June 2004. The Center for Medicare and Medicaid Services adjusted the Pennsylvania-specific Medicare conversion factor for 2007, to \$15.66. The Department will apply this 2007 Medicare conversion factor to claims for services rendered on and after May 21, 2007. The pricing formula will otherwise remain the same.

#### *Fiscal Impact*

Although this change will be implemented effective May 21, 2007, due to payment lags it is anticipated there will be no fiscal impact in Fiscal Year (FY) 2006-2007. Annual savings from the reduced conversion factor are projected at \$0.839 million (\$0.400 million in State funds) in the Medical Assistance-Outpatient Program in FY 2007-2008.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department at the following address: Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be reviewed and considered for any subsequent adjustments to the conversion factor.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-505. No fiscal impact; (8) recommends adoption. Implementation of this notice is anticipated to save \$400,000 annually starting in FY 2007-2008.

[Pa.B. Doc. No. 07-851. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Medical Assistance Program; Prior Authorization List

The Department of Public Welfare (Department) announces additions to the Medical Assistance (MA) Program's list of services requiring prior authorization effective May 15, 2007.

Section 443.6(b)(7) of the Public Welfare Code (62 P. S. § 443.6(b)(7)) authorizes the Department to add items and services to the list of services requiring prior authorization by publication of notice in the *Pennsylvania Bulletin*.

The MA Program will require prior authorization of prescriptions, including refills, for Aranesp, Enbrel, Humira, Kineret, Pegasys, Procrit, Toradol and Tysabri dispensed on and after May 15, 2007.

#### *Fiscal Impact*

It is estimated that the change will result in savings of \$0.223 million (\$0.104 million in State funds) in the MA-Outpatient Program in Fiscal Year (FY) 2006-2007 and annualized net savings of \$2.682 million (\$1.251 million in State funds) in FY 2007-2008.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA

17120. Comments received within 30 days will be reviewed and considered for any subsequent changes to these prior authorization requirements.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-506. No fiscal impact; (8) recommends adoption. Implementation of this notice is expected to generate \$104,000 in savings for FY 2006-2007, and \$1,251,000 in FY 2007-2008.

[Pa.B. Doc. No. 07-852. Filed for public inspection May 11, 2007, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Cloud 9 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cloud 9.

2. *Price:* The price of a Pennsylvania Cloud 9 instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Cloud 9 instant lottery game ticket will contain one play area, one "PRIZE" cloud area and a "BONUS" cloud area. The play symbols and their captions located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE). The play symbols and their captions located in the "BONUS" cloud area are: NO BONUS (TRY AGAIN), TRY AGAIN (NO BONUS) and a 9X symbol (9TIMES).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" area are: FREE (TICKET), \$1<sup>00</sup> (ONE DOL), \$3<sup>00</sup> (THR DOL), \$9<sup>00</sup> (NIN DOL), \$10<sup>00</sup> (TEN DOL), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$9,000 (NIN THO).

5. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$3, \$9, \$10, \$50, \$100, \$500 and \$9,000.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Pennsylvania Cloud 9 instant lottery game.

#### 7. *Determination of Prize Winners:*

(a) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$9,000 (NIN THO) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$9,000.

(b) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$100 (ONE HUN) appearing in the

"PRIZE" cloud area and a 9X (9TIMES) bonus play symbol in the "BONUS" cloud area, on a single ticket, shall be entitled to a prize of \$900.

(c) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$500 (FIV HUN) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$100 (ONE HUN) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$10<sup>00</sup> (TEN DOL) appearing in the "PRIZE" cloud area and a 9X (9TIMES) bonus play symbol in the "BONUS" cloud area, on a single ticket, shall be entitled to a prize of \$90.

(f) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$9<sup>00</sup> (NIN DOL) appearing in the "PRIZE" cloud area and a 9X (9TIMES) bonus play symbol in the "BONUS" cloud area, on a single ticket, shall be entitled to a prize of \$81.

(g) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$50\$ (FIFTY) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$3<sup>00</sup> (THR DOL) appearing in the "PRIZE" cloud area and a 9X (9TIMES) bonus play symbol in the "BONUS" cloud area, on a single ticket, shall be entitled to a prize of \$27.

(i) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$10<sup>00</sup> (TEN DOL) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$10.

(j) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$9<sup>00</sup> (NIN DOL) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$9.

(k) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$1<sup>00</sup> (ONE DOL) appearing in the "PRIZE" cloud area and a 9X (9TIMES) bonus play symbol in the "BONUS" cloud area, on a single ticket, shall be entitled to a prize of \$9.

(l) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$3<sup>00</sup> (THR DOL) appearing in the "PRIZE" cloud area, on a single ticket, shall be entitled to a prize of \$3.

(m) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of \$1<sup>00</sup> (ONE DOL) appearing in the

“PRIZE” cloud area, on a single ticket, shall be entitled to a prize of \$1.

(n) Holders of tickets with three matching 9 (NINE) play symbols in the same row, column or diagonal and a prize symbol of FREE (TICKET) appearing in the “PRIZE” cloud area, on a single ticket, shall be entitled to a prize of one Pennsylvania Cloud 9 instant game ticket

Get Three “9” Symbols In Any Row, Column Or Diagonal And Win With Prizes Of:

	Win
FREE	TICKET
\$1	\$1
\$3	\$3
\$1 w/9X	\$9
\$9	\$9
\$10	\$10
\$3 w/9X	\$27
\$50	\$50
\$9 w/9X	\$81
\$10 w/9X	\$90
\$100	\$100
\$500	\$500
\$100 w/9X	\$900
\$9,000	\$9,000

9X (9TIMES) in Bonus Cloud = Win 9 times the prize won.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Cloud 9 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cloud 9, prize money from winning Pennsylvania Cloud 9 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Cloud 9 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. Such announcement will be disseminated through media used to advertise or promote Pennsylvania Cloud 9 or through normal communications methods.

THOMAS W. WOLF,  
Secretary

[Pa.B. Doc. No. 07-853. Filed for public inspection May 11, 2007, 9:00 a.m.]

or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

Approximate Odds Are 1 In:	Approximate No. of Winners Per 9,600,000 Tickets
15	640,000
15	640,000
15.79	608,000
150	64,000
300	32,000
300	32,000
597.01	16,080
3,000	3,200
3,871	2,480
6,000	1,600
9,600	1,000
120,000	80
80,000	120
240,000	40

**Pennsylvania Fire ‘n’ Ice Bingo Instant Lottery Game**

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Fire ‘n’ Ice Bingo. There are two versions of the game. The play methods for each version are identical.

2. *Price:* The price of a Pennsylvania Fire ‘n’ Ice Bingo instant lottery game ticket is \$3.

3. *Play Symbols:*

(a) Each Pennsylvania Fire ‘n’ Ice Bingo instant lottery game ticket will contain six play areas designated as “Card 1,” “Card 2,” “Card 3,” “Card 4,” “Card 5” and “Card 6.” The 77 play symbols located in the six play areas for version one are: The numbers 01 through 75, “FREE” symbol and a “FLAME” symbol. The “FREE” symbol is a free space. The “FLAME” symbol is a free space, and when it appears in a winning pattern, the prize triples. The 77 play symbols located in the six play areas for version two are: The numbers 01 through 75, “FREE” symbol and a “DIAMOND” symbol. The “FREE” symbol is a free space. The “DIAMOND” symbol is a free space, and when it appears in a winning pattern, the prize triples.

(b) Each ticket will also contain a “Caller’s Card” area. The “Caller’s Card” area will consist of 30 play symbols. The play symbols that may be located in the “Caller’s Card” are: The letter B with a number 01 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75.

(c) Each ticket will also contain a separate “FAST CASH BONUS” area containing two “FAST CASH BO-

NUS" play symbols and a prize symbol. The play symbols and their captions, two of which will be located in the "FAST CASH BONUS" area, in version one are: Fireworks symbol (FIREWKS), Pepper symbol (PEPPER), Sun symbol (SUN), Camp Fire symbol (CMPFIRE), Coffee symbol (COFFEE) and Fire Engine symbol (FIRENGE). The play symbols and their captions, two of which will be located in the "FAST CASH BONUS" area, in version two are: Gem symbol (GEM), Glass symbol (GLASS), Snowflake symbol (SNWFLKE), Snow Cone symbol (SNOWCNE), Skate symbol (SKATE) and a Refrigerator symbol (FRIDGE). The "FAST CASH BONUS" is played separately from the rest of the game.

4. *Prize Symbols:* The prize symbols and their captions, located in the "FAST CASH BONUS" prize area are: FREE (TICKET), \$3<sup>00</sup> (THR DOL), \$6<sup>00</sup> (SIX DOL), \$9<sup>00</sup> (NIN DOL), \$10<sup>00</sup> (TEN DOL), \$18\$ (EGHTN), \$30\$ (THIRTY), \$60\$ (SIXTY), \$90\$ (NINTY), \$100 (ONE HUN), \$150 (ONEHUNFTY), \$300 (THR HUN), \$1,000 (ONE THO) and \$3,000 (THR THO).

