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for January—March 2009

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

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2009.

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THE COURTS

Title 210—APPELLATE PROCEDURE

[210 PA. CODE CH. 65]

Amendments to the Superior Court Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its Internal Operating Procedures. These amendments are reflected in the Superior Court Internal Operating Procedures with amendments to 210 Pa. Code §§ 65.1—65.42.

These changes were approved on March 16, 2009, effective immediately.

(Editor's Note: The following § 65.14 is new and has been printed in regular print to enhance readability.)

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

ADMINISTRATIVE OFFICES AND STAFF

§ 65.14. Children's Fast Track and Other Family Fast Track Appeals.

A. In accordance with Pa.R.A.P. 102, revised in 2009, and in accordance with a program first established in this court in 2000, the court shall expedite handling of appeals involving parent-child relationships as follows:

1. Children's Fast Track: All cases involving dependency, termination of parental rights, adoption, custody, or paternity shall be designated as Children's Fast Track in the Superior Court.

2. Other Family Fast Track: Central Legal Staff in its discretion may expedite other appeals involving the parent-child relationship. Such cases shall be designated "Other Family Fast Track."

B. For all cases designated as Children's Fast Track or Other Family Fast Track, primary responsibility for monitoring the receipt of the record shall rest with the Central Legal Staff.

1. Upon receipt of an appeal that has been designated Children's Fast Track appeal by the trial court and/or the parties, the Prothonotary shall forward a letter from the President Judge of the Superior Court to the trial court judge, with copies to the clerk of the lower court, counsel for the parties or to the parties themselves if they are proceeding pro se, and Central Legal Staff. The letter shall stress the importance of the trial court's duty to send the record to the Superior Court in a timely manner, and shall stress the Superior Court's internal operating policy with respect to extensions of time for briefing, as set forth in I.O.P. 65.21 B.2.

2. In all cases designated Other Family Fast Track by the Superior Court, the Central Legal Staff shall forward the letter from the President Judge as set forth in the preceding paragraph B.1.

3. Upon receipt of an appeal that has not been designated Children's Fast Track by the trial court or the parties, the Prothonotary or Central Legal Staff may

designate the appeal as a Children's Fast Track appeal if the circumstances so warrant. In such a case, the procedures set forth in paragraph B.1. or B.2. above will apply.

MOTIONS PRACTICE

§ 65.21. Motions **Review** Subject to Single Judge Disposition.

* * * * *

B. All petitions for extension of time shall be referred by the Prothonotary to the motions judge. Such petitions should be acted upon as soon as possible unless the motions judge feels an answer is necessary.

1. Petitions for extension shall be granted only on cause shown and in any event the filing of the brief is required, particularly in criminal cases, even though the right to argue is lost. Central Legal Staff shall be notified of the filing of the motion and the disposition. However, if the petition for extension is accompanied by a substantive motion, such as a motion to quash, remand, or withdraw, Central Legal Staff shall review the motion in an expeditious manner pursuant to the procedures set forth in Section 65.21(C) herein. **[Notwithstanding any contrary procedure set forth above, all petitions for extension in cases which have been identified as family law fast track cases, upon receipt by the Prothonotary, shall be sent to Central Legal Staff for processing. All such petitions for extension in family law fast track cases shall be presented to a motions judge for disposition within three days of receipt of the petition by Central Legal Staff.]** Whenever an order is entered granting a petition for extension of time, and the order provides that no further extensions will be granted, any subsequent petition for extension of time shall be referred by the Prothonotary to the judge who issued the original order.

2. **Notwithstanding any contrary procedures set forth above, all petitions for extension of time to file a brief in cases designated Children's Fast Track or Other Family Fast Track, upon receipt by the Prothonotary, shall be sent to Central Legal Staff for processing. All such petitions shall be presented to a motions judge for disposition within three days of receipt of the petition by Central Legal Staff. Petitions for extension of time to file a brief in Children's Fast Track or Other Family Fast Track cases shall be granted only upon a showing of good cause and extraordinary circumstances. Generalities such as the purpose of the motion is not for delay or that counsel is too busy will not constitute either good cause or extraordinary circumstances. Extensions for time should rarely be granted, and when granted should rarely be for a period in excess of seven days.**

* * * * *

§ 65.22. Motions **Review** Subject to Motions Panel Disposition.

* * * * *

B. After a motion subject to this Rule has been filed [by] with the Prothonotary's office, the Prothonotary shall forward the motion to Central Legal Staff which shall prepare and circulate to the motions panel a legal memorandum and recommendation.

1. Votes thereon shall be due three weeks from the date on which the motion and accompanying documents are sent by Central Legal Staff, unless the case has been designated Children's Fast Track or Other Family Fast Track.

2. Votes on cases which have been identified as [family law fast track cases] Children's Fast Track or Other Family Fast Track shall be due two weeks from the date on which the motion and accompanying documents are sent by Central Legal Staff.

* * * * *

DECISIONAL PROCEDURES

§ 65.31. Argument Sessions and Submit Panels.

A. Argument sessions shall be held in the cities of Harrisburg, Philadelphia, and Pittsburgh. Special argument sessions may be scheduled in other locations by decision of the President Judge. Argument sessions shall begin at 9:30 a.m. unless otherwise designated.

B. Submit panels shall be governed by I.O.P. 65.36.

C. The Prothonotary shall give Children's Fast Track and Other Family Fast Track cases priority in listing before argued and submit panels, and may schedule special sessions of the court at any time that the unlisted and eligible number of Children's Fast Track plus Other Family Fast Track cases which cannot be listed before a scheduled argued or submitted panel within thirty days exceeds six in any district.

§ 65.32. Daily List.

* * * * *

B. A case shall be ready and available for assignment to a daily list on the date on which the appellee's brief is due, regardless of whether the brief has been filed, unless the case has been designated Children's Fast Track or Other Family Fast Track. Cases designated as Children's Fast Track or Other Family Fast Track shall be eligible for listing before an argument panel at the time that the brief for the appellant is filed.

§ 65.42. Circulation and Voting in Children's Fast Track and Other Family Fast Track Appeals.

Notwithstanding any contrary procedures set forth above, panels shall give priority in both circulation of and voting on proposed decisions, first in Children's Fast Track cases, and then in Other Family Fast Track cases.

[Pa.B. Doc. No. 09-611. Filed for public inspection April 3, 2009, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 8, 11, 13 AND 18]

Order Amending Rules 800, 1120, 1123, 1124, 1364, 1800 and Adopting New Rule 1140 of the Rules of Juvenile Court Procedure; No. 466; Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 19th day of March, 2009, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published before adoption at 38 Pa.B. 477 (January 26, 2008), in the Atlantic Reporter (Second Series Advance Sheets, Vol. 939, February 29, 2008), and on the Supreme's Court web page, and an Explanatory Report to be published with this Order.

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that new Rule 1140 and the amendments to Rules 800, 1120, 1123, 1124, 1364 and 1800 of the Rules of Juvenile Court Procedure are adopted in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on June 1, 2009.

By the Juvenile Court

Procedure Rules Committees:

FRANCIS BARRY MCCARTHY, Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 8. SUSPENSIONS

Rule 800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to delinquency proceedings only:

1) The Act of November 21, 1990, P. L. 588, No. 138, § 1, 42 Pa.C.S. § 8934, which authorizes the sealing of search warrant affidavits, and which is implemented by Pa.R.Crim.P. Rule 211, through Pa.R.J.C.P. Rule 105, is suspended only insofar as the Act is inconsistent with Pa.R.Crim.P. Rules 205, 206, 211.

2) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the juvenile may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with [Rule] Rules 124, [and] 140, and 364, which [requires] require a summoned person to fail to appear and the court to find that sufficient notice was given.

3) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsistent with Rule 127(A), which requires all proceedings to be recorded, except for detention hearings.

4) The Public Defender Act, Act of December 2, 1968, P. L. 1144, No. 358, § 1 et seq. as amended through Act of

December 10, 1974, P.L. 830, No. 277, § 1, 16 P.S. 9960.1 et seq., which requires the Public Defender to represent all juveniles who for lack of sufficient funds are unable to employ counsel is suspended only insofar as the Act is inconsistent with Rules 150 and 151, which **[requires] require** separate counsel if there is a conflict of interest.

5) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the juvenile, is suspended only insofar as the Act is inconsistent with Rule 152, which does not allow a guardian to waive the juvenile's right to counsel.

6) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6305(b), which provides that the court may direct hearings in any case or class or cases be conducted by the master, is suspended only insofar as the Act is inconsistent with Rule 187, which allows masters to hear only specific classes of cases.

7) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6321, which provides for commencement of a proceeding by the filing of a petition, is suspended only insofar as the Act is inconsistent with Rule 200, which provides the submission of a written allegation shall commence a proceeding.

8) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6303(b), which provides that a district judge or judge of the minor judiciary may not detain a juvenile, is suspended only insofar as the Act is inconsistent with Rule 210, which allows Magisterial District Judges to issue an arrest warrant, which may lead to detention in limited circumstances.

9) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6334, which provides that any person may bring a petition, is suspended only insofar as the Act is inconsistent with Rules 231, 233, and 330, which provide for a person other than a law enforcement officer to submit a private written allegation to the juvenile probation office or an attorney for the Commonwealth, if elected for approval; and that only a juvenile probation officer or attorney for the Commonwealth may file a petition.

10) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6304(a)(2), which provides that probation officers may receive and examine complaints for the purposes of commencing proceedings, is suspended only insofar as the Act is inconsistent with Rules 231 and 330, which provide that the District Attorney may file a certification that requires an attorney for the Commonwealth to initially receive and approve written allegations and petitions.

11) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6331, which provides for the filing of a petition with the court within twenty-four hours or the next business day of the admission of the juvenile to detention or shelter care, is suspended only insofar as the Act is inconsistent with the filing of a petition within twenty-four hours or the next business day from the detention hearing if the juvenile is detained under Rule 242.

12) Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P.L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as inconsistent with Rule 340 only insofar as the section may delay disclosure to a juvenile seeking discovery under Rule 340(B)(6); and Section 5721(b) of the Act, 18 Pa.C.S.

§ 5721(b), is suspended only insofar as the time frame for making a motion to suppress is concerned, as inconsistent with Rules 347 and 350.

13) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6340(c), which provides a consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court, is suspended only insofar as the Act is inconsistent with the requirement of Rule 373 that a motion for early discharge is to be made to the court.

14) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile's detention unless the exceptions of (a)(1) & (2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.

15) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6353(a), which requires dispositional review hearings to be held at least every nine months, is suspended only insofar as it is inconsistent with the requirement of Rule 610, which requires dispositional review hearings to be held at least every six months when a juvenile is removed from the home.

Comment

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. *See also* Rule 102.

Official Note: Rule 800 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. **Amended March 19, 2009, effective June 1, 2009.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 800 published with the Court's Order at 36 Pa.B. 187 (January 14, 2006).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 38 Pa.B. 1145 (March 8, 2008).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

ADULT is any person, other than a child, eighteen years old or older.

* * * * *

CHILD is a person who is under the age of eighteen who is the subject of the dependency petition, or who was adjudicated dependent before reaching the age of eighteen years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall remain in a course of instruction or treatment past the age of twenty-one years.

* * * * *

MINOR is any person under the age of eighteen.

* * * * *

Official Note: Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1120 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1120 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

Rule 1123. Subpoenas.

A. *Contents.* A subpoena in a dependency case shall:

- 1) order the witness named to appear before the court at the date, time, and place specified;
- 2) order the witness to bring any items identified or described;
- 3) state on whose behalf the witness is being ordered to testify; and
- 4) state the identity, address, and phone number of the person who applied for the subpoena.

B. *Service.*

1) *Method of Service.* A subpoena shall be served upon a witness by:

- a) in-person delivery;
- b) registered or certified mail, return receipt requested; or
- c) first-class mail.

C. *Duration.* A subpoena shall remain in force until the end of a proceeding.

D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the [court] judge may issue a bench warrant pursuant to Rule 1140.

E. *Parental notification.*

1) *Generally.* If a witness is a minor, the witness's guardian shall be notified that the minor has been subpoenaed.

2) *Exception.* Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and when necessary, request for such prior court approval may be obtained *ex parte*.

Comment

A subpoena is used to order a witness to appear and a summons is issued to bring a party to the proceeding.

A subpoena duces tecum is to set forth with particularity, the documents, records, or other papers to be produced at the hearing. The items sought are to be relevant to the proceedings. See Rule 1340 on discovery, *In re J.C.*, 412 Pa. Super. 369, 603 A.2d 627 (1992), and *In re A.H.*, 763 A.2d 873 (Pa. Super. Ct. 2000) for production of documents necessary to prepare for a hearing.

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives

the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. See Rule 1140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishment of contempt (children). See also *In re Griffin*, 456 Pa. Super. 440, 690 A.2d 1192 (1997) (foster parents), *Janet D. v. Carros*, 240 Pa. Super. 291, 362 A.2d 1060 (1976) (county agency), and *In re Rose*, 161 Pa. Super. 204, 54 A.2d 297 (1947) (parents) for additional guidance on contempt for other parties.

Any person may file a motion to quash the subpoena for a witness and/or for requested items. The court is to rule on the motion prior to the production of the witness or the items.

Official Note: Rule 1123 adopted August, 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately. Amended March 19, 2009, effective June 1, 2009.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1123 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1123 published with the Court's Order at 38 Pa.B. 2360 (May 12, 2008).

Final Report explaining the amendments to Rule 1123 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

Rule 1124. Summons.

A) *Requirements of the summons.* The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the hearing;
- 3) instruct the parties about the right to counsel; and
- 4) give a warning stating that the failure to appear for the hearing may result in arrest.

B) *Method of Service.* The summons shall be served:

- 1) in-person; or
- 2) by certified mail, return receipt and first-class mail.

C) *Exception to service.* If service cannot be accomplished pursuant to paragraph (B), the party may move for a special order directing the method of service. The motion shall be accompanied by an affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the person sought to be served and the reasons why service cannot be made.

D) *Bench Warrant.* If any summoned person fails to appear for the hearing and the court finds that sufficient notice was given, the [court] judge may issue a bench warrant pursuant to Rule 1140.

Comment

A subpoena is used to order a witness to appear and a summons is issued to bring a party to the proceeding.

In paragraph (D), this rule provides that a summoned person is to fail to appear and the court is to find that sufficient notice was given before a bench warrant may be

issued. The Juvenile Act, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended to the extent that it conflicts with this rule. See Rule 1800 for suspensions.

See Rules 1360(A), 1500(A), and 1600(A) for service of the parties for a proceeding.

See Rule 1140 for procedures on bench warrants.

Official Note: Rule 1124 adopted August 21, 2006, effective February 1, 2007. **Amended March 19, 2009, effective June 1, 2009.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1124 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1124 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

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

Rule 1140. Bench Warrants for Failure to Appear.

A. *Issuance of warrant.*

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

B. *Party.*

1) *Where to take the party.*

a) When a party is taken into custody pursuant to a bench warrant, the party shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the party is not brought before a judge, the party shall be released unless the warrant specifically orders detention of the party.

c) If the warrant specifically orders detention of a party, the party shall be detained pending a hearing.

i) *Minor.* If the party is a minor, the party shall be detained in a shelter-care facility or other placement as deemed appropriate by the judge.

ii) *Adult.* If the party is an adult, the witness shall be detained at the county jail.

2) *Prompt hearing.*

a) If a party is detained pursuant to a specific order in the bench warrant, the party shall be brought before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to paragraph (B)(4) within seventy-two hours.

b) If the party is not brought before a judge within this time, the party shall be released.

3) *Notification of guardian.* If a party is a child and is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the child's guardian of the child's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody.*

a) If a party is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the party shall be made immediately.

c) If transportation cannot be arranged immediately, then the party shall be taken without unnecessary delay to a judge of the county where the party is found.

d) The judge will identify the party as the subject of the warrant, decide whether detention is warranted, and order that arrangements be made to transport the party to the county of issuance.

5) *Time requirements.* The time requirements of Rules 1242, 1404, 1510, and 1607 shall be followed.

C. *Witnesses.*

1) *Where to take the witness.*

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the witness is not brought before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.

i) *Minor.* If a detained witness is a minor, the witness shall be detained in a shelter-care facility or other placement as deemed appropriate by the judge.

ii) *Adult.* If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt hearing.*

a) If a witness is detained pursuant to paragraph (C)(1)(c) or brought back to the county of issuance pursuant to paragraph (C)(4)(f), the witness shall be brought before the judge by the next business day.

b) If the witness is not brought before a judge within this time, the witness shall be released.

3) *Notification of guardian.* If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-county custody.*

a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) The witness shall be taken without unnecessary delay and within the next business day to a judge of the county where the witness is found.

c) The judge will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order that arrangements be made to transport the witness to the county of issuance.

d) Arrangements to transport the witness shall be made immediately.

e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

i) *Minor*. If the witness is a minor, the witness may be detained in an out-of-county shelter-care facility or other placement as deemed appropriate by the judge.

ii) *Adult*. If the witness is an adult, the witness may be detained in an out-of-county jail.

f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

g) If the time requirements of this paragraph are not met, the witness shall be released.

D. *Return & execution of the warrant for parties and witnesses.*

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

Comment

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 1800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the party or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. The normal rules of procedure in these rules are to be followed if a child is detained. See Chapter Twelve, Part D.

Pursuant to paragraph (B)(1)(a), the party is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (B)(1)(b), if a bench warrant specifically provides that the party may be detained, the party may be detained without having to be brought before the judge until a hearing within seventy-two hours under paragraph (B)(2)(a). Pursuant to this paragraph, if a hearing is not held promptly, the party is to be released. See paragraph (B)(2)(b).

In paragraphs (B)(1)(c)(i), (C)(1)(c)(i), & (C)(4)(e)(i), "other placement as deemed appropriate by the judge" does not include a detention facility if a child is only alleged to be dependent because the use of detention facilities for dependent children is strictly prohibited. See 42 Pa.C.S. §§ 6302 & 6327(e).

Under paragraphs (B)(2) and (B)(4), a party taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the party is found. See Rule 1242(D).

Pursuant to paragraph (B)(4), the party may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph (B)(5), the time requirements of all other rules are to apply to children who are detained. See, e.g., Rules 1242, 1404, 1510, and 1607.

Pursuant to paragraph (C)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (C)(1)(b), if the judge is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (C)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (C)(2) is to be held by the next business day or the witness is to be released. See paragraph (C)(2)(b).

Pursuant to paragraph (C)(4)(b), a witness is to be brought before an out-of-county judge by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the judge who issued the bench warrant by the next business day. See paragraph (C)(4)(f).

Pursuant to paragraph (D)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. See paragraph (D)(3).

Pursuant to paragraph (D)(4), the bench warrant is to be vacated after the return of the warrant is executed so the party or witness is not taken into custody on the same warrant if the party or witness is released. "Vacated" is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated. See 42 Pa.C.S. § 4132 for punishment of contempt for children and witnesses.

Throughout these rules, the "child" is the subject of the dependency proceedings. When a witness or another party is under the age of eighteen, the witness or party is referred to as a "minor." When "minor" is used, it may include a child. This distinction is made to differentiate between children who are alleged dependants and other minors who are witnesses.

See also Rule 1120 for the definitions of "child" and "minor."

Official Note: Rule 1140 adopted March 19, 2009, effective June 1, 2009.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1140 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 1364. Failure to Appear on the Summons.

If any summoned person fails to appear for the adjudicatory hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 1140.

Comment

See Rule 1140 for issuance of a bench warrant.

Official Note: Rule 1364 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1364 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1364 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

CHAPTER 18. SUSPENSIONS

Rule 1800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to dependency proceedings only:

1) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with [Rule] Rules 1124, 1140, and 1364, which [requires] require a summoned person to fail to appear and the court to find that sufficient notice was given.

2) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsistent with Rules 1127(A) & 1242(B)(2), which [requires] require all proceedings to be recorded, except for shelter care hearings.

3) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6311(b)(9), which [provide] provides that there is not a conflict of interest for the guardian ad litem in communicating the child's wishes and the recommendation relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety, is suspended only insofar as the Act is inconsistent with Rule 1151, which allows for appointment of separate legal counsel and a guardian ad litem when the guardian ad litem determines there is a conflict of interest between the child's legal interest and best interest.

4) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the child, is suspended only insofar as the Act is inconsistent with Rule 1152, which does not allow a guardian to waive the child's right to counsel and a child may not waive the right to a guardian ad litem.

5) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6305(b), which provides that the court may

direct hearings in any case or classes of cases be conducted by the master, is suspended only insofar as the Act is inconsistent with Rule 1187, which allows masters to hear only specific classes of cases.

6) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 1202, which provides for police officers taking a child into custody.

7) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6331, which provides for the filing of a petition with the court within twenty-four hours or the next business day of the admission of the child to shelter care, is suspended only insofar as the Act is inconsistent with the filing of a petition within twenty-four hours or the next business day from the shelter care hearing if the child is in protective custody under Rules 1242 and 1330(A).

8) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6334, which provides that any person may bring a petition, is suspended only insofar as the Act is inconsistent with Rules 1320, 1321, and 1330, which provide that the county agency may file a petition and any other person shall file an application to file a petition.

9) The Act of December 19, 1990, P. L. 1240, No. 206, § 2, 23 Pa.C.S. § 6339, which provides for the confidentiality of reports made pursuant to the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq., is suspended only insofar as the Law is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of such reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.

10) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides that a copy of the petition is to accompany a summons, is suspended only insofar as the Act is inconsistent with Rule 1360, which provides that the summons is to include a copy of the petition unless the petition has been previously served.

Comment

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See also Rule 1102.

Official Note: Rule 1800 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1800 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1800 published with the Court's Order at 39 Pa.B. 1619 (April 4, 2009).

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 800, 1120, 1123, 1124, 1364, 1800, and new Rule 1140. The changes are effective June 1, 2009.

EXPLANATORY REPORT MARCH 2009

Rule 800. Suspensions of Acts of Assembly.

Rule 364 has been added to paragraph two, which suspends 42 Pa.C.S. § 6335(c) only insofar as the Act is

inconsistent with the Rules. The Rules require that a summoned person must fail to appear for the hearing and the court must find the summoned person received sufficient notice.

Rule 1120. Definitions.

The definition of a child was modified by adding that the child is the subject of the dependency proceeding. This will help clarify the difference between a child and a minor.