5. *Prizes:* The prizes that can be won in this game are: \$3, \$6, \$10, \$30, \$60, \$90, \$150, \$300, \$1,000, \$3,000, \$30,000 and \$60,000. The prizes that can be won in the "FAST CASH BONUS" area are: Free Ticket, \$3, \$6, \$9, \$10, \$18, \$30, \$60, \$90, \$100, \$150, \$300, \$1,000 and \$3,000.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania Fire 'n' Ice Bingo instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for Fire 'n' Ice Bingo "Card 1" or "Card 2" or "Card 3" or "Card 4" or "Card 5" or "Card 6" are:

(1) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 6," shall be entitled to a prize of \$60,000.

(2) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 5," shall be entitled to a prize of \$30,000.

(3) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 4," shall be entitled to a prize of \$3,000.

(4) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 6," shall be entitled to a prize of \$1,000.

(5) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 3," shall be entitled to a prize of \$1,000.

(6) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 5," shall be entitled to a prize of \$300.

(7) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 2," shall be entitled to a prize of \$300.

(8) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in

the midpoint in each of the four outside rows and columns, on "Card 3" or "Card 4," shall be entitled to a prize of \$150.

(9) Holders of tickets matching the "Caller's Card" play symbols in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 1," shall be entitled to a prize of \$150.

(10) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 5" or "Card 6," shall be entitled to a prize of \$90.

(11) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 2," shall be entitled to a prize of \$60.

(12) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 3" or "Card 4," shall be entitled to a prize of \$60.

(13) Holders of tickets matching the "Caller's Card" play symbols in three of the five spaces in a horizontal, vertical or diagonal line, and a "FLAME" symbol or a "DIAMOND" symbol in one of the remaining spaces of that same horizontal, vertical or diagonal line and a "FREE" symbol in the other remaining space of that same horizontal, vertical or diagonal line on "Card 5" or "Card 6;" or holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a "FLAME" symbol or a "DIAMOND" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 5" or "Card 6," shall be entitled to a prize of \$30.

(14) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 2," shall be entitled to a prize of \$30.

(15) Holders of tickets matching the "Caller's Card" play symbols in a diamond pattern, matching one square in the midpoint in each of the four outside rows and columns, on "Card 1," shall be entitled to a prize of \$30.

(16) Holders of tickets matching the "Caller's Card" play symbols in three of the five spaces in a horizontal, vertical or diagonal line, and a "FLAME" symbol or a "DIAMOND" symbol in one of the remaining spaces of that same horizontal, vertical or diagonal line and a "FREE" symbol in the other remaining space of that same horizontal, vertical or diagonal line on "Card 4;" or holders of tickets matching the "Caller's Card" play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a "FLAME" symbol or a "DIAMOND" symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 4," shall be entitled to a prize of \$18.

(17) Holders of tickets matching the "Caller's Card" play symbols in a five-space horizontal, vertical or diagonal line on "Card 5" or "Card 6," shall be entitled to a prize of \$10.

(18) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 1," shall be entitled to a prize of \$10.

(19) Holders of tickets matching the "Caller's Card" play symbols in three of the five spaces in a horizontal, vertical or diagonal line, and a "FLAME" symbol or a "DIAMOND" symbol in one of the remaining spaces of that same horizontal, vertical or diagonal line and a "FREE" symbol in the other remaining space of that same horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3;" or holders of tickets matching the "Caller's

Card” play symbols in four of the five spaces in a horizontal, vertical or diagonal line, and a “FLAME” symbol or a “DIAMOND” symbol in the remaining space of that same horizontal, vertical or diagonal line on “Card 1” or “Card 2” or “Card 3,” shall be entitled to a prize of \$9.

(20) Holders of tickets matching the “Caller’s Card” play symbols in a five-space horizontal, vertical or diagonal line on “Card 4,” shall be entitled to a prize of \$6.

(21) Holders of tickets matching the “Caller’s Card” play symbols in a five-space horizontal, vertical or diagonal line on “Card 1” or “Card 2” or “Card 3,” shall be entitled to a prize of \$3.

(b) Determination of prize winners for “Fast Cash Bonus” are:

(1) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$3,000 (THR THO) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$3,000.

(2) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$1,000 (ONE THO) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$300 (THR HUN) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$300.

(4) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$150 (ONEHUNFTY) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$150.

(5) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$100 (ONE HUN) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$100.

(6) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$90 (NINTY) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$90.

(7) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$60 (SIXTY) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$60.

(8) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$30 (THIRTY) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$30.

(9) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$18 (EGHTN) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$18.

(10) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$10.

(11) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$9<sup>00</sup> (NIN DOL) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$9.

(12) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$6<sup>00</sup> (SIX DOL) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$6.

(13) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of \$3<sup>00</sup> (THR DOL) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of \$3.

(14) Holders of tickets with two identical “FAST CASH BONUS” play symbols, and a prize symbol of FREE (TICKET) appearing in the “prize” area to the right of the two identical “FAST CASH BONUS” play symbols, on a single ticket, shall be entitled to a prize of one Pennsylvania Fire ‘n’ Ice Bingo instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Get:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets</i>
FREE FAST CASH BONUS	TICKET	9.09	528,000
LINE CARD 1	\$3	200	24,000
LINE CARD 2	\$3	200	24,000
LINE CARD 3	\$3	200	24,000
\$3 FAST CASH BONUS	\$3	200	24,000
(LINE CARD 2) + (LINE CARD 3)	\$6	45.45	105,600
LINE CARD 4	\$6	100	48,000
(LINE CARD 2) + (\$3 FAST CASH BONUS)	\$6	100	48,000
(LINE CARD 3) + (\$3 FAST CASH BONUS)	\$6	100	48,000
\$6 FAST CASH BONUS	\$6	100	48,000
LINE CARD 1 w/FLAME OR DIAMOND SYMBOL	\$9	166.67	28,800
LINE CARD 2 w/FLAME OR DIAMOND SYMBOL	\$9	142.86	33,600
LINE CARD 3 w/FLAME OR DIAMOND SYMBOL	\$9	200	24,000
(LINE CARD 4) + (\$3 FAST CASH BONUS)	\$9	500	9,600

<i>Get:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets</i>
\$9 FAST CASH BONUS	\$9	500	9,600
4 CORNERS CARD 1	\$10	500	9,600
LINE CARD 5	\$10	500	9,600
LINE CARD 6	\$10	500	9,600
\$10 FAST CASH BONUS	\$10	83.33	57,600
LINE CARD 4 w/FLAME OR DIAMOND SYMBOL	\$18	166.67	28,800
(LINE CARD 2) + (LINE CARD 3) + (LINE CARD 4) + (\$6 FAST CASH BONUS)	\$18	500	9,600
\$18 FAST CASH BONUS	\$18	500	9,600
DIAMOND CARD 1	\$30	1,000	4,800
4 CORNERS CARD 2	\$30	1,000	4,800
LINE CARD 5 w/FLAME OR DIAMOND SYMBOL	\$30	1,000	4,800
LINE CARD 6 w/FLAME OR DIAMOND SYMBOL	\$30	1,000	4,800
(LINE CARD 5) + (LINE CARD 6) + (\$10 FAST CASH BONUS)	\$30	1,000	4,800
\$30 FAST CASH BONUS	\$30	1,000	4,800
4 CORNERS CARD 3	\$60	6,000	800
4 CORNERS CARD 4	\$60	6,000	800
(DIAMOND CARD 1) + (4 CORNERS CARD 2)	\$60	6,000	800
(4 CORNERS CARD 2) + (LINE CARD 5 w/FLAME OR DIAMOND SYMBOL)	\$60	6,000	800
(DIAMOND CARD 1) + (LINE CARD 6 w/FLAME OR DIAMOND SYMBOL)	\$60	6,000	800
(DIAMOND CARD 1) + (\$30 FAST CASH BONUS)	\$60	6,000	800
DIAMOND CARD 2	\$60	6,000	800
(4 CORNERS CARD 1) + (LINE CARD 5) + (LINE CARD 6) + (\$30 FAST CASH BONUS)	\$60	6,000	800
\$60 FAST CASH BONUS	\$60	6,000	800
4 CORNERS CARD 5	\$90	6,000	800
4 CORNERS CARD 6	\$90	6,000	800
(4 CORNERS CARD 2) + (4 CORNERS CARD 4)	\$90	6,000	800
(DIAMOND CARD 1) + (4 CORNERS CARD 3)	\$90	6,000	800
(DIAMOND CARD 1) + (4 CORNERS CARD 4)	\$90	6,000	800
(4 CORNERS CARD 2) + (LINE CARD 5 w/FLAME OR DIAMOND SYMBOL) + (LINE CARD 6 w/FLAME OR DIAMOND SYMBOL)	\$90	3,429	1,400
(DIAMOND CARD 2) + (\$30 FAST CASH BONUS)	\$90	6,000	800
(4 CORNERS CARD 1) + (4 CORNERS CARD 3) + (LINE CARD 5) + (\$10 FAST CASH BONUS)	\$90	6,000	800
\$90 FAST CASH BONUS	\$90	6,000	800
(4 CORNERS CARD 1) + (4 CORNERS CARD 2) + (LINE CARD 5 w/FLAME OR DIAMOND SYMBOL) + (LINE CARD 6 w/FLAME OR DIAMOND SYMBOL)	\$100	6,000	800
(4 CORNERS CARD 5) + (\$10 FAST CASH BONUS)	\$100	6,000	800
(4 CORNERS CARD 6) + (\$10 FAST CASH BONUS)	\$100	6,000	800
\$100 FAST CASH BONUS	\$100	6,000	800
"X" CARD 1	\$150	60,000	80
DIAMOND CARD 3	\$150	60,000	80
DIAMOND CARD 4	\$150	60,000	80
(4 CORNERS CARD 3) + (4 CORNERS CARD 5)	\$150	60,000	80
\$150 FAST CASH BONUS	\$150	60,000	80
"X" CARD 2	\$300	60,000	80
("X" CARD 1) + (DIAMOND CARD 3)	\$300	60,000	80
(DIAMOND CARD 3) + (DIAMOND CARD 4)	\$300	60,000	80
DIAMOND CARD 5	\$300	60,000	80
\$300 FAST CASH BONUS	\$300	60,000	80
"X" CARD 3	\$1,000	30,000	160
DIAMOND CARD 6	\$1,000	30,000	160
\$1,000 FAST CASH BONUS	\$1,000	30,000	160
"X" CARD 4	\$3,000	60,000	80
\$3,000 FAST CASH BONUS	\$3,000	120,000	40
"X" CARD 5	\$30,000	1,200,000	4
"X" CARD 6	\$60,000	1,200,000	4