A definition for an "adult" was added. An "adult" includes anyone eighteen years or older, except a child who has requested the court to retain jurisdiction while in the course of instruction or treatment.

A definition for a "minor" was added. A "minor" is a person under the age of eighteen. This definition includes a dependent child, a minor witness, or other minor party. Therefore, a "child" can be a "minor" but a "minor" is not a "child" because a "child" must also be the subject of the dependency proceeding.

Rule 1123. Subpoenas.

The Committee modified paragraph (D) because a master is not permitted to issue a bench warrant.

The Committee added paragraph (E) to Rule 1123. The Committee felt that it was important that the guardian of a minor witness receive a copy of the subpoena to impress upon their child the importance of a subpoena. It also allows the guardian to ensure his or her child is present for a hearing.

Rule 1124. Summons.

The Committee modified paragraph (D) because a master is not permitted to issue a bench warrant.

The additions in the Comment reference the rules for service of parties for a proceeding and the new Bench Warrant Rule.

Rule 1140. Bench Warrants.

This new rule provides for procedures when a bench warrant is issued for failing to appear for a hearing. There are separate procedures when the warrant is issued for a party to the proceedings and a witness to the proceeding.

Pursuant to paragraph (B)(1), if a party is arrested on a bench warrant, the party must be brought immediately to the judge who issued the warrant unless the judge specifically authorized detention in the warrant. Pursuant to paragraph (B)(2), if detention was authorized in the warrant, the party must have a hearing before the judge within seventy-two hours or the party must be released.

Pursuant to paragraph (B)(3), if a party is a minor and is arrested on a bench warrant, the guardian of the minor must be notified immediately of the minor's whereabouts and the reason for the issuance of the bench warrant. This provision ensures that the guardian is informed about the detention and the reasons for the detention.

Under paragraph (B)(4), if a party is arrested in another county, the party must be transported immediately back to the county of issuance. If transportation is not arranged immediately, the party must be taken to a judge of the county where the party is found. The judge must decide: 1) if the person is the subject of the warrant; 2) if detention of the party is warranted; and 3) what arrangements for transporting the party back to the county of issuance are necessary.

If a witness is arrested on a bench warrant pursuant to paragraph (C)(1), the witness must be brought to the judge immediately. If the witness is not brought before a judge, the witness must be released unless a motion to detain the witness has been filed. Pursuant to paragraph

(C)(2), if a motion has been filed, the witness must appear before a judge no later than the next business day or must be released.

A motion to detain a witness can be filed by any party. The motion should aver the necessity of the witness's detention. This averment should be supported by facts leading to this necessity.

When the witness is brought before the judge, the judge must address the motion and the reasons for the necessity of the witness's detention. For example, the witness may be harmed if the witness is not taken into protective custody or the witness may flee the jurisdiction because of threats of bodily injury or fear of implication in a crime or delinquent act.

Pursuant to paragraph (C)(3), if a witness is a minor, the witness's guardian must be notified immediately of the witness's whereabouts and the reasons for the issuance of the bench warrant. This provision ensures that the guardian is told about the bench warrant and the place of detention.

Pursuant to paragraph (C)(4), if a bench warrant is executed in another county, the county of issuance must be notified immediately and the witness must be transported to the county of issuance. If transportation is not arranged immediately, the witness must be released unless a motion to detain the witness has been filed.

If a motion to detain the witness has been filed, the witness must appear before a judge within twenty-four hours or the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. The out-of-county judge must determine: 1) if the witness is the subject of the warrant; 2) if detention is warranted; and 3) what arrangements for transporting the witness back to the county of issuance are necessary. The witness must not be kept in another county for more than seventy-two hours of the execution of the warrant under any circumstances.

Pursuant to paragraph (D), in all cases, the bench warrant must be executed without unnecessary delay. When the bench warrant is executed, the bench warrant must be returned to the issuing judge. Upon the return of the warrant, the judge must vacate the bench warrant. The bench warrant must be marked as executed in the system to ensure the subject of the warrant is not arrested again on the same warrant.

Rule 1364. Failure to Appear on the Summons.

A reference to the new Bench Warrant Rule 1140 was added to this Rule.

Rule 1800. Suspensions of Acts of Assembly.

The new Bench Warrant Rule 1140 and Rule 1364 have been added to paragraph one, which suspends 42 Pa.C.S. § 6335(c) only insofar as the Act is inconsistent with the Rules. The Rules require that a summoned person must fail to appear for the hearing and the court must find the summoned person received sufficient notice.

[Pa.B. Doc. No. 09-612. Filed for public inspection April 3, 2009, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DELAWARE COUNTY

Return of Weapons and Ammunition 208.3(c); Misc. Doc. No. 08-2750

Order

And Now, this 16th day of March, 2009, upon the recommendation of the Family Law Committee and approval of the Board of Judges, it is hereby *Ordered and Decreed* that the following Local Rule 208.3(c) is hereby adopted as a Local Rule of the 32nd Judicial District.

By The Court

JOSEPH P. CRONIN, Jr.,
President Judge

Local Rule 208.3(c)

The Sheriff of Delaware County, police department or other law enforcement agency, which maintains possession, control or custody of the firearms, other weapons or ammunition seized from a Defendant or owner pursuant to the provisions of the Protection From Abuse Act (23 Pa.C.S.A. § 6101 et seq.), shall, upon receipt of an Order of Court having jurisdiction, which dismisses a temporary or final Protection From Abuse Order and which has been certified by the Director of the Delaware County Office of Judicial Support, return to the Defendant or owner, such firearms, other weapons or ammunition seized, provided that all of the following conditions are satisfied:

1. The Defendant or the owner provides reasonable proof of ownership or of rightful possession of the firearms, other weapons or ammunitions seized;
2. The firearms, other weapons or ammunition seized are not evidence of a crime;
3. The Defendant or owner is not otherwise prohibited by applicable Federal or State law from taking possession of the firearms, other weapons or ammunition seized,
4. The Defendant or owner has been given a clearance by the Pennsylvania State Police Instant Check System (PICS) Unit, as requested by the Sheriff of Delaware County.

In the event that a Defendant or owner fails to satisfy one or more of the above-stated conditions, the firearms, other weapons or ammunition seized shall remain in the possession, control, and custody of the Sheriff of Delaware County, the police department or the other law enforcement agency.

Defendant or owner who, for any reason, objects to the retention of the firearms, other weapons or ammunition seized may file a Petition seeking their return. The petitioning Defendant or owner shall serve a copy of the Petition on the Sheriff of Delaware County, police Department or other law enforcement agency returning possession of the same. The Court, after receipt of said Petition, shall promptly schedule a hearing on said Petition.

[Pa.B. Doc. No. 09-613. Filed for public inspection April 3, 2009, 9:00 a.m.]

WESTMORELAND COUNTY Rule W1312; No. 3 of 2009

And Now this 16th day of March, 2009, it is *Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1312 is rescinded, and new Rule W1312 is adopted.

By the Court

JOHN E. BLAHOVEC,
President Judge

Rule W1312 Award

- (a) The oath or affirmation shall be administered by the court administrator.
- (b) The Report and Award shall be in the form set forth in Pa.R.C.P. 1312.
- (c) Arbitrators may not award punitive damages.
- (d) Arbitrators may award costs.

Note: A copy of the Form of Oath, Sward and Notice of Entry of Award form is provided in the Forms section of the Westmoreland County Rules of Court.

Note: With regard to recovery of costs, see *Mancini v. Southwestern Pennsylvania Transportation Authority*, 756 A.2d 108, 110 (Pa. Cmwlth. 2000) and *Sillings v. Protected Home Mutual Life Ins. Co.* 84 W.L.J. 7 (2001).

Note: See: *Zelenak v. Mikula*, 911 A.2d 542 (Pa. Super. 2006) as to what is included in record costs.

[Pa.B. Doc. No. 09-614. Filed for public inspection April 3, 2009, 9:00 a.m.]

YORK COUNTY

Fee Bill for the Office of the Register of Wills and Clerk of Orphans' Court

Administrative Order

And Now, this 16th day of March, 2009, pursuant to the provisions of 42 P.S. § 21032.1, the fee bill of the Register of Wills and Clerk of Orphans' Court, of York County, Pennsylvania, is amended as indicated on the proposed fee bill as follows to the within Petition. The fee bill shall be effective the 4th day of May, 2009, upon due advertisement as required by the Administrative Rules of Court.

It is Further Ordered that in accordance with Pa.R.C.P. 239, the District Court Administrator shall:

- (a) File 7 (seven) certified copies thereof with the Administrative Office of Pennsylvania Courts;
- (b) Distribute 2 (two) certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (c) Cause a copy hereof to be published in the *York Legal Record* once a week for 2 (two) consecutive weeks at the expense of the County of York; and
- (d) Supervise the distribution thereof to all Judges and all members of the Bar of this Court.

By the Court

RICHARD K. RENN,
President Judge


FEE BILL

CLERK OF ORPHANS' COURT DIVISION OF THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

And now, by Order of Court this 16th day of March, 2009, the following bill of costs is established pursuant to 42 P.S. Section 21032.1. This Order is effective the 4th day of May, 2009.

<p>ACCOUNTS For the filing, advertising and adjudication of accounts of guardians and trustees</p> <p>Total debits not over \$2,000 \$ 75.00 Over \$2,000 but not over \$5,000 80.00 Over \$5,000 but not over \$10,000 85.00 Over \$10,000 but not over \$25,000 110.00 Over \$25,000 but not over \$50,000 135.00 Over \$50,000 but not over \$100,000 165.00 Each additional \$100,000 or fraction thereof, and additional 100.00</p> <p>ADOPTION Petition, Certificate and Report of Intermediary 35.00 ** Voluntary or Involuntary Termination, Confirm Consent 15.00 ** Costs of Investigation to be determined by the Court under the circumstance in each case. Report of intent 10.00 Act 34 Fund 75.00 Certificate of Adoption 5.00</p> <p>AFFIDAVIT or OATH 10.00 ANSWER 10.00 APPEAL to Appellate Court filing fee Superior Court/Supreme Court 60.00 APPLICATION FOR CONTINUANCE 10.00</p> <p>AUTOMATION FEE Clerk of Orphans' Court 5.00</p> <p>BIRTH/DEATH RECORD Certificate from original Birth 10.00 Death 9.00 Delayed registration Birth 10.00 Death 9.00</p> <p>CERTIFICATION* 5.00 CERTIFICATION* under Act of Congress 25.00 *Plus \$1.00 per page if copy is not furnished Certificate of Authority 2.00</p> <p>CITATION Petition and issuing, one respondent 35.00 Each additional respondent 5.00 File a claim 10.00</p> <p>CLAIM 10.00 Satisfaction or withdrawal 5.00</p> <p>COPIES Self-made copies.25/page Copies made by office staff. 1.00/page Fax transmitted copies 1.00/page</p> <p>COPY of any instrument, per page of copy (certification extra) 1.00</p> <p>DISCLAIMER 10.00 ELECTION under or against Will 10.00 EXCEPTIONS/OBJECTIONS 10.00</p> <p>FAMILY EXEMPTION Personalty 15.00 Realty (one purpart) 20.00 Each additional purpart 3.00 Advertising 50.00</p> <p>**Pennsylvania Judicial Computer Project Fee. 10.00 ***Clerk of Orphans' Court Automation Fee 5.00</p>	<p>INCAPACITATED ESTATES Petition, citation and appointment of guardian \$35.00 ** Entry of security 10.00 Inventory 10.00 Order of Allowance 10.00 Petition for Sale 35.00</p> <p>MINOR'S ESTATE Petition for appointment of guardian per child 35.00 ** Entry of Security 10.00 Inventory 10.00 Petition for Order of Allowance 10.00 Report of guardian ad litem 5.00</p> <p>MARRIAGE Waiver (Military-Free) 20.00 License, application, Affidavits, taxes, automation fee and one(1) certified copy 50.00 Consent of parents 5.00 Certified copy of license and return of marriage 5.00 Certified copy of application 5.00</p> <p>MOTION 10.00 PA JUDICIAL COMPUTER PROJECT FEE 10.00 PETITION (MISCELLANEOUS) 35.00 ** POWER OF ATTORNEY 20.00 PRAECIPE/JOINDER 5.00 PRESUMED DECEDENT Petition and final decree 35.00 **</p> <p>REAL ESTATE OF DECEDENTS Sale or Mortgage 35.00 ** Execution of deed by Clerk 10.00 Approval of security and the entry thereof 10.00 Excuse from security 10.00 Leave to bid at public sale 10.00 Decree of confirmation of title 10.00</p> <p>RELEASE, first page 5.00 Each additional page 1.00</p> <p>RETURNED CHECK 20.00 SHORT CERTIFICATE 5.00 SMALL ESTATE (DECEDENTS or MINORS) 35.00 ** STIPULATION 10.00 SUBPOENA 10.00</p> <p>TRUSTEE Petition for appointment 35.00 ** Entry of security 10.00 Report of Trustee and litem 10.00 Resignation 10.00</p> <p>MISCELLANEOUS FILING 10.00</p>
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NOTE: In cases not herein specifically provided for, the Clerk of Orphans' Court shall make the same charge as that imposed for services of a substantially similar nature. All orders heretofore establishing feebill for the Clerk of Orphans' Court of York County shall be revoked and superseded as of the effective date hereof.

By the Court: 
Honorable Richard K. Renn
President Judge in the Court of Common Pleas
of York County, Pennsylvania

Attest: *Penny L. Blackwell*
Orphans' Court Judge

Attest: *Bradley C. Jacobs*
Clerk of Orphans' Court

FEE BILL

REGISTER OF WILLS OF YORK COUNTY, PENNSYLVANIA

And now, by Order of Court this 16th day of March, 2009, the following bill of costs is established pursuant to 42 P.S. Section 21022.1. This Order is effective the 4th day of May, 2009.

ACCOUNTS

For the filing, advertising and adjudication of the accounts of personal representatives.

Total debits not over \$2,000	\$ 75.00
Over \$2,000 but not over \$5,000	80.00
Over \$5,000 but not over \$10,000	85.00
Over \$10,000 but not over \$25,000	110.00
Over \$25,000 but not over \$50,000	135.00
Over \$50,000 but not over \$100,000	165.00
Each additional \$100,000 or fraction thereof, an additional	100.00

LETTERS OF ADMINISTRATION and LETTERS TESTAMENTARY

Total Assets not over \$2,000	\$ 10.00 **
Over \$2,000 but not over \$5,000	30.00 **
Over \$5,000 but not over \$10,000	40.00 **
Over \$10,000 but not over \$25,000	60.00 **
Over \$25,000 but not over \$50,000	75.00 **
Over \$50,000 but not over \$100,000	100.00 **
Each additional \$100,000 or fraction thereof, an additional	100.00
Renunciation per page	5.00
Waiver Fiduciary Bond	5.00

NOTE: Letters d.b.n. or d.b.n.c.t.a. minimum fee will be charged.

NOTE: Where inventory, tax return or account is of greater value than original estimated value for any letters the right is reserved to make an additional charge based upon such greater value.

PROBATE OF WILLS AND CODICILS

Probate and granting letters testamentary or administration c.t.a. - see schedule for letters above.

Probate without letters same as under each classification above less \$2.00

Probate of each codicil 10.00

ANSWER 10.00

APPLICATION FOR CONTINUANCE 10.00

AUTOMATION FEE

Register of Wills 5.00

BOND filing and entering 5.00

CAVEAT

Formal (including bond) 50.00

Informal 25.00

NO PROBATES ACCEPTED WITHOUT DEATH CERTIFICATE

**Pennsylvania Judicial Computer Project Fee 10.00

***Register of Wills Automation Fee 5.00

Attest: *Penny L. Blackwell*
Orphans' Court Judge

Attest: *Bradley C. Jacobs*
Register of Wills

CERTIFICATION* 5.00

CERTIFICATION* under Act of Congress 25.00

*Plus \$1.00 per page if copy is not furnished

CERTIFYING RECORD to Orphans' Court upon appeal 10.00

CITATION

Petition and issuing, one respondent 35.00 **

Each Additional respondent 5.00

COMMISSION to taken testimony 10.00

COPIES

Self-made copies .25/page

Copies made by office staff 1.00/page

Fax transmitted copies 1.00/page

COPY or FAX of any filed instrument per page of copy (certification extra) 1.00

EXECUTION OF COMMISSION from other Register of Pennsylvania or foreign jurisdiction 10.00

FOREIGN JURISDICTION'S CERTIFIED OR EXEMPLIFIED COPIES OF LETTERS AND PROCEEDINGS filing and entering 25.00

Non resident affidavit re debts 5.00

GENEOLOGICAL RESEARCH per hour or fraction thereof (on a time available basis) 10.00

INHERITANCE TAX RETURN 10.00

Supp Inheritance Tax Return 10.00

(No charge for filing with account)

(No charge for insolvent Returns)

Letter protesting tax appraisalment 5.00

Certificate of payment 10.00

INVENTORY 10.00

MOTION 10.00

PA JUDICIAL COMPUTER PROJECT FEE 10.00

PETITION (MISCELLANEOUS) 35.00 **

PRAECIPE/JOINDER 5.00

SHORT CERTIFICATE 5.00


SUBPOENA 10.00

REGISTERS HEARING 50.00

RETURNED CHECK 20.00

MISCELLANEOUS FILING 10.00

NOTE: In cases not herein specifically provided for, the Register shall make the same charge as that imposed for services of a substantially similar nature. All orders heretofore establishing fee bill for the Register of Wills of York County shall be revoked and superseded as of the effective date hereof.

By the Court: 
Honorable Richard K. Renn
President Judge in the Court of Common Pleas
of York County, Pennsylvania

Rev. 3/09

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Invitation to Bid

The Administrative Office of Pennsylvania Courts (AOPC) is soliciting bids for janitorial services for the Pennsylvania Judicial Center located at 601 Commonwealth Avenue, Harrisburg, PA. This public facility consists of a nine floor tower, five floor west wing and one floor east wing of approximately 333,000 square feet. The contractor is required to complete a variety of tasks from trash removal, vacuuming, cleaning of restrooms, window cleaning, dusting, sanitizing, specialized cleaning (tile, marble, and the like). The contractor will supply all cleaning equipment and consumables based on owner's requirements. All insurances and criminal background checks are required. All contractors interested in bidding on this contract must contact Julie Good at the AOPC no later than April 9th at Julie.Good@pacourts.us for a complete copy of the Invitation to Bid.

ZGMOUNT A. PINES,
Administrator

[Pa.B. Doc. No. 09-616. Filed for public inspection April 3, 2009, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated March 25, 2009, Ruth Ann Price is Suspended on Consent from the Bar of this Commonwealth for a period of 3 months, to be effective April 24, 2009. 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. 09-617. Filed for public inspection April 3, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE
[49 PA. CODE CHS. 16 AND 18]

Nurse-Midwife Prescriptive Authority

The State Board of Medicine (Board) amends its regulations by amending §§ 16.11, 16.13 and 18.1—18.6 and by adding §§ 18.6a and 18.9 (relating to prescribing, dispensing and administering drugs; and notification of changes in collaboration), to read as set forth in Annex A.

Description and Need for the Rulemaking

Under sections 12 and 35 of the Medical Practice Act of 1985 (act) (63 P.S. §§ 422.12 and 422.35), the Board licenses midwives. The act of July 20, 2007 (P.L. 324, No. 50) (Act 50) amended the act by adding section 35(c) to, among other things, extend prescriptive authority to qualified nurse-midwives. As required under section 3 of Act 50, this rulemaking implements this new prescriptive authority.

It should be noted that under section 12 of the act, the General Assembly authorized midwives previously licensed by the Board to continue to practice midwifery in accordance with Board regulations and to use titles such as “midwife” or “nurse-midwife.” By regulation in § 18.2(1) (relating to licensure requirements), the Board requires that an individual must be licensed as a registered nurse, among other things, to qualify for licensure as a midwife. Under section 35(a) of the act, the General Assembly authorized the Board to license nurse-midwives and promulgate regulations for licensure and proper practice of midwifery; under section 35(b) of the act, the General Assembly required that a nurse-midwife must also be licensed as a registered nurse. In section 2 of the act, the General Assembly defined the terms “midwife or nurse-midwife” as “an individual who is licensed as a midwife by the Board.” As a result, an individual who is not also licensed as a registered nurse will not be licensed by the Board as a midwife and cannot obtain prescriptive authority under section 35(c). This rulemaking sets standards for prescriptive authority of nurse-midwives and, to a lesser extent, revises standards of practice for midwifery by licensed midwives. This rulemaking does not set standards of midwifery practice for any person who is not licensed by the Board to practice midwifery, whether or not also licensed as a registered nurse.

Summary of Comments and Responses to Proposed Rulemaking

The Board published a notice of proposed rulemaking at 37 Pa.B. 6539 (December 15, 2007) with a 30-day public comment period. The Board received written comments from the following members of the public: Pennsylvania State Board of Pharmacy; American College of Nurse-Midwives; Pennsylvania Coalition of Nurse Practitioners; Pennsylvania Medical Society; Pennsylvania Academy of Family Physicians; American College of Obstetricians and Gynecologists—Pennsylvania Section; American College of Nurse-Midwives; American College of Nurse-Midwives—region 2 chapter 4; Hospital &

Healthsystem Association of Pennsylvania; Pennsylvania State Nurses Association; Pennsylvania Association of Licensed Midwives; American Association of Birth Centers; William F. McCool, CNM, PhD, director of the midwifery graduate program of the University of Pennsylvania School of Nursing; Katy Dawley, CNM, PhD, program director of the midwifery institute of the Philadelphia University; Maternity Care Coalition; WomanCare Doubletree; University of Pennsylvania Health System—Clinical Care Associates; George Eckenrode, CNM, midwife coordinator for OBGYN of Lancaster; Katherine Winkler, CNM; Susan Farrell, CNM, of Lebanon Valley Midwifery and Women’s Wellness; Rose Marie Kunaszuk, CNM; Audrey K. Groff, CNM, director of midwifery services at the Reading Hospital and Medical Center; Dominic J. Cammarano, III, DO, of Reading OB/GYN; Stephen Solomon, MD, of Geisinger Medical Group; Susan E. Bare, CNM, Terrie Lemly, CNM, Mary DeWire, CNM, and Arlie Swailes, CNM, of OB/GYN Associates of Lewisburg; Jerrilyn Hobdy, CNM; Denise Roy, CNM; Nancy R. Hazle, CNM, Margaret M. Stone, CNM, Maria K. Bizo, CNM, Kathryn J. Steckel, CNM, CRNP, and Holly Christenson, CNM, of the Birth Center; Joyce D. Ward, CNM, of Community Women’s Care of Berks County; Kathleen Coco, CNM; executive director Christine Haas and clinical director Nancy Anderson Niemczyk, CNM, of the Midwife Center for Birth and Women’s Health; Rebecca Choitz, CNM, Sarah Robinson, CNM, Bernadette Lloyd-Sobolow, CNM, Linsey Will, CNM, Moon Smith, CNM, and Amy Nathans, CNM, of Midwives of Delaware County; Lillie Rizack, CNM; Sandra Mesics, CNM; and Jay S. Feldstein, DO, and Barrie Baker, MD, of Keystone Mercy Health Plan. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.12). The Board received no comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The Board’s regulation committee discussed the comments at work sessions prior to review and discussion and approval by the full Board. Various stakeholders, including representatives of the professional associations and other commentators as well as the Governor’s Office of Health Care Reform, actively participated in the discussions at these work sessions and expressed their agreement with or acceptance of the final-form rulemaking.