FLAME OR DIAMOND SYMBOL = Triple the prize won when it occurs in a winning pattern.

FAST CASH BONUS = Get two identical symbols in the Fast Cash Bonus, win the prize shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Fire 'n' Ice Bingo instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Fire 'n' Ice Bingo, prize money from winning Pennsylvania Fire 'n' Ice Bingo instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Fire 'n' Ice Bingo instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Fire 'n' Ice Bingo or through normal communications methods.

THOMAS W. WOLF,  
Secretary

[Pa.B. Doc. No. 07-854. Filed for public inspection May 11, 2007, 9:00 a.m.]

## Pennsylvania Harley-Davidson® '07 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Harley-Davidson® '07.

2. *Price:* The price of a Pennsylvania Harley-Davidson® '07 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Harley-Davidson® '07 instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20

(TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and a Key symbol (KEY).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: FREE (TICKET), \$2<sup>00</sup> (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO), \$5,000 (FIV THO), \$50,000 (FTY THO) and a Motorcycle (MTCYCLE).

5. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$2, \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$1,000, \$5,000, \$50,000 and a Harley-Davidson® Fat Boy® motorcycle. A player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Harley-Davidson® instant lottery game.

### 7. Determination of Prize Winners:

(a) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of Motorcycle (MTCYCLE) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of a Harley-Davidson® Fat Boy® motorcycle.

(c) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(d) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key symbol (KEY), and a prize symbol of \$400 (FOR HUN) appears under the Key symbol (KEY) on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Key symbol (KEY), and a prize symbol of \$100 (ONE HUN) appears under the Key symbol (KEY) on a single ticket, shall be entitled to a prize of \$100.





When Any Of Your Numbers Match Any Of The Winning Numbers, Win With Prize(s) Of:

Of:	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 7,200,000 Tickets
\$100 × 10	\$1,000	24,000	300
\$400 × 2 + \$100 × 2	\$1,000	24,000	300
\$1,000	\$1,000	24,000	300
\$1,000 × 5	\$5,000	120,000	60
\$5,000	\$5,000	120,000	60
*MOTORCYCLE	*MOTORCYCLE	720,000	10
\$50,000	\$50,000	720,000	10

KEY (KEY) = Win prize shown under it automatically.

\*MOTORCYCLE (MTCYCLE) = Motorcycle Prize Package valued at \$25,333 consisting of a Harley-Davidson® Fat Boy® model motorcycle, dealer preparation, set-up fees, sales tax, freight, delivery and \$6,333.33 Federal withholding credit. No cash equivalent for motorcycle prize.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Harley-Davidson® '07 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Harley-Davidson® '07, prize money from winning Pennsylvania Harley-Davidson® '07 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Harley-Davidson® '07 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Harley-Davidson® '07 or through normal communications methods.

THOMAS W. WOLF,  
Secretary

[Pa.B. Doc. No. 07-855. Filed for public inspection May 11, 2007, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Contemplated Sale of Access Rights

The Department of Transportation (Department), under 2003(e) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell access rights across certain

lands owned the Department located in Mansfield Borough, Tioga County. The estimated fair market value is \$490,000. Interested public entities are invited to express their interest in purchasing the site within 30-calendar days from the date of publication of this notice to: PENNDOT, 715 Jordan Avenue, P. O. Box 218, Montoursville, PA 17754, Attention: Lenny P. Confer.

ALLEN D. BIEHLER, P. E.,  
Secretary

[Pa.B. Doc. No. 07-856. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Request for Bids

The Department of Transportation will be accepting sealed bids for the sale and removal of residential, industrial and commercial dwellings located adjacent to SR 0028 (East Ohio Street) in the City of Pittsburgh and the Borough of Millvale, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. The contractor will also be required to comply with local, State and Federal regulations. For bid information, specifications and further information, please contact Michael Sudar, District Property Manager at (412) 429-4830.

Not all Bidding Opportunities are advertised in the *Pennsylvania Bulletin* for State government agencies. Generally, Bidding Opportunities over \$20,000 for materials and \$250,000 for services are advertised on the Department of General Services (Department) Bureau of Procurement website at [www.dgsweb.state.pa.us/comod/main.asp](http://www.dgsweb.state.pa.us/comod/main.asp). The Bidding Opportunities website is updated on a daily basis.

Suppliers interested in doing business with Commonwealth agencies are strongly encouraged to register as a portal supplier at [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us).

For more information, contact the Department Supplier Services and Support, (717) 346-2676, (877) 435-7363 (toll free), [rasrmhelp@state.pa.us](mailto:rasrmhelp@state.pa.us).

ALLEN D. BIEHLER, P. E.,  
Secretary

[Pa.B. Doc. No. 07-857. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Request for Bids

The Department of Transportation is seeking bids for the demolition and removal of six houses, three garages and one storage building in conjunction with the construction of SR 0015 section 006 in Cumberland County, Lower Allen Township. Asbestos and lead based paint removal will be required. For bid forms, date of inspection, specifications and further information contact John Leinmiller, (717) 761-1832, jleinmiller@iasrw.com. Contractors must be prequalified for this service.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 07-858. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Sale of Land No Longer Required for Transportation

The Department of Transportation (Department) under 2003(e) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department. The parcel is irregular shape, located on the northwestern side of Elm Drive behind the sound barrier wall adjacent to Ramp "HJ" entering south onto Interstate 0078, in Lower Macungie Township, Lehigh County. The parcel is an uneconomic remnant approximately 0.249 acre. The sale of the property is in an as is condition. Interested public agencies are invited to express their interest in purchasing the parcel within 30-calendar days from this notice.

For further information, contact Bruce Kern, District Property Manager, Department of Transportation, 1002 Hamilton Street, Allentown, PA 18101, (610) 871-4179.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 07-859. Filed for public inspection May 11, 2007, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Borough of Myerstown v. DEP; EHB Doc. No. 2007-104-C

The Borough of Myerstown has appealed the issuance by the Department of Environmental Protection of an NPDES permit to the Borough of Myerstown for a facility in Jackson Township, Lebanon County, PA.

A date for the trial on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Acting Chairperson*

[Pa.B. Doc. No. 07-860. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Meadows Sewer Company v. DEP; EHB Doc. No. 2007-105-C

Meadows Sewer Company has appealed the issuance by the Department of Environmental Protection of an NPDES permit to Meadows Sewer Company for a facility in Middlesex Township, Cumberland County, PA.

A date for the trial on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Acting Chairperson*

[Pa.B. Doc. No. 07-861. Filed for public inspection May 11, 2007, 9:00 a.m.]

## HISTORICAL AND MUSEUM COMMISSION

### State Surplus Property Program; Deaccession Auction

The Historical and Museum Commission (Commission) will be auctioning a vehicle deaccessioned from its permanent collection. The vehicle is being auctioned because it does not immediately relate to the Commissions' mission. The public auction will be held by Keystone Auto Auction in Grantville, PA on June 5, 2007.