In various comments and the Board’s responses to those comments, comparison was often made to the regulation of certified registered nurse practitioner (CRNP) practice. The Board and the State Board of Nursing jointly promulgated identical regulations concerning CRNP practice in §§ 18.53—18.57 (relating to CRNP practice) by the Board and §§ 21.283—21.287 (relating to CRNP practice) by the State Board of Nursing, respectively. The act of December 9, 2002 (P.L. 1567, No. 206) (Act 206) moved regulation of CRNP practice to solely the State Board of Nursing. As a result, the Board’s regulations concerning CRNP practice are no longer effective, although the regulations of the State Board of Nursing remain in effect as previously promulgated. Because a nurse-midwife practices in collaboration with a physician, comparison with provisions of the Board’s formerly-effective regulations and the State Board of

Nursing's regulations concerning CRNP practice is useful in discussing what would be appropriate regulation of practice of nurse-midwives, especially those nurse-midwives with prescriptive authority.

§ 16.13. Licensure, certification, examination and registration fees.

The HPLC requested clarification of the "verification of licensure" fee. This fee is charged each time that verification of licensure is requested. Typically, verification of licensure is requested when a licensee seeks licensure in another jurisdiction and needs proof from the Board that the licensee is licensed to practice in this Commonwealth. Because licensing authorities also insist that the verification be recent, a licensee who requested verification of licensure a few years ago to become licensed in one jurisdiction would need to request a new verification of licensure for licensure in a second jurisdiction now. Because licensure in another jurisdiction (and thus a need for verification of licensure) is sought only when needed, such as moving to a new state, it is very rare for a licensee to request verification of licensure for more than one other jurisdiction at a time. It bears noting that this is not a new fee; the same fee for verification of licensure already in § 16.13(j) (relating to verification or certification) is being specifically listed in § 16.13(b) (relating to midwife license).

Echoing various comments from members of the public, IRRC questioned how the fees would be determined when there are multiple midwives and multiple collaborating physicians working together. The concern is that the collaborative agreements would have to be changed and submitted to the Board and therefore fees would be paid a geometrically increasing number of times for changes in staff. In response to this concern, the Board has added renumbered § 18.5(g)(3) and (4) (regarding physician providing coverage need not be signatory to collaborative agreement, but shall agree to adhere to its terms and shall be identified by name of physician, group or service; and both collaborating physician and nurse-midwife are responsible to assure adherence to the collaborative agreement). In this way, specific physicians could come and go with a medical practice, but would not require any change to the collaborative agreement unless the collaborating physician or the medical practice itself changes. The Board has also revised the schedule of fees in response to this concern. Instead of charging one fee for the application for licensure (differing depending upon whether it would include prescriptive authority) and another fee for each other collaborative agreement (again depending upon whether it would include prescriptive authority), there will be one fixed fee for applying for licensure (including the first collaborative agreement), another fee for applying for prescriptive authority (including the first collaborative agreement) and a third fee for filing any subsequent collaborative agreements. The amounts of the fees are not changed from publication as proposed.

§ 18.1. Definitions.

Some commentators noted that, contrary to the Board's prior understanding, the American Midwifery Certification Board (AMCB) did not simply take over all prior activities of the American College of Nurse-Midwives (ACNM). Additionally, replacing references to ACNM with references to AMCB would lose those credentials previously recognized through ACNM. AMCB is not an accrediting body, but administers certification examinations. ACNM recognizes the American Commission on Midwifery Education (ACME) as the body to accredit educa-

tional programs. Accordingly, the Board has added the definition ACME and kept the definition of ACNM. The Board has also revised the definition of "midwife examination" to recognize examinations of both ACNM and AMCB or their successor organizations as midwife examinations, and has revised the definition of "midwife program" to recognize ACNM and ACME or their successor organizations as accrediting bodies of midwifery programs.

Several commentators and IRRC suggested that the Board define the term "collaboration," which is not separately defined in the act. For purposes of a CRNP practicing in collaboration with a physician, section 2(13) of the Professional Nursing Law (63 P.S. § 212(13)) defines the term "collaboration" as the process by which a CRNP works with a physician to deliver healthcare services, including the immediate availability of the physician through direct communication, a predetermined plan for emergency services, and physician availability on a regular scheduled basis for referrals, consultation and review. Although the Board has not provided a definition for this term, the Board has revised the rulemaking in renumbered § 18.5(g) to set forth similar appropriate requirements for collaboration of a nurse-midwife with a physician.

Some commentators noted that a collaborating physician might not always specialize in obstetrics, gynecology or pediatrics, but might be a family practitioner. Also, the collaborating physician might have an arrangement for hospital admission that is not known as "hospital privileges." Accordingly, the Board has revised the definition of "collaborating physician" as a medical or osteopathic medical doctor "who has entered into a collaborative agreement with a nurse-midwife and who has hospital privileges or a formal arrangement for patient admission to a hospital and who practices in the specialty area of care for which the physician is providing collaborative services." The Board has also revised proposed § 18.5(f) to impose this requirement.

The State Board of Pharmacy noted that the phrase "Caution: Federal law prohibits dispensing without a prescription" is no longer used on product labels. Instead, current product labels contain the phrase "Rx only." Accordingly, the Board has revised the proposed definition of "legend drug."

Because a midwife may practice midwifery only in collaboration with a physician, the Board proposed to amend the definition of "midwife" to indicate that the person is licensed by the Board to practice midwifery "in collaboration with a physician licensed by the Board to practice medicine." Because this definition would appear to prohibit a midwife from collaborating with an osteopathic physician who is licensed by the State Board of Osteopathic Medicine, the Chairpersons of the HPLC echoed the concern of most all public commentators and suggested that the Board amend this definition to include osteopathic physicians. In reviewing the statutory authority of the Board's rulemaking, IRRC agreed that osteopathic physicians must be included, as well as medical doctors. Because this proposed definition would require a collaborative agreement for all practice of midwifery, not limited to prescriptive authority, IRRC also recommended deleting the phrase "in collaboration with a physician" and thereby maintaining the existing definition. Accordingly, the Board removed this proposed revision to the definition of "midwife." As discussed as follows, the Board also removed the definition of "midwife" in favor of a definition of "nurse-midwife." It should be noted that,

under the current regulation in § 18.5(a), "A midwife may not engage in midwifery practice without having entered into a collaborative agreement." The Board has also added § 18.6(6)(iii) (relating to practice of midwifery) to require that the nurse-midwife must act in accordance with the terms and conditions of the collaborative agreement.

As discussed as follows for § 18.6a (relating to prescribing, dispensing and administering drugs), the Board has deleted the previously proposed to be defined term "midwife colleague."

In reviewing comments and in the various work sessions, the Board recognized that both terms "midwife" and "nurse-midwife" had been used almost interchangeably throughout the proposed rulemaking. The act uses both terms and defines them both as an individual who is licensed as a midwife by the Board. Newly added section 35(c) of the act refers only to a "nurse-midwife" in establishing prescriptive authority. To be completely consistent with the prescriptive authority provisions of the act, the Board has used exclusively the term nurse-midwife, rather than midwife, wherever addressing a licensee with prescriptive authority. To avoid any suggestion that one not licensed as a registered nurse may be licensed to practice midwifery, at the request of the HPLC the Board has also substituted the term "nurse-midwife" for the term "midwife" in these definitions and throughout Subchapter A (relating to licensure an regulation of midwife activities). Because one must be licensed as a registered nurse to become licensed to practice midwifery, it is the Board's intention that any inadvertent use of the term "midwife" rather than "nurse-midwife" also implies the prerequisite licensure as a registered nurse.

The Board also recognized that its midwife regulations use both the terms "neonate" and "newborn." The current definition of "midwife practice" refers to care of "neonates—initial 28 day period." The Board has removed this time frame from the definition of "midwife practice" and separately defined the term "neonate" in accordance with this generally accepted meaning. The Board has also replaced all references to newborn with neonate.

As discussed as follows for § 18.4 (relating to midwife practice guidelines) and § 18.6(2) and (3) and for renumbered § 18.6(8) and (9), the Board has replaced the term "midwife protocol" with the more generally used term "midwife practice guidelines," repeating the existing definition.

§ 18.2. Licensure requirements.

As discussed previously for definitions, the Board has revised § 18.2(4)(i) to require passing the certifying examination of ACNM or AMCB or successor organizations. The Board has also revised § 18.2(4)(ii) to clarify the requirement that a midwife who qualified for licensure by being certified by ACNM before it first administered its certification examination in 1971 must maintain National certification to be eligible for renewal of the license.

§ 18.4. Midwife practice guidelines.

As discussed previously for § 18.1 (relating to definitions), the Board has revised § 18.4(2) and (3) to replace the term "newborns" with the term "neonates." And as discussed previously for § 18.1 and as follows for § 18.5(b)—(d) and 18.6(2) and (3) and renumbered § 18.6(8) and (9), the Board has revised § 18.4 to replace the term "midwife protocol" with the term "midwife practice guidelines."

§ 18.5. Collaboration.

As discussed as follows for renumbered § 18.5(h), a nurse-midwife shall file the collaborative agreement with the Board. To emphasize this obligation, the Board has added to the prerequisites for practice of midwifery in § 18.5(1) that not only must the nurse-midwife have entered into an appropriate collaborative agreement, but must also file the collaborative agreement with the Board.

As discussed previously for §§ 18.1 and 18.4 and as follows for § 18.6(2) and (3) and renumbered § 18.6(8) and (9), the Board has revised § 18.5(b)—(d) to replace the term "midwife protocol" with the term "midwife practice guidelines."

As discussed previously for the definition of "collaborating physician," the Board has revised proposed § 18.5(f) to provide that the collaborating physician must have hospital privileges "or a formal arrangement for patient admission to a hospital and shall practice in the specialty area of the care for which the physician is providing collaborative services."

As discussed previously concerning fees, the Board has added renumbered § 18.5(g)(3) and (4) to address a physician other than the collaborating physician providing coverage and the collaborating physician's and nurse-midwife's responsibility to assure adherence to the collaborative agreement, respectively.