BARBARA FRANCO,  
*Executive Director*

[Pa.B. Doc. No. 07-862. Filed for public inspection May 11, 2007, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
57-251	Pennsylvania Public Utility Commission Provisions of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers 37 Pa.B. 1032 (March 3, 2007)	4/2/07	5/2/07
16A-5721	State Board of Veterinary Medicine Professional Conduct 37 Pa.B. 1038 (March 3, 2007)	4/2/07	5/2/07
15-436	Department of Revenue Pennsylvania Gaming Cash Flow Management 37 Pa.B. 1028 (March 3, 2007)	4/2/07	5/2/07

**Pennsylvania Public Utility Commission Regulation #57-251 (IRRC #2591)**

**Provisions of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers  
May 2, 2007**

We submit for your consideration the following comments on the proposed rulemaking published in the March 3, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

**1. Consistency with statute.**

In the preamble, the PUC quotes its Proposed Rulemaking Order (PUC Doc. No. L-00060179) which includes the following statement:

We note that while the Public Utility Code expressly grants local exchange telecommunications companies

(incumbent local exchange carriers or ILECs) permission to offer single-rate package plans, 66 Pa.C.S. § 3016(e)(2), nothing in the Code precludes the Commission from authorizing competitive local exchange carriers (CLECS) to provide single-rate package plans. In fact, we believe that authorizing CLECS to provide such service packages advances two important policy goals: (1) to encourage diversity in services and products; and (2) to promote the provision of competitive services by a variety of service providers without jeopardizing universal service. See, 66 Pa.C.S. § 3011(5)(8).

While expressing support for the PUC's stated goals in this rulemaking, some commentators take issue with the proposed regulatory language to accomplish this goal. We recognize that the PUC is attempting to address rapidly evolving services and providers. However, as written, portions of the regulation appear to regulate bundled service packages as a whole, rather than the protection of basic service within a bundled service package. Therefore, in light of 66 Pa.C.S. § 3016(e)(2), the PUC needs to further explain how the regulation is consistent with the statute as explained below.

*Under the following conditions*

Under 66 Pa.C.S. § 3016(e)(2), "local exchange telecommunications companies may offer and bill to customers on one bill bundled packages of services . . ." However, proposed Section 64.24 begins with the statement that "An LEC may offer bundled packages of services . . . under the following conditions: . . ." The PUC needs to explain why it is consistent with the statute to impose in regulation restrictions not stated in 66 Pa.C.S. § 3016(e)(2).

*Payment agreements for past-due amounts on bundled service packages*

Paragraph (4) states, "The LEC may offer payment agreements for past-due amounts on bundled service packages." While the PUC has an interest in protecting basic service, the authority and purpose behind this provision regarding bundled services is not clear, particularly when bundled services include competitive services. The PUC should explain how this provision is consistent with 66 Pa.C.S. Chapter 30.

*Notices issued pertaining to the bundled service package*

Paragraph (5) states, "Notices issued by the LEC pertaining to the bundled service package . . . will be subject to Commission review and approval . . ." Again, while the PUC has an interest in protecting basic service, the authority and purpose behind this provision regarding all bundled services is not clear. The PUC should explain how this provision is consistent with 66 Pa.C.S. Chapter 30.

Furthermore, Paragraph (5) states that "notices issued by the LEC pertaining to the bundled service package, including . . . other communication, will be subject to Commission [PUC] review and approval . . ." The requirement relating to "other communication" is vague and could encompass irrelevant communications. We recommend deleting the phrase "or other communication."

**2. "The LEC shall convert the customer's service"—Economic impact; Need; Reasonableness.**

Paragraph (2) states, "When a customer fails to make payment on a bundled service package, the LEC shall convert the customer's service to a basic service plan . . ." There are two concerns.

First, by use of the word "shall," the regulation does not leave any discretion for the LEC and customer to resolve any issues that may have led to failure to make payment. Can the LEC and customer resolve payment issues before a basic service plan is imposed?

Second, commentators cite concerns related to changing service to basic service. Although the intent of Paragraph (2) appears to be to separate basic service from bundled services, commentators question whether Paragraph (2) will create a confusing array of bills to the customer, impose unreasonable administrative costs for the LEC and allow a costly extension of termination proceedings. We will review the PUC's responses to the commentators on these issues to determine whether Paragraph (2) is in the public interest.

**3. Waiver of applicable Chapter 64 regulations.—Implementation procedures; Conflict with existing regulation; Clarity.**

In the Preamble, the PUC included in its order the following paragraph:

9. Pending the final resolution of this rulemaking, the Chapter 64 separate billing requirement, including 52 Pa. Code §§ 64.14(a)(4) and (5), 64.17, 64.18, 64.21(a), and 64.63(1) and (2), are temporarily waived to the extent necessary to permit all LECs to offer bundled services packages, provided that the LEC agrees to the conditions set forth in the Secretarial Letter issued September 23, 2003, at Docket No. M-00031747.

Even though the PUC recognizes these existing provisions are inconsistent with the proposed rulemaking, the proposed language amendments do not rectify the inconsistency. As a result, when the waiver expires, Chapter 64 will contain contradictory language. We offer two examples: The PUC temporarily waived the following requirements:

**Section 64.14. Billing information.**

(a) Every bill rendered shall state clearly the following information:

\* \* \* \* \*

(4) The amount due for service and equipment during the current billing period, and the charges for toll service, local usage, taxes and applicable surcharges.

(5) An itemized statement of toll charges listing the date, time, destination, duration and rate period for each toll call.

and

**Section 64.21. Separate billing for basic service.**

(a) Charges for basic service shall be billed separately from charges for other services.

Upon completion of this rulemaking, these provisions would no longer be waived. Hence, the above provisions will contradict Section 64.24 which states, "An LEC may offer bundled packages of services . . . in a single package plan at a single monthly rate . . ." These contradictions need to be resolved prior to the filing of a final-form regulation. We recommend that the PUC consider either a new proposed rulemaking to allow the public, legislature, Attorney General and this Commission the opportunity to review and comment upon any changes not published in this proposed rulemaking, or an Advanced Notice of Final Rulemaking to allow interested parties the opportunity to comment on revisions.

Finally, we recognize that the intent of this rulemaking is to implement a process that does not require a case-by-case waiver regarding bundled services. However, commentators see many implications beyond the proposed amendments and raised many issues related to 66 Pa.C.S. Chapter 30. In the final-form rulemaking preamble, the PUC should explain how it took into consideration 66 Pa.C.S. Chapter 30, including 66 Pa.C.S. §§ 3011(5), (6), (8) and (13); 3016 and 3019(b)(2) in the formulation of the language included in the final-form regulation.

**State Board of Veterinary Medicine Regulation  
#16A-5721 (IRRC #2594)**

**Professional Conduct**

**May 2, 2007**

We submit for your consideration the following comments on the proposed rulemaking published in the March 3, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Veterinary Medicine (Board) to respond to all comments received from us or any other source.

**Section 31.21. Rules of Professional Conduct for Veterinarians.—Fiscal impact; Reasonableness; Implementation procedure; Clarity.**

*Principle 1. Competency.*

Subsection (d) indicates that veterinarians should take certain steps when they believe another veterinarian's actions "demonstrate professional incompetence, neglect or animal abuse." By using the word "should," the first part of the subsection appears to give discretion to a licensee in dealing with the incompetence of a colleague. The proposed regulation adds new language mandating that veterinarians file a complaint with the Bureau of Professional and Occupational Affairs (BPOA), and thereby the Board, when they observe conduct that is "grossly incompetent, or involves neglect or animal abuse." We have three concerns.

First, the use of the word "should" in this subsection is inappropriate because it is nonregulatory language which indicates that the provision is optional. When a veterinarian observes questionable actions by a colleague that demonstrate "incompetence," the subsection states that the veterinarian "should" bring the matter to the colleague's attention. If a problem remains unresolved, the veterinarian "should bring the matter to the attention of the Board." It is inappropriate to include optional provisions in a regulation. Regulations establish binding norms of general applicability and future effect. Furthermore, there is confusion over the discretionary nature of this provision with the addition of "failing to report" incompetence as grounds for disciplinary action under Principle 3(11). If reporting certain cases is to remain optional, the first half of this subsection would be more appropriately placed in a policy statement or guidance document.

Second, new language in the first half of the subsection does not indicate how a licensee should "bring the matter to the attention of the Board." What process should a licensee use to notify the Board? If there is gross incompetence, the second half of this subsection mandates that an observing veterinarian file a complaint with the BPOA and this will bring the matter to the Board. However, if a veterinarian is exercising discretion in reporting incompetence under the first part of the subsection, there are no details about how to bring the matter

before the Board. Should the veterinarian file a formal complaint with BPOA or would a letter to the Board suffice?

Third, it is unclear when voluntary or mandatory reporting would apply to "neglect or animal abuse." The subsection states that a veterinarian "*should*" report actions that "demonstrate professional incompetence, "*neglect or animal abuse*" (Emphasis added). It also states:

If the conduct is grossly incompetent, or involves *neglect or animal abuse*, the veterinarian *shall* bring the matter to the attention of the Board by filing a complaint with the Bureau of Professional and Occupational Affairs. [Emphasis added.]