In response to the previous suggestion to define the term "collaboration," the Board has added renumbered § 18.5(g)(1) to require that the collaborative agreement: (i) provide a predetermined plan for emergency services; and (ii) immediate availability of a physician to the nurse-midwife by direct communication for consultation, co-management or transfer of care as appropriate. These terms are consistent with the definition of "collaboration" of the Professional Nursing Law for CRNPs practicing in collaboration with physicians. Also, as discussed as follows, the Board added § 18.6(6)(iii) to require that a nurse-midwife act in accordance with the terms and conditions of the collaborative agreement.

IRRC commented that, in contrast to the requirements in § 18.142(a)(1) (relating to written agreements), a physician assistant's written agreement must identify and be signed by the physician assistant and each physician the physician assistant will be assisting who will be acting as a supervising physician and the requirements in §§ 18.55(a) and 21.285(a) (relating to collaborative agreement), that a CRNP's collaborative agreement is the signed written agreement between a CRNP and collaborating physician, there appears to be no requirement that the collaborating physician sign the collaborative agreement with a nurse-midwife. Although the term "collaborative agreement" is defined in § 18.1 as "a signed written agreement between a nurse-midwife and a collaborating physician," the Board has added renumbered § 18.5(g)(2) to require that the collaborative agreement "must identify and be signed by at least one collaborating physician and the nurse-midwife."

IRRC noted that in contrast to §§ 18.55(b)(7) and 21.285(b)(7a) CRNP's collaborative agreement must be kept at the primary practice location and a copy filed with the Board, proposed § 18.5(g) would require that the collaborative agreement be submitted to the Board for review. IRRC and many commentators questioned the need for review and asked, if the collaborative agreement is to be reviewed, what review procedures and standards the Board would follow. Because the Board will not review a collaborative agreement for anything other than

completeness, including identification of collaborating physician, the Board has revised renumbered § 18.5(h) to require only that the collaborative agreement be filed with the Board. Additionally, as discussed as follows regarding proposed § 18.6(6)(ii), the Board has revised renumbered § 18.5(h) to include the requirement that the collaborative agreement identify the categories of drugs from which the nurse-midwife may prescribe or dispense and any restrictions on prescribing or dispensing those drugs. The Board did not include the specific requirement of proposed § 18.6(6)(ii)(B) that a collaborative agreement must identify the drugs that require referral, consultation, or co-management. The requirements of renumbered § 18.5(h) that a collaborative agreement must identify any restrictions on the categories of drugs from which a nurse-midwife may prescribe, § 18.5(c) that a collaborative agreement must either acknowledge that the nurse-midwife will practice under the midwife practice guidelines or practice under the midwife practice guidelines as modified in the collaborative agreement and § 18.4(2) that midwife practice guidelines must identify the circumstances under which consultation, co-management, referral and transfer of care are to take place are adequate to protect this interest. Moreover, section 35(c)(2)(iii) of the act requires that the collaborative agreement must "identify the categories of drugs from which the nurse-midwife may prescribe or dispense and the drugs which require referral, consultation or comanagement."

IRRC noted that proposed § 18.5(h) that a nurse-midwife or collaborating physician shall provide immediate access to collaborative agreement to confirm scope of nurse-midwife's authority and ability to prescribe would require the collaborating physician to take certain actions and suggested moving this from Chapter 18, Subchapter A (relating to licensure and regulation of midwife activities), and to another chapter appropriate for regulation of physicians. The Board has not made such a change. The Board has not placed in any other portion of its regulations standards for a medical doctor collaborating with a nurse-midwife, or for that matter collaborating with a CRNP. Because the Board has no direct authority over osteopathic physicians, it cannot separately regulate an osteopathic physician's actions concerning collaboration with a nurse-midwife. Additionally, placing the requirements in the midwifery subchapter better assures that collaborating physicians and others have notice of what the Board expects in the collaborative relationship with a nurse-midwife.

Additionally, some commentators were concerned about requiring a nurse-midwife or collaborating physician to provide access to the collaborative agreement to anyone who desired to confirm the scope of the nurse-midwife's authority, regardless of any reason to know. In response to this comment, the Board has revised renumbered § 18.5(i) to require access to the collaborative agreement for "any client, pharmacist, licensed healthcare facility, license healthcare provider, physician or the Board" seeking to confirm the scope of the nurse-midwife's authority.

§ 18.6. Practice of midwifery.

Some commentators questioned why the Board would propose to delete existing § 18.6(1)–(4). The Board has not proposed to delete these provisions, and they will remain in effect.

As discussed previously for §§ 18.1, 18.4 and 18.5 and as follows for renumbered § 18.6(8) and (9), the Board has revised § 18.6(2) and (3) to replace the term "midwife protocol" with the term "midwife practice guidelines."

Many commentators suggested that the required qualifications for nurse-midwife prescriptive authority, including holding a master's degree, of proposed § 18.6(6) should be moved from § 18.6 as proposed to proposed § 18.6a (relating to prescribing, dispensing and administering drugs), because these qualifications deal only with the additional prescriptive authority and not with being licensed to practice midwifery as previously authorized. The Board has not revised its rulemaking in response to this comment. In accordance with the authority of section 35(c)(3) of the act, new § 18.6(5) provides that a nurse-midwife, in accordance with the collaborative agreement and consistent with the nurse-midwife's training and certification, may prescribe, dispense, and administer medical devices, immunizing agents, laboratory tests, and therapeutic, diagnostic and preventative measures. In accordance with the authority of section 35(c)(2) of the act, new § 18.6(6) provides that a nurse-midwife who qualifies and is granted certification may exercise prescriptive authority subject to certain limitations. Because section 35(c)(2) of the act includes the required qualifications in the authorization for prescriptive authority, the Board sees no reason to create separate regulations to describe the necessary qualifications for certification. These qualifications are included specifically with the prescriptive activity authorized by certification. The Board does not believe that this arrangement would be confusing or misleading in reference to those midwives without prescriptive authority. Notwithstanding this decision, the Board agrees with those commentators who suggested moving proposed § 18.6(6)(ii) that a collaborative agreement must identify categories of drugs from which the nurse-midwife may dispense or prescribe and identify drugs that require referral, consultation or co-management to be renumbered § 18.5(h).

IRRC noted the requirements of proposed § 18.6(6)(i) that a nurse-midwife applicant for prescriptive authority certificate must have successfully completed at least 45 hours of course-work specific to advanced pharmacology at a level above that required by a professional nursing program and suggested that, because pharmacology is rapidly evolving as noted by several commentators, the Board should require current knowledge in advanced pharmacology. The Board agrees and has added new § 18.6(6)(ii) to require that the applicant has successfully completed 16 hours of advanced pharmacology within 2 years immediately preceding the application. This requirement is identical to what is required in § 18.3(b) (relating to biennial registration requirements) and section 35(c)(2)(ii) of the act for biennial renewal of nurse-midwife prescriptive authority.

IRRC noted that proposed new § 18.6(6)(ii) specifies minimum requirements for the collaborative agreement and recommended moving this requirement to § 18.5. Accordingly, the Board has moved that provision to renumbered § 18.5(h).

As discussed previously for § 18.1 and renumbered § 18.5(g), the Board has added § 18.6(6)(iii) to require that the nurse-midwife act in accordance with the terms and conditions of the collaborative agreement.

Because a nurse-midwife with prescriptive authority may prescribe or dispense drugs in accordance with the act, Board regulations and the collaborative agreement, the Board proposed to delete from renumbered § 18.5(7) the prohibition that delegated medical services may not involve the prescribing or dispensing of drugs. In reviewing various comments, the Board realized that it should explicitly note the limitations on delegation of medical

services of §§ 18.401—18.402 (relating to medical doctor delegation of medical services).

As discussed previously for § 18.1, the Board has revised renumbered § 18.6(7) and (8) to replace the term “newborns” with the term “neonates.”

In reviewing the comments and revisions, the Board also noted that its midwife regulations use the term “midwife protocol,” although the generally used term is “midwife practice guidelines.” Accordingly, the Board has replaced this term in §§ 18.1, 18.4 and 18.5, as well as in renumbered § 18.6(8) and (9).

§ 18.6a. Prescribing, dispensing and administering drugs.

Proposed § 18.6a(1) would have provided that a nurse-midwife with prescriptive authority may prescribe, administer and dispense drugs, but may not prescribe or dispense any schedule I controlled substance. In review of comments and subsequent discussion at the committee work sessions, it became apparent that this fundamental prohibition should be made as clearly as possible and not kept within the authorization to prescribe or dispense other controlled substances. Accordingly, the Board moved this provision to renumbered § 18.6a(a).

Section 35(c)(2)(iv)(A) of the act provides, “A nurse-midwife shall not prescribe” a controlled substance except for a woman’s acute pain and that, for a schedule II controlled substance, the dose “shall be limited to 72 hours and shall not be extended” except with the approval of the collaborating physician. The Board placed these restrictions into the proposed rulemaking in proposed § 18.6a(a)(2)(i) that a nurse-midwife “may not prescribe” a controlled substance except for a woman’s acute pain and in proposed § 18.6a(a)(2)(ii), for a schedule II controlled substance, the dose “must be limited to 72 hours and may not be extended” except with the approval of the collaborating physician. The HPLC requested consistency with the statutory language to avoid any confusion or misinterpreted intent. The Board drafted these regulatory provisions in compliance with the *Pennsylvania Code & Bulletin Style Manual* of the Legislative Reference Bureau. Because “shall not” negates the obligation but not the permission to act, and therefore “may not” is the stronger prohibition and should be used. *Style Manual* at § 6.8(b). Additionally, although the verb “shall” may be used if the subject of the sentence is a person or entity that has the power to make a decision or take an action, the verb “must” should be used with an inanimate object. *Style Manual* at § 6.8(d)—(e). Accordingly, because it is obliged to promulgate regulations in accordance with the *Style Manual*, the Board has not revised this portion of the rulemaking.

Section 35(c)(2)(iv)(A) of the act provides, “In the case of a schedule III or IV controlled substance, the prescription shall be limited to 30 days and shall only be refilled with the approval of the collaborating physician.” The HPLC requested that this provision be addressed in the regulation as well. IRRC agreed with the HPLC and recommended adding this provision to the regulation. The Board has inserted this provision into the final rulemaking at renumbered § 18.6a(b)(1)(iii), consistent with the *Pennsylvania Code & Bulletin Style Manual*.

Similar to the provisions in §§ 18.54(f)(3) and 21.284(f)(3) that a CRNP may not delegate prescriptive authority to another healthcare provider, the HPLC recommended that the Board prohibit a nurse-midwife from delegating prescriptive authority. IRRC agreed with the HPLC and recommended adding this provision to the regulation. As also suggested by various commentators,

the Board has inserted this provision into the final rulemaking in § 18.6a(b)(1)(v).

IRRC and various commentators questioned why proposed § 18.6a(b) did not include any requirement that the collaborating physician be identified on a nurse-midwife’s prescription blank, as is required for physician assistant in § 18.158(b)(1), that a supervising physician must also be identified on physician assistant’s prescription blank and for CRNP in §§ 18.54(g) and § 21.284(g) that a collaborating physician must also be identified on CRNP’s prescription blank. Many midwives practice with groups of physicians, and there is not adequate space on a prescription blank to include the name of every physician. Also, the purpose of identifying the collaborating physician on a prescription is to enable confirmation of the prescription or its specifics with the collaborating physician. Because a nurse-midwife generally only consults with the collaborating physician as necessary, the collaborating physician generally would not have any additional specific information about a particular prescription at the time it is being filled. Accordingly, the Board concluded that it is not necessary to identify the collaborating physician on a nurse-midwife’s prescription blank and has not revised the rulemaking to impose such a requirement.