If a veterinarian observes cases involving "neglect or animal abuse" by another veterinarian, is the observer mandated to report it to the Board or does the veterinarian have discretion? If the voluntary and mandatory provisions are both retained, the Board needs to clarify when a veterinarian is mandated to report conduct involving "neglect or animal abuse" and when reporting is voluntary.

*Principle 3. Unprofessional conduct.*

There are several amendments, including a title change, to Principle 3. We have identified the following issues.

First, we question the use of the word "immoral" in the opening paragraph of the amendments to Principle 3. A commentator suggested that the Board consider using the word "unethical" rather than "immoral." We agree.

The last sentence of Paragraph (3) uses the word "should" and reads: "In these instances, the veterinarian should clearly note the reason for the surgery on the veterinary medical record of the animal." As we noted previously, the word "should" is nonregulatory language. We recommend that the word "should" in this sentence be replaced with "shall" in the final-form regulation.

In Paragraph (5), what constitutes "undue pressure" or "attempting to induce" in trying to convince an individual to file, not file or withdraw a complaint? If a veterinarian and client find a way to amicably resolve their differences and the client withdraws the complaint before the Board takes action, did "undue pressure" or an inducement occur?

Third, the new language in Paragraph (6) is unclear. The Pennsylvania Veterinary Medical Association (PVMA) asked the Board to "develop parameters for what constitutes verbal abuse and harassment." In its comments dated April 18, 2007, the House Professional Licensure Committee (House Committee) questioned the application of this provision and whether it should be restricted to actions occurring while a veterinarian is practicing medicine. The Board needs to define, clarify and limit the breadth and scope of this provision in the final-form regulation.

Fourth, the new Paragraph (7) generated questions for the PVMA. It asked: "How is competence to perform determined?" What level of training or experience is required to be competent in a medical procedure? The Board should include the standards that will be used to make this determination.

Paragraph (8) states that "making any false, misleading or deceptive statement or claim" is "unprofessional conduct or immoral conduct." Since such a claim or statement is already prohibited under the existing Principle 5 in Section 31.21, the need for this new language is

unclear. If it is limited to verbal claims to a client, PVMA questions how it could be proven. It suggests a paper record signed by the client and documenting a discussion with the client of the benefits and risks of treatments and medical procedures. Does the new documentation proposed in a different rulemaking for Section 31.22(d) (noted in the Preamble) include the client's signature? The Board should explain how it intends to implement enforcement of this new code of conduct.

Regarding Paragraph (9), a commentator questioned the impact of the rule on shelters or animal rescue groups where unlicensed people are often involved in providing medical care to animals. The Board should carefully examine the impact of this proposed regulation on volunteers or nonprofit organizations that seek to assist stray, unwanted or abused animals.

Finally, in Paragraph (10), we share the questions and concerns noted by the House Committee and a commentator relating to standards, scope of practice and the laws and regulations in other states.

*Principle 7. Veterinarian/client/patient relationships.*

Concerning Subsection (a)(1), a commentator questioned whether the regulation could be amended to recognize that a certified veterinary technician could assess, or provide "triage" for, the incoming emergency case and determine the appropriate action such as a referral to another facility. The final-form regulation should clarify the duty of a veterinarian in these situations.

In Subsection (a)(2), what is a "reasonable time?" PVMA asked the Board to provide direction to veterinarians as to how much time they should give to a client to obtain necessary veterinary care for an animal from a different provider. The House Committee was concerned that this provision should include an affirmative duty to provide care until the time when another veterinarian may continue treatment. The final-form regulation should identify a minimum amount of time for this notice and also address the need for continuity and maintenance of medical care.

The amendments to Subsection (b) appear minor but they raised two concerns.

First, one revision generated financial concerns. The word "should" in the existing regulations was changed to "shall." PVMA is concerned that this mandate places an undue burden on veterinarians. If they are required to care for animals without regard for costs including cases with no client or when a client has no money, then veterinarians, as small business owners, will be required to pass these costs onto other clients. PVMA also noted concerns for large animal veterinarians in cases that may involve services provided by the Department of Agriculture. Has the Board examined the potential fiscal impact of making this standard mandatory for veterinarians?

Second, there was a concern as to whether the phrase "ending suffering" included euthanasia. If so, the House Committee suggested that the word euthanasia be included in Subsection (b). We agree.

The House Committee expressed concerns with the use of the terms "familiarize" and "familiar" in the new Subsection (d). It characterized the use of these terms as setting a less stringent standard for requiring veterinarians to remain current with advancements in veterinary medicine. Veterinarians should strive to be competent in the application of existing treatments and in any advancement in medical treatment. The House Committee

also noted similar concerns with the language in Subsection (f). The Board needs to explain and clarify its intent for the new Subsections (d) and (f).

A commentator suggested revising the new language in Subsection (e) to include discussing the benefits, risks and side effects of “treatments, preventatives and products dispensed to their clients.” This type of language would give greater detail to the term “treatment alternatives” that used in the proposed regulation. The commentator also suggested that this discussion or explanation of the risks, benefits and side effects of treatment options should be documented. We agree.

## Department of Revenue Regulation

#15-436

(IRRC #2596)

### Pennsylvania Gaming Cash Flow Management

May 2, 2007

We submit for your consideration the following comments on the proposed rulemaking published in the March 3, 2007 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Revenue (Department) to respond to all comments received from us or any other source.

#### 1. Economic or fiscal impact of the regulation.

Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. To make that determination, the Commission must analyze the text of the proposed rulemaking and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under § 745.5(a) in the regulatory analysis form (RAF).

It is clear that there will be costs to the Commonwealth for the administration of this rulemaking. It is equally clear that there will be costs imposed upon the regulated community, especially as it relates to the reimbursement of Commonwealth expenses. However, the RAF does not provide any detail on what those costs are or will be. Without this information, we cannot determine if this proposed regulation is in the public interest. In the Preamble and RAF submitted with the final-form rulemaking, the Board should provide more detailed information required under § 745.5(a) of the RRA.

#### 2. Section 1001.3. Definitions.—Clarity.

*Credit against tax*—This definition and § 1001.4(a), pertaining to calculations of credit against tax, implement Section 1209(c) of the Pennsylvania Race Horse Development and Gaming Act (Act) (4 Pa.C.S. § 1209(c)). We recommend that the definition be amended to include a reference to this section of the Act.

#### 3. Section 1001.5. Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.—Statutory authority; Implementation procedures; Clarity.

##### Subsection (a)

This subsection references “any other fund as specified in this chapter.” If any other funds are specified in this chapter, we recommend that they be identified in this subsection.

##### Subsection (b)(1)

Deposits and transfers to Treasury by licensed gaming entities are the subject of this subsection. We have two recommendations. First, the term “Office of the Budget” is referenced in this subsection and Subsections 1001.8(c)(1) and 1001.10(d). The term “Governor’s Budget Office” is referenced in Subsection 1001.8(b). We recommend that the term “Office of the Budget” be used and suggest that the term be defined.

Second, under this subsection, licensed gaming entities will be required to transfer a certain amount of money to the Treasury Department “as calculated by the CCS.” In order to establish a binding norm on both the regulated community and the Department, we recommend that method of calculating the amount due be included in the final-form regulation. This could be achieved by referencing the various sections of the Act that relate to assessments.

##### Subsection (b)(5)(i)

This subsection pertains to the annual minimum distribution as specified in Section 1403(c)(3) of the Act (4 Pa.C.S. § 1403(c)(3)). It states, in part, the following: “. . . the required minimum shall be prorated for that portion of the municipality’s fiscal year that the Board determines that the licensed gaming entity was actually in operation.” Annual minimum distribution is defined as: “Other than for a Category 3 license, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.”

Representative Nickol, Minority Chairperson of the House Finance Committee, questioned the statutory basis for proration of the required minimum and whether this proration only applies to the first year of a licensed gaming entities operation. Sands Bethworks Gaming LLC (Sands Bethworks) also questioned the Department’s authority to prorate the \$10 million and asked how this provision will be implemented if the licensed gaming entity and the municipality operate under different fiscal years. We share these concerns and ask the Department to explain its statutory authority for the proration of the required minimum, the rationale behind it and the method of implementation.

##### Subsection (b)(5)(iii)

One provision of this subsection states that the licensed gaming entity must remit required annual minimum distribution payments to the Department. Another provision states that distributions specified in the chapter must be made by the licensed entity to the Department *or* the respective municipality. When would a licensed gaming entity distribute money directly to a municipality? If distributions are not made from a licensed entity to a municipality, then the second provision should be deleted.

#### 4. Section 1001.6. Administration of amount deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).—Statutory authority; Implementation procedures; Costs to the private sector; Adverse effects on competition; Policy decision of such a substantial nature that it requires legislative review; Clarity.

##### Subsection (d)

This subsection states, in part, the following:

To fulfill the licensed gaming entity’s obligations under this section, nothing prohibits the Board from drawing against any source of the licensed gaming

entity, with the exception of any licensed gaming entity account that holds gross terminal revenue to be deposited with Treasury in accordance with § 1001.5.

What authority does the Department have to allow or prohibit the Pennsylvania Gaming Control Board (Board) from taking a particular action? If the provision previous can be found in the Act, we question the need for including it in this rulemaking.

*Subsection (e)(1)*

This subsection pertains to the assessment of expenses directly related to a particular licensed gaming entity. We have two concerns. First, the term “periodic” is used to describe when these assessments will be issued. This term is vague. The final-form regulation should be amended to include a specific time period relating to the issuance of these assessments by the Department.

Second, this subsection states that the Department will issue assessments related to expenses incurred by the Board, Department, Office of Attorney General, the Pennsylvania State Police and *any other Commonwealth entity* charged with administrative duties under the Act. Section 1402(a) of the Act (4 Pa.C.S. § 1402(a)) allows the Department to recoup the costs incurred by the four agencies listed above. What is the Board’s statutory authority for issuing assessments to recoup the costs of other state agencies? We note that the general term “Commonwealth” is used in §§ 1001.6(e)(2) and (3). Does this term mean any Commonwealth agency or just the four that are listed in the Act?

*Subsection (e)(2)*

This subsection states that expenses incurred and assessed by the Commonwealth will be deducted from a licensed gaming entity’s account as specified by Section 1401 of the Act. Section 1401(c) of the Act refers to weekly deposits. Will the assessments provide any detail on how the amounts due were calculated? Providing this level of detail would produce an open regulatory process that is viewed as fair. We recommend that the final-form regulation be amended to provide for detailed assessment notices that explain how amounts due were calculated.

*Subsection (e)(3)*

Under this subsection, the general administrative costs of the Commonwealth not specifically assessed to a particular licensed gaming entity will be paid by each licensed gaming entity “at the discretion of the Secretary.” It is our understanding that the Department currently imposes a 1.5% assessment against each operating licensed gaming entity’s gross terminal revenue. This assessment is issued and paid on a weekly basis. This current system of assessment is not codified in statute or regulation.

We have four concerns. The Act provides little guidance on how the general administrative costs of the Board, the Department, the State Police and the Attorney General will be funded. We recognize that the primary intent of the Act is the protection of the public through the regulation and policing of all activities involving gaming in order to prevent practices that are unlawful (4 Pa.C.S. § 1102(a)(1)) and that adequate funding is necessary to carry out this objective. Because the protection of the public requires adequate funding and since the Act is vague on how this funding will occur, we believe that this regulation represents a policy decision of such a substantial nature that it requires further legislative input and direction. We urge the Department to consult and work

closely with the General Assembly to gain a better understanding of legislative intent as this proposal goes forward.

Second, Representative Nickol and two licensed gaming entities question the Department’s statutory authority for providing such latitude to the Secretary of Revenue. We ask the Department to identify and justify its statutory authority for this provision.

Third, we question what fiscal impact this provision will have on the regulated community. The broad language of the Act and this regulation make it impossible for licensed gaming entities to predict what costs they will incur and how those costs will be imposed. Without this knowledge, it will be difficult for a licensed gaming entity to effectively conduct its business.

Finally, the provision in question has the potential to create an uneven playing field for all the licensed gaming entities. Using the current assessment system of 1.5% of gross terminal revenue as an example, licensed gaming entities that are currently open and paying the assessment could end up funding all of the general administrative costs of the four state agencies. Licensed gaming entities that have larger gross terminal revenues would have to subsidize the entities that have smaller gross terminal revenue. How will the Department implement an assessment system that is fair to all licensed gaming entities?

**5. Section 1001.8. State Gaming Fund transfers.—  
Statutory authority; Implementation procedures;  
Clarity.**

*Subsection (b)*

This subsection relates to the establishment of restricted receipt accounts. It gives the Governor’s Budget Office the authority to establish restricted receipt accounts to facilitate the transfer of money to and from the State Gaming Fund. Similar to a concern noted previous, what authority does the Department have to allow or prohibit the Governor’s Budget Office from taking a particular action? If the provision previously can be found in the Act, we question the need for including it in this rulemaking.

*Subsection (c)*

Subsection (c) pertains to quarterly distributions to counties or municipalities. We have three concerns. First, this subsection provides details on how payments will be made to counties, but does not provide any details on how payments to municipalities should be made. This information should be added to the final-form rulemaking.

Second, Subsection (c) references Management Directive 305.4 (relating to payments to counties). Subsection (c)(1) then provides more detail on how to remit payments to counties that appear to be addressed under Management Directive 305.4. If Management Directive 305.4 is amended, it will conflict with the instructions in Subsection(c)(1). We recommend that either the reference to the Management Directive or the detailed instructions found in Subsection (c)(1) be deleted.

Third, Subsection (c)(2) states the following: “The Department will determine the annual inflation adjustment and will publish notice of the inflation adjustment in the *Pennsylvania Bulletin* by January 1 of each year.” We recommend that the final-form regulation specify what the Department is adjusting and how the adjustments will be calculated.

*Subsection (d)*

This subsection addresses tax and credit against tax. Subsection (a) states that this section applies to the transfer of money to and from the State Gaming Fund. Do the provisions contained in Subsection (d) apply only to the transfer of money to and from the State Gaming Fund, or would they also apply to transfers involving the State Gaming Economic Development Tourism Fund and the Pennsylvania Race Horse Development Fund? If it applies to all of the Funds, then the final-form regulation should be amended accordingly.

*Subsection (e)*

This subsection relates to the imposition of penalties. It states that the failure to transmit the required amount to "... the Department's Collection Account *or any other fund of the Commonwealth...*" (emphasis added) will result in the imposition of certain penalties. What is the Department's authority to impose penalties under this regulation for failure to transmit money to any fund except those related to gaming? We recommend that the Department either list the other funds or deleted the language noted above.

**6. Miscellaneous Clarity.**

- Sections 1001.1, 1001.2 and 1001.5 note that this regulation establishes procedures for the administration and distribution of net slot machine revenue. The sections do not make reference to the collection of net slot machine revenue. We recommend that the sections be amended to note that this regulation also pertains to the collection of tax.

- The title to § 1001.5 Subsection (b) references deposits and transfers to Treasury by licensed gaming entities. Subsections (b)(5)(iii) and (iv) relate to distributions of local share assessments. To improve the clarity of the entire section, we recommend that Subsection (b)(iii) and (iv) be moved to a new Subsection (c).

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 07-863. Filed for public inspection May 11, 2007, 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 dates noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg 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.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us) for updates.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>	
18-404	Department of Transportation Flashing or Revolving Lights on Emergency and Authorized Vehicles	4/27/07	6/7/07	
125-48	Pennsylvania Gaming Control Board Slot Machine Testing and Control; Possession of Slot Machines	5/1/07	6/7/06	
<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Tolled</i>	<i>Resubmitted</i>	<i>Public Meeting</i>
125-45	Pennsylvania Gaming Control Board General and Operative Provisions; Board Procedures	5/1/07	5/1/07	5/17/07

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 07-864. Filed for public inspection May 11, 2007, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**Application for Approval to Acquire Control**

CMS Financial Services Corp. has filed an application to acquire control of United Security Assurance Company of Pennsylvania and Colonial American Life Insurance Company, which are Pennsylvania domiciled stock life

insurance companies. The filing was made under the requirements set forth under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the acquisition 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 and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Pennsylvania Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-865. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Applications for Approval to Acquire Control

Highmark, Inc. and Independence Blue Cross, Pennsylvania domiciled nonprofit corporations, have filed applications seeking approval of the acquisition of control of their Pennsylvania domiciled insurance company subsidiaries by the new corporation to be formed through the consolidation of Highmark, Inc. and Independence Blue Cross. The affected subsidiaries include: First Priority Life Insurance Company, Inc., Gateway Health Plan, Inc., HealthGuard of Lancaster, Inc., HM Health Insurance Company d/b/a Highmark Health Insurance Company, HM Life Insurance Company, Highmark Casualty Insurance Company, Highmark Senior Resources, Inc., HMO of Northeastern Pennsylvania, Inc. d/b/a First Priority Health, Keystone Health Plan West, Inc., United Concordia Companies, Inc., United Concordia Dental Plans of Pennsylvania, Inc., United Concordia Life and Health Insurance Company, QCC Insurance Company, Keystone Health Plan East, Inc., AmeriHealth HMO, Inc., Vista Health Plan, Inc. and Region 6 RX Corp. The applications were received on April 27, 2007, and were made under Article XIV of The Insurance Company Law of 1921 (40 P. S. §§ 991.1401—991.1413).