IRRC questioned whether it would be sufficient for the letters CNM or another designation to indicate that the signer is a nurse-midwife to follow the name of the nurse-midwife on a prescription blank, rather than in the signature as required by proposed § 18.6a(b)(2). In § 18.158(b)(2), the Board requires that the signature of a physician assistant on a prescription be followed by the letters PA-C or another designation to indicate that the signer is a physician assistant; there is no separate requirement that the prescription blank of a physician assistant also include those letters after the physician assistant’s printed name. Although §§ 18.54(g) and 21.284(g) require that a CRNP’s prescription blank bear the certification number of the CRNP, there is no requirement that any letters or other designation appear after the CRNP’s printed name or signature to indicate that the prescribing healthcare provider is a CRNP. In response, the Board has added to renumbered § 18.6a(c)(1) the requirement that the prescription blank include, along with the nurse-midwife’s contact information, the letters CNM or other designation after the nurse-midwife’s name to indicate that the prescriber is a nurse-midwife.

Also, as noted by some commentators, a nurse-midwife might be employed by a licensed healthcare facility that is not a hospital. Accordingly, the Board has revised renumbered § 18.6a(c)(3) to allow for a nurse-midwife using a prescription blank generated by a licensed healthcare facility, so long as the required information is included.

IRRC also questioned why proposed § 18.6a(b) did not include a prohibition against the collaborating physician presigning prescription blanks similar to that in § 18.158(b)(3) that a supervising physician is prohibited from presigning prescription blanks of physician assistant. Neither the Board’s formerly effective regulations in §§ 18.53—18.57 nor the regulations of the State Board of Nursing in §§ 21.283—21.287 prohibit the collaborating physician from presigning prescription blanks. A nurse-midwife, as does a CRNP, collaborates with the physician and is not necessarily practicing in the office of the collaborating physician. By contrast, a physician assistant is supervised by the physician and generally practicing in the physician’s office. There is no natural temptation for a

physician to presign a nurse-midwife's prescription blank. However, there is a risk that any prescription pad could come into the hands of a person who is not authorized to write prescriptions. To deter unauthorized use of a prescription blank by someone not authorized to prescribe, the Board has added § 18.6a(c)(4) to prohibit presigning prescription blanks by either the nurse-midwife or collaborating physician.

Proposed § 18.6a(c) would require the collaborating physician to notify the patient and the nurse-midwife and "the midwife colleague" if the nurse-midwife is prescribing or dispensing inappropriately. Without a separate requirement to have a midwife colleague (which is not imposed on physician assistants or certified registered nurse practitioners), the HPLC and IRRC questioned the need for this term and its definition. Upon review of the various public comments, the Board agrees and has deleted this term from the regulation, as well as the definition section.

IRRC also noted that proposed § 18.6a(c) (in event of inappropriate prescribing, the collaborating physician shall notify the patient, the midwife and the pharmacy; midwife or collaborating physician shall advise the patient to discontinue use of the drug and notify the pharmacy to discontinue the prescription) would require the collaborating physician to take certain actions and suggested moving this from Chapter 18, Subchapter A (relating to licensure and regulation of midwife activities), and to another chapter appropriate for regulation of physicians. Additionally, many commentators suggested that other healthcare providers, and not just the collaborating physician, may identify inappropriate prescribing. Because the Board believes that the collaborating physician should not bear all of these obligations and that public safety is protected by the patient and the pharmacy being notified, the Board has revised renumbered § 18.6a(d) to require any party who identifies inappropriate prescribing to immediately notify the nurse-midwife or the collaborating physician and require either the nurse-midwife or the collaborating physician to notify the patient and pharmacy. As discussed previously under proposed § 18.5(h), the Board has not moved the final-form requirements to any other chapter of its regulations.

Proposed § 18.6a(d) would require a midwife to "keep a copy of the prescription . . . in a ready reference file" or record specific information in the patient's record. IRRC agreed with the HPLC's concern that use of the word "ready" in the expression "ready reference file" does not add any additional meaning. Because this disjunctive requirement would suggest that a midwife need not record prescription information in the patient's record, the HPLC, believing that all drugs should be recorded in the patient's chart (whether or not also kept in a "ready reference file"), suggested removing the alternative method of copying the prescription. Upon review of the various public comments, the Board agrees and has deleted from the regulation this alternative provision in favor of recording specified information in the patient's record. Additionally, IRRC questioned whether electronic record keeping would be permitted. The Board does not intend to prohibit electronic record keeping. However, electronic prescribing must not violate other provisions of law, and the Board has revised the final rulemaking at renumbered § 18.6a(e)(ii) to require compliance with the requirements of the State Board of Pharmacy in § 27.201 (relating to electronically transmitted prescriptions).

The HPLC noted the Board's regulation in § 18.158(d)(4), that within 10 days, supervising physician

must countersign recordkeeping in patient record of physician assistant prescribing or dispensing drug, suggested a similar requirement for a CRNP, and requested an explanation as to why the Board did not propose requiring the collaborating physician to countersign recordkeeping in the patient record of a nurse-midwife prescribing or dispensing drugs. IRRC agreed with the HPLC and asked why the Board did not propose requiring the collaborating physician's signature. The collaborating physician is not required to countersign recordkeeping in the patient record of a CRNP prescribing or dispensing drugs. A nurse-midwife, as does a CRNP, collaborates with the physician and is not supervised by the physician, in contrast to a physician assistant. Accordingly, the Board chose not to require a collaborating physician to countersign recordkeeping in the patient record of a nurse-midwife prescribing or dispensing drugs.

Consistent with the previously-described change to renumbered § 18.5(h) that the collaborative agreement is to be filed with the Board, rather than submitted to the Board for review, the Board has added § 18.6a(g) to require that a nurse-midwife applying for prescriptive authority must file the nurse-midwife's collaborative agreement with the Board.

§ 18.9. Modification of changes in collaboration.

Some commentators noted the similarity of proposed § 18.9 and § 18.172 (relating to notification of changes in employment) of physician assistants and suggested that these provisions are not appropriate for a nurse-midwife who collaborates with a physician, rather than being supervised by a physician. To the extent these provisions reflect upon a supervisory relationship, the Board agrees with the comment. However, as revised as discussed as follows, § 18.9 addresses only the nurse-midwife's responsibility to notify the Board of changes in the nurse-midwife's address, the collaborating physician or the collaborative agreement, pieces of information fundamental to continued licensed practice.

IRRC echoed the concern of several commentators and suggested that proposed § 18.9(a) (midwife shall notify the Board of a change in or termination of a collaborative agreement) is unnecessary and overly burdensome in practices with multiple physicians and nurse-midwives. As discussed previously for § 16.13(b) (relating to midwife fees) and renumbered § 18.5(g) (relating to collaborative agreement), a nurse-midwife may have a physician other than the collaborating physician provide coverage, and the physician providing coverage need not be a signatory to the collaborative agreement, but must be identified in the agreement, by name of the physician, group or service. Accordingly, there should be very limited need to notify the Board of changes in a collaborative agreement due to turnover in a practice. Despite the requirement of renumbered § 18.5(i) that the collaborative agreement must be immediately accessible to any necessary party who seeks to confirm the nurse-midwife's authority or ability to prescribe a drug, it is necessary for authentication and verification that the agreement be filed with the Board.

Proposed § 18.9(a) would have provided that "Failure to notify the Board . . . of a change in mailing address may result in failure to receive pertinent material distributed by the Board." Because it is obvious, yet places no burden or threat of punishment, the HPLC questioned the need for this provision. Upon review of the various public comments, the Board agrees and has deleted this provision from renumbered § 18.9(b) of the final-form regulation.

IRRC also noted that proposed § 18.9(b) (collaborating physician shall notify the Board of change in or termination of collaboration with nurse-midwife) would require the collaborating physician to take certain actions and suggested moving this from Chapter 18, Subchapter A and to another chapter appropriate for regulation of physicians. Because the Board agrees that this burden should not be borne by the collaborating physician, the Board has simply deleted this proposed provision from the final-form rulemaking.

Proposed § 18.9(d) would require that “A midwife with prescriptive authority who cannot continue to fulfill the requirements for prescriptive authority shall notify the Board within 30 days of the midwife’s request to place the midwife’s prescriptive authority on inactive status.” The HPLC questioned the procedure and wondered whether a midwife requesting inactive status of the midwife’s prescriptive authority certification would provide notice to the Board. IRRC agreed that this procedure was unclear and suggested that it be rewritten to improve clarity. Upon review of the various public comments, the Board agrees. The Board has revised this provision to require that a nurse-midwife who cannot continue to fulfill the requirements for prescriptive authority “shall cease to prescribe and shall so notify the Board in writing within 30 days.” Similarly, as suggested by some commentators, the Board has added renumbered § 18.9(a) to require a nurse-midwife who cannot maintain a collaborative agreement to cease practicing until a collaborative agreement is in place.

Fiscal Impact and Paperwork Requirements

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

Effective date

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

Statutory Authority

The final-form rulemaking is authorized under sections 8, 12 and 35 of the act.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 5, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 6539, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 17, 2008, the final-form rulemaking was approved by the HPLC. On February 25, 2009, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 26, 2009, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Regula-

tory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1400 or st-medicine@state.pa.us.

Findings

The Board finds that:

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

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

(3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 37 Pa.B. 6539.

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

Order

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

(a) The regulations of the Board at 49 Pa. Code Chapters 16 and 18, are amended, by amending §§ 16.11, 16.13 and 18.1—18.7 and by adding §§ 18.6a and 18.9 to read as set forth in Annex A.

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

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

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

OLLICE BATES, Jr., MD,
Chairperson
State Board of Medicine

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 1369 (March 14, 2009).)

Fiscal Note: Fiscal Note 16A-4926 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS

Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS

§ 16.11. Licenses, certificates and registrations.

(a) The following medical doctor licenses are issued by the Board:

- (1) License without restriction.
- (2) Institutional license.
- (3) Extraterritorial license.
- (4) Graduate license.

- (5) Temporary license.
- (6) Interim limited license.
- (b) The following nonmedical doctor licenses and certificates are issued by the Board:
 - (1) Nurse-midwife license.
 - (2) Nurse-midwife certificate of prescriptive authority.
 - (3) Physician assistant license.
- (c) The following registrations are issued by the Board:
 - (1) Registration as a supervising physician of a physician assistant.
 - (2) Registration as an acupuncturist.
 - (3) Registration as a practitioner of Oriental medicine.
 - (4) Biennial registration of a license without restriction.
 - (5) Biennial registration of an extraterritorial license.
 - (6) Biennial registration of a midwife license.
 - (7) Biennial registration of a physician assistant license.
 - (8) Biennial registration of a drugless therapist license.
 - (9) Biennial registration of a limited license-permanent.
 - (10) Biennial registration of an acupuncturist registration.
 - (11) Biennial registration as a practitioner of Oriental medicine.