Filings and related materials were made available on the Insurance Department's website [www.ins.state.pa.us](http://www.ins.state.pa.us) on April 30, 2007. After first scheduling an appointment, consumers may also view the applications and supplemental documents at any of the Insurance Department's (Department) regional offices:

- Harrisburg Regional Office, Public Room: (717) 787-0877
- Philadelphia Regional Office: (215) 560-2630
- Pittsburgh Regional Office: (412) 565-5020

Persons wishing to comment on the filings on the ground of public or private interest in the filings are invited to submit a written statement on the filings to the Department. The public comment period will extend until July 11, 2007, at the earliest. Written statements must include the name, address and telephone number of the person making the statement, identification of the application to which the statement is addressed and a concise statement with sufficient details and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

Comments received will be part of the public record regarding the filings and will be made available on the Department's website. Additionally, copies of the comments received will be forwarded to Highmark, Inc. and

Independence Blue Cross for appropriate response. The applicants' responses will also be made available on the Department's website.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-866. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Application and Request for a Certificate of Authority

Allegheny Christian Ministries, Inc. has applied for a Certificate of Authority to operate a continuing care retirement community at Laurel View Village in Davidsville, PA. The initial filing was received on April 30, 2007, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3325). 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.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-867. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Application for Voluntary Surrender of Certificate of Authority

HealthGuard of Lancaster, Inc., a domestic health maintenance organization, has submitted an application for approval to surrender its Insurance Department (Department) Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender are invited to submit a written statement to the Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-868. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Application for Voluntary Surrender of Certificate of Authority

Simpson Glenn, a domestic nonprofit (nonstock) continuing care retirement community provider, has submitted an application for approval to surrender its Insurance Department (Department) Certificate of Authority. Persons wishing to comment on the grounds of public or private interest concerning the surrender, are invited to submit a written statement to the Department within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Room 1311, Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or rbrackbill@state.pa.us.

RANDOLPH L. ROHRBAUGH,  
Acting Insurance Commissioner

[Pa.B. Doc. No. 07-869. Filed for public inspection May 11, 2007, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Allegheny County, Wine & Spirits Shoppe #0273, 3202 Brighton Road, Pittsburgh, PA 15212.

*Lease Expiration Date:* March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space near the intersection of Brighton Road and Woods Run Avenue in the City of Pittsburgh. Location must have access for tractor-trailer deliveries.

*Proposals due:* June 1, 2007, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0281, 1700 Mount Royal Boulevard, Glenshaw, PA 15116.

*Lease Expiration Date:* March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in a shopping center environment near the intersection of Mt. Royal Boulevard and Wetzel Road in Shaler Township. Location must have free customer parking and tractor-trailer delivery access is preferred.

*Proposals due:* June 1, 2007, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #9210, 1103 Milltown Road, Verona, PA 15147.

*Lease Expiration Date:* March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in a shopping center environment serving the Northeast section of Penn Hills Township. Location must have free customer parking and tractor-trailer delivery access is preferred.

*Proposals due:* June 1, 2007, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Blair County, Wine & Spirits Shoppe #0707, 613 Pleasant Valley Boulevard, Altoona, PA 16602.

*Lease Expiration Date:* March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in a shopping center environment on Pleasant Valley Boulevard, north of 17th Street in Altoona. Location must have free customer parking and tractor-trailer delivery access is preferred.

*Proposals due:* June 1, 2007, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Crawford County, Wine & Spirits Shoppe #2002, 126 South Martin Street, Titusville, PA 16354.

*Lease Expiration Date:* March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in a shopping center environment serving Titusville and surrounding area. Location must have free customer parking and tractor-trailer delivery access is preferred.

*Proposals due:* June 1, 2007, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Elk County, Wine & Spirits Shoppe #2402, 832 South St. Marys Road, St. Marys, PA 15857.

*Lease Expiration Date:* March 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in a shopping center or high visibility strip commercial location on SR 255 south of St. Marys. Location must have free customer parking and tractor-trailer delivery facilities. Access at a signal light is preferred.

*Proposals due:* June 1, 2007, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-513

PATRICK J. SPAPLETON, III,  
*Chairperson*

[Pa.B. Doc. No. 07-870. Filed for public inspection May 11, 2007, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 4, 2007. 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-00123701. Daniel D. Paugh** (1624 White Deer Pike, New Columbia, Union County, PA 17856)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from: (1) points in the Township of White Deer, Union County, and within 35 statute miles of said Township, to points in Pennsylvania, and return; and (2) from points in the Township of Watsonstown, Northumberland County, and within 35 statute miles of said Township, to points in Pennsylvania, and return.

**A-00123703. Rick A. Hedrick, Sr.** (20565 North Norrisville Road, Conneautville, Crawford County, PA 16406-6217)—persons, in limousine service: (1) from points in the Counties of Erie and Crawford, to points in Pennsylvania, and return; and (2) from the Pittsburgh International Airport, Allegheny County to other points in Pennsylvania and return.

**A-00123708. Jodi Marie Welsh** (762 Drytown Road, Holtwood, Lancaster County, PA 17532)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

**A-00123710. Mohamad Shoiab Dehyar** (700 Saxer Avenue, Springfield, Delaware County, PA 19064)—persons, in limousine service, from points in the Counties of Chester, Delaware and Montgomery, to points in Pennsylvania, and return.

**A-00123712. Envoy Transportation, Inc., t/a Envoy Transportation** (52 Knickerbocker Lane, Malvern,

Chester County, PA 19355), a corporation of the Commonwealth—persons, in limousine service, from points in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, to points in Pennsylvania, and return. *Attorney:* Richard T. Mulcahey, Jr., Two Penn Center, Suite 1400, 1500 John F. Kennedy Boulevard, Philadelphia, PA 19102-1890.

#### **Application of the following for *amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of household goods as described under the application.***

**A-00104711, F1, Am-A. Morgan Moving and Storage, Ltd.** (190 Yarnell Road, Pottstown, Chester County, PA 19465)—household goods in use, from points in the Counties of Montgomery, Chester, Delaware, Bucks and Berks, to points in Pennsylvania, and vice versa; which is to be in lieu of its present authority which reads as follows: to transport, as a Class D carrier, household goods in use from points in the Boroughs of Royersford, Montgomery County, and Spring City, Chester County, and within 10 miles by the usually traveled highways of the limits of the said boroughs to points in PA; to transport, as a Class D carrier, household goods, personal effects and property used or to be used in a dwelling when a part of the furnishings, equipment or supplies of such dwellings as an incidental part of a removal by the householder from one domicile to another; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, in connection with a removal from one location to another; and articles, in use, including objects of art, displays and exhibits which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods from points in the Borough of Royersford, Montgomery County, and Spring City, Chester County, and within an airline distance of 10 statute miles of the limits of said boroughs, and within an airline distance of 18 statute miles of the limits of said borough, within the Counties of Berks, Chester and Delaware south of US Highway Route 422, and from the Borough of Douglassville, Berks County, to points in Pennsylvania, and vice versa.

#### **Applications 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 each application.***

**A-00115480, F6. Corey Transport, LLC** (10885 Homewood Road, Meadville, Crawford County, PA 16335) a limited liability company of the Commonwealth—additional right-persons, upon call or demand, in the County of Crawford.

#### **Applications of the following for *amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.***

**A-00100359, F1, Am-B. Baker's Transportation Service, Inc.** (1400 West First Street, Oil City, Venango County, PA 16301), a corporation of the Commonwealth—persons in paratransit service between points in the County of Venango: so as to permit the transportation of persons in paratransit service, from points in the County of Venango, to points in Pennsylvania, and return. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228-1925.

**A-00121579, F1, Am-A. Classy Cab Company, Inc.** (Sheraton Hotel/Northwest, 910 Sheraton Drive, Mars, Butler County, PA 16046)—for amendment to its common carrier certificate, which grants the right, inter alia—to transport persons, upon call or demand, in the City of Pittsburgh, Allegheny County; subject to the following conditions: that no right, power or privilege is granted to provide service from points in the Cities of McKeesport and Duquesne, the Boroughs of White Oak, Versailles, East Pittsburgh, East McKeesport, Wilmerding and Wall and the Township of North Versailles, Allegheny County, and the cities of New Kensington, Arnold and Lower Burrell, Westmoreland County, to the City of Pittsburgh, Allegheny County: so as to permit the transportation of persons, upon call or demand, in the County of Butler and in the Townships of Marshall and Pine, and the Boroughs of Bradford Woods and Franklin Park, all in Allegheny County; subject to the following conditions: that no right, power or privilege is granted to provide service within the limits of North Park, located in the townships of Pine and McCandless, both in Allegheny County. *Attorney:* William A. Gray, Vuono & Gray, LLC, 2310 Grant Building, Pittsburgh, PA 15219-2383.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Explorer Cartage Inc., 2 Woodland Road, 2nd Floor, Wyomissing, PA 19610-1934; Docket No. A-00119200C0701*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Explorer Cartage, Inc. (respondent) is under suspension effective 5/01/2005 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at Explorer Cartage, Inc., 2 Woodland Road, 2nd Floor, Wyomissing, PA 19610-1934.
3. That respondent was issued a Certificate of Public Convenience by this Commission on 11/05/2002, at Docket No. A-00119200.
4. That respondent has failed to maintain evidence of bond insurance on file with this Commission.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

*Wherefore*, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00119200 for failure to maintain evidence of current insurance on file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations within twenty (20) days of the date of service of this Complaint. The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation  
and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Upon receipt of the evidence of insurance from your insurer, the Complaint proceeding shall be closed. Acord Certificates of Insurance and faxed form Es and Hs are unacceptable as Evidence of Insurance.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transport-

tation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Explorer Cartage, Inc., 2 Woodland Road, 2nd Floor, Wyomissing, Pa 19610-1934; Docket No. A-00119200C0702*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Explorer Cartage, Inc. (respondent) is under suspension effective 5/01/2006 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at Explorer Cartage, Inc., 2 Woodland Road, 2nd Floor, Wyomissing, PA 19610-1934.
3. That respondent was issued a Certificate of Public Convenience by this Commission on 11/05/2002, at Docket No. A-00119200.
4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance on file with this Commission.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00119200 for failure to maintain evidence of current insurance on file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations within twenty (20) days of the date of service of this Complaint. The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation  
and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Upon receipt of the evidence of insurance from your insurer, the Complaint proceeding shall be closed. Acord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law

Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-871. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Telecommunications

**A-311188F7001. Verizon North, Inc. and Broadview NP Acquisition Corp.** Joint petition of Verizon North, Inc. and Broadview NP Acquisition Corp. for approval of amendment no. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and Broadview NP Acquisition Corp., by its counsel, filed on April 26, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 1 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and Broadview NP Acquisition Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-872. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Telecommunications

**A-310932F7001. Verizon North, Inc. and Broadview Networks, Inc.** Joint petition of Verizon North, Inc. and Broadview Networks, Inc. for approval of amendment no. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and Broadview Networks, Inc., by its counsel, filed on April 26, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 1 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and Broadview Networks, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-873. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Telecommunications

**A-310104F7000. Verizon Pennsylvania, Inc. and ATX Licensing, Inc.** Joint petition of Verizon Pennsylvania, Inc. and ATX Licensing, Inc. for approval of amendment no. 4 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and ATX Licensing, Inc., by its counsel, filed on April 26, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 4 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and ATX Licensing, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-874. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Telecommunications

**A-310932F7000. Verizon Pennsylvania, Inc. and Broadview Networks, Inc.** Joint petition of Verizon Pennsylvania, Inc. and Broadview Networks, Inc. for approval of amendment no. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Broadview Networks, Inc., by its counsel, filed on April 26, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 1 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Broadview Networks, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-875. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Tentative Order

Public Meeting held  
April 24, 2007

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

*In re:* W2COM International, LLC (2007.0014); A-310902

Joint application of First Choice Technology, Inc. (First Choice), Reduced Rate Long Distance, LLC (RRLD), and W2Com International, LLC (W2Com) for approval of an Asset Purchase Agreement whereby First Choice will acquire substantially all of the assets of W2Com and will assign those assets to RRLD and W2Com will abandon its certificate of public convenience, A-311092F0004 and A-310902F2000.

### Tentative Order

*By the Commission:*

W2COM International, LLC (W2COM) has failed to pay its \$39 general assessment for 2006-2007 under section 510(c) of the Public Utility Code. 66 Pa.C.S. § 510(c). W2COM is a telecommunications interexchange reseller certificated at A-310902, whose certificate of public convenience was issued on April 13, 2000. On or about August 21, 2006, Commission staff sent an invoice to W2COM notifying it that its 2006-2007 annual assessment was due. The Commission has not received payment for this invoice nor has it received an annual report for 2005. Commission staff has attempted to reach W2COM, but staff's efforts have been unsuccessful. Further, according to an internet news source, several different state public utility commissions have reported that W2COM may be out of business and that W2COM's authority has been revoked in some other states.

W2COM is also a party in two Chapter 11 filings at Docket Nos. A-311092F0004 and A-310902F2000 involving a proposed transfer of W2COM's assets to First Choice Technology, Inc. (FCT) and subsequent assignment of those assets to Reduced Rate Long Distance, LLC. W2COM proposed to abandon service at that time. FCT was granted provisional authority to operate as an IXC reseller by Commission Order entered August 12, 2005; however, on February 23, 2006, FCT's provisional authority was rescinded due to noncompliance with the Commission order to file a tariff. The filings have been dormant with no response from the parties' counsel since June 2006, but it is apparent from the filings that W2COM intended to abandon service in Pennsylvania.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504—506, and 3301. Based on the previous and because of W2COM's failure to pay its annual assessment for 2006-2007 and file an annual report for 2005, we believe it is appropriate to revoke W2COM's certificate of public convenience without the necessity of a formal complaint, and we tentatively conclude that revocation of W2COM's certificate of public convenience is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if W2COM seeks relief from this Tentative Order; *Therefore, It Is Ordered That:*

1. Revocation of W2COM International, LLC's certificate of public convenience is hereby approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon W2COM International, LLC, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Pennsylvania Emergency Management Agency and the Department of Revenue, Bureau of Corporation Taxes, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by W2COM International, LLC at A-310902 shall be canceled, and W2COM International, LLC's name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

5. Upon this order becoming final, and without further action by the Commission, dockets A-310902F2000 and A-311092F0004 shall be marked closed.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 07-876. Filed for public inspection May 11, 2007, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for:

Project #07-013.1, General Construction  
Project #07-013.2, Mechanical  
Project #07-013.4, Electrical

addition of heat and humidity at Pier 40 South until 2 p.m. on Thursday, June 7, 2007. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available May 15, 2007. Additional information and project listings may be found at [www.philaport.com](http://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 equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn.: Procurement Department.

Mandatory prebid job site meeting will be held May 24, 2007, 10 a.m. at Pier 40 South, Columbus Boulevard and Christian Street, Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 07-877. Filed for public inspection May 11, 2007, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #07-018.1, North Apron Partial Demolition, Pier 98 South until 2 p.m. on Wednesday, June 13, 2007. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available May 15, 2007. Additional information and project listings may be found at [www.philaport.com](http://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 equal opportunity laws and regulations. Bidders must provide to the Procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn.: Procurement Department.

Mandatory prebid job site meeting will be held May 31, 2007 at 10 a.m. at Pier 98 South, located 200 feet south of the intersection of Oregon and Delaware Avenues, Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 07-878. Filed for public inspection May 11, 2007, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts. The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

June 13, 2007	Sandra E. Turner (Class T-D)	1 p.m.
June 20, 2007	Paula Harte-Bielecki (Multiple Service)	1 p.m.
June 27, 2007	William Wallace, Jr. (D) (Death Benefit)	1 p.m.
July 11, 2007	Roger L. Jones (D) (Death Benefit)	1 p.m.
July 25, 2007	Frank J. Stavish (Multiple Service)	1 p.m.
	Mary Ann Kulenguskey (Multiple Service)	2:30 p.m.
August 6, 2007	Donald W. Johnson (Disability Retirement)	1:30 p.m.
August 8, 2007	Larry L. Donaldson (Disability)	1 p.m.
August 22, 2007	Deborah Gerber (Multiple Service)	1 p.m.

Persons with a disability, who wish to attend the previously-listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 07-879. Filed for public inspection May 11, 2007, 9:00 a.m.]

## STATE SYSTEM OF HIGHER EDUCATION

### Bid Opportunity; Clarion University

Clarion University of PA will accept bids for Project CL-633, Campbell Hall Demolition, until 2 p.m. on June 1, 2007. The bid documents are available for a nonrefundable fee of \$35. Send check payable to Clarion University to Ruth Wolfgang, Purchasing Department, 840 Wood Street, Thorn II Building, Clarion, PA 16214.

A prebid conference will be held on May 21, 2007, at 10 a.m. in McEntire Maintenance Building, Wilson Avenue, Clarion, PA. Directions to campus are available on the following University website [www.clarion.edu/admiss/find\\_us.shtml](http://www.clarion.edu/admiss/find_us.shtml). The prebid meeting will be the only site visit conducted by the University and the only review of plans and specifications. Contractors are urged to attend and bring their flashlights.

This single demolition contract is for the complete demolition of Campbell Hall, an eight story, 105,000 sq. ft., brick residence hall, now vacant, on the campus of Clarion University of Pennsylvania, Clarion, PA. The structure is composed of steel columns and beams with concrete floors on steel decking. The exterior and interior walls are primarily masonry. The foundations are a combination of reinforced concrete caissons with grade beams and spread footings. This will be a single demolition contract includes, the complete demolition of the building, removal and monitoring of asbestos, and other minor building materials commonly found in like buildings constructed in the 1960's, and the ground surface restoration. Estimated cost is \$1.8 million.

Work will be done during a period when the surrounding structures are occupied. All work will be done under Pennsylvania Prevailing Wage Laws.

DR. JOSEPH P. GRUNENWALD,  
*President*

[Pa.B. Doc. No. 07-880. Filed for public inspection May 11, 2007, 9:00 a.m.]