§ 16.13. Licensure, certification, examination and registration fees.

- (a) *Medical Doctor License:*
- License Without Restriction:*
 - Application, graduate of accredited medical college \$35
 - Application, graduate of unaccredited medical college \$85
 - Biennial renewal \$360
- Extraterritorial License:*
 - Application \$30
 - Biennial renewal \$80
- Graduate License:*
 - Application, graduate of accredited medical college \$30
 - Application, graduate of unaccredited medical college \$85
 - Annual renewal \$15
- Interim Limited License:*
 - Application \$30
 - Biennial renewal \$10
- Miscellaneous:*
 - Application, institutional license \$35
 - Application, temporary license \$45
 - Biennial renewal, limited license (permanent) \$25
- (b) *Nurse-midwife License:*
 - Application for nurse-midwife license (including one collaborative agreement) \$ 50

- Filing each additional collaborative agreement \$ 30
- Application for prescriptive authority certificate .. \$ 70
- Biennial renewal of nurse-midwife license \$ 40
- Biennial renewal of prescriptive authority certificate \$ 25
- Verification of licensure \$ 15
- (c) *Physician Assistant License:*
 - Application \$30
 - Biennial renewal \$40
 - Registration, supervising physician \$35
 - Registration of additional supervising physicians . . . \$5
 - Satellite location approval \$25
- (d) *Acupuncturist registration:*
 - (1) *Acupuncturist:*
 - Application \$30
 - Biennial renewal \$40
 - (2) *Practitioner of Oriental medicine registration:*
 - Application \$30
 - Biennial renewal \$40
- (e) *Drugless therapist license:*
 - Biennial renewal \$35
- (f) *Radiology Technician:*
 - Application for examination \$25
- (g) *Respiratory Care Practitioner Certificate:*
 - Application, temporary permit \$30
 - Application, initial certification \$30
 - Biennial renewal \$25
- (h) *Athletic Trainer:*
 - Application for certification \$20
 - Biennial renewal \$37
- (i) *Verification or Certification:*
 - Verification of status \$15
 - Certification of records \$25
- (j) *Examination Fees:*

The State Board of Medicine has adopted Nationally recognized examinations in each licensing class. Fees are established by the National owners/providers of the examinations and are indicated in the examination applications.

CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS

Subchapter A. LICENSURE AND REGULATION OF MIDWIFE ACTIVITIES

§ 18.1. Definitions.

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

- ACME*—The American Commission for Midwifery Education.
- ACNM*—The American College of Nurse-Midwives.
- AMCB*—The American Midwifery Certification Board.

Collaborating physician—A medical or osteopathic doctor who has entered into a collaborative agreement with a nurse-midwife.

Collaborative agreement—A signed written agreement between a midwife and collaborating physician in which they agree to the details of the collaborative arrangement between them with respect to care of midwifery clients.

Legend drug—A drug:

(i) Limited by the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. §§ 301–399) to being dispensed by prescription.

(ii) The product label of which is required to contain the following statement: “Rx only.”

Midwife examination—An examination offered or recognized by the Board to test whether an individual has accumulated sufficient academic knowledge with respect to the practice of midwifery to qualify for a nurse-midwife license. The Board recognizes as midwife examinations the certifying examinations of the ACNM, the ACNM Certification Council, Inc. (ACC), and AMCB, or their successor organizations.

Midwifery practice—Management of the care of essentially normal women and their normal neonates. This includes antepartum, intrapartum, postpartum and nonsurgically related gynecological care.

Midwife program—An academic and clinical program of study in midwifery which has been approved by the Board or by an accrediting body recognized by the Board. The Board recognizes the ACNM and ACME or their successor organization as an accrediting body of programs of study in midwifery.

Midwife practice guidelines—A written document developed by the nurse-midwife setting forth, in detail, the scope and limitations of the nurse-midwife’s intended practice.

Neonate—An infant during the first 28 days following birth.

Nurse-midwife—A person licensed by the Board to practice midwifery.

§ 18.2. Licensure requirements.

The Board will grant a nurse-midwife license to an applicant who meets the following requirements. The applicant shall:

- (1) Be licensed as a registered nurse in this Commonwealth.
- (2) Satisfy the licensure requirements in § 16.12 (relating to general qualifications for licenses and certificates).
- (3) Have successfully completed a midwife program.
- (4) Have obtained one of the following:

(i) A passing grade on a midwife examination. The Board accepts the passing grade on the certifying examination of the ACNM or AMCB as determined by the ACNM or AMCB or successor organization as recognized by the Board.

(ii) Certification as a midwife by the American College of Nurse-Midwives (ACNM) before the ACNM certification examination was first administered in 1971. To be eligible for renewal of a nurse-midwife license, the nurse-midwife shall maintain National certification available to the profession and recognized by the Board.

(5) Submit an application for a nurse-midwife license accompanied by the required fee. For the fee amount, see § 16.13 (relating to licensure, certification, examination and registration fees).

§ 18.3. Biennial registration requirements.

(a) A nurse-midwife license shall be registered biennially. The procedure for the biennial registration of a nurse-midwife license is in § 16.15 (relating to biennial registration; inactive status and unregistered status).

(b) As a condition of biennial license renewal, a nurse-midwife shall complete the continuing education requirement in section 12.1 of the Professional Nursing Law (63 P.S. § 222). In the case of a nurse-midwife who has prescriptive authority under the act, the continuing education required by the Professional Nursing Law (630.5 §§ 211–225.5) must include at least 16 hours in pharmacology completed each biennium.

(c) The fees for the biennial renewal of a nurse-midwife license and prescriptive authority are set forth in § 16.13 (relating to licensure, certification, examination and registration fees).

§ 18.4. Midwife practice guidelines.

At a minimum, the midwife practice guidelines must identify the following:

(1) The procedures and routines of care, including specific treatment regimens to be provided by the midwife, by practice area—for example, antepartum, intrapartum, postpartum and nonsurgically related gynecological care.

(2) The circumstances under which consultation, co-management, referral and transfer of care of women and neonates are to take place, and the mechanics by which each are to occur.

(3) Procedures and routines of care of neonates, including specific treatment regimens, if the nurse-midwife manages the care of neonates beyond the time of delivery.

§ 18.5. Collaborative agreements.

(a) A nurse-midwife may not engage in midwifery practice without having entered into a collaborative agreement and having filed the collaborative agreement with the Board.

(b) A nurse-midwife shall only engage in midwifery practice in accordance with the midwife practice guidelines and collaborative agreements.

(c) A collaborative agreement must contain either an acknowledgement that the nurse-midwife shall practice under the midwife practice guidelines, or that the nurse-midwife shall practice under the midwife practice guidelines as expanded or modified in the collaborative agreement.

(d) Expansions and modifications of the midwife practice guidelines agreed to by the nurse-midwife and the collaborating physician shall be set forth, in detail, in the collaborative agreement.

(e) If the collaborating physician intends to authorize the nurse-midwife to relay to other health care providers medical regimens prescribed by that physician, including drug regimens, that authority, as well as the prescribed regimens, shall be set forth in the collaborative agreement.

(f) The physician with whom a nurse-midwife has a collaborative agreement shall have hospital privileges or a formal arrangement for patient admission to a hospital

and shall practice in the specialty area of the care for which the physician is providing collaborative services.

(g) Collaborative agreements must meet the following requirements:

(1) The agreement must provide a predetermined plan for emergency services, and immediate availability of a physician to the nurse-midwife by direct communication or by radio, telephone or other telecommunication for consultation, co-management, or transfer of care as indicated by the health status of the patient.

(2) The agreement must identify and be signed by at least one collaborating physician and the nurse-midwife.

(3) A physician providing coverage need not be signatory to the collaborative agreement, but shall agree to adhere to the terms of the collaborative agreement, and shall be identified by name of physician, or name of group, or name of service.

(4) A physician providing interim coverage need not be signatory to the collaborative agreement, but shall agree to adhere to the terms of the collaborative agreement.

(5) Both the collaborating physician and the nurse-midwife are responsible to assure adherence to the terms and conditions of the collaborative agreement by themselves, others as appropriate within their practice groups, and physicians providing coverage.

(h) The collaborative agreement must satisfy the substantive requirements set forth in subsections (a)–(e) and be consistent with relevant provisions of the act and this subchapter, and must be filed with the Board. For a nurse-midwife with prescriptive authority, the collaborative agreement with a physician must identify the categories of drugs from which the nurse-midwife may prescribe or dispense and any restrictions thereto.

(i) A nurse-midwife or collaborating physician shall provide immediate access to the collaborative agreement to any client, pharmacist, licensed health care facility, licensed health care provider, physician, or the Board seeking to confirm the scope of the nurse-midwife's authority, and the nurse-midwife's ability to prescribe or dispense a drug.

§ 18.6. Practice of midwifery.

The nurse-midwife is authorized or required, or both, to do the following:

(1) Engage in midwifery practice as defined in § 18.1 (relating to definitions), as further provided for in this subchapter and in accordance with the ethical and quality standards of the profession as required in section 41(8) of the act (63 P. S. § 422.41(8)).

(2) Maintain a midwife protocol and collaborative agreements, and make them available for inspection by clients and the Board upon request.

(3) Prescribe medical, therapeutic and diagnostic measures for essentially normal women and their normal neonates in accordance with the midwife protocol or a collaborative agreement, or both.

(4) Administer specified drugs as provided in collaborative agreements or as directed by a collaborating physician for a specific patient and, if specifically authorized to do so in a collaborative agreement, relay to other health care providers medical regimens prescribed by the collaborating physician, including drug regimens.

(5) A nurse-midwife may, in accordance with a collaborative agreement with a physician, and consistent with the nurse-midwife's academic educational preparation

and National certification by the AMCB or its successor organizations, prescribe, dispense, order and administer medical devices, immunizing agents, laboratory tests and therapeutic, diagnostic and preventative measures.

(6) A nurse-midwife who possesses a master's degree or its substantial equivalent, and National certification, and applies to the Board, is eligible to receive a certificate from the Board which will authorize the nurse-midwife to prescribe, dispense, order, and administer drugs, including legend drugs and Schedule II through Schedule V controlled substances, as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), in accordance with § 18.6a (relating to prescribing and dispensing drugs) provided that the nurse-midwife demonstrates to the Board that:

(i) The nurse-midwife has successfully completed at least 45 hours of course-work specific to advanced pharmacology at a level above that required by a professional nursing education program.

(ii) The nurse-midwife has successfully completed 16 hours of advanced pharmacology within 2 years immediately preceding the application for prescriptive authority.

(iii) The nurse-midwife is acting in accordance with the terms and conditions set forth in a collaborative agreement with a physician.

(7) Perform medical services in the care of women and neonates that may go beyond the scope of midwifery, if the authority to perform those services is delegated by the collaborating physician in the collaborative agreement, and the delegation is consistent with standards of practice embraced by the nurse-midwife and the relevant physician communities in this Commonwealth, as set forth in §§ 18.401—18.402 (relating to medical doctor delegation of medical services).

(8) Refer and transfer to the care of a physician, as provided for in the midwife practice guidelines or a collaborative agreement, or both, those women and neonates whose medical problems are outside the scope of midwifery practice and who require medical services which have not been delegated to the nurse-midwife in a collaborative agreement.

(9) Review and revise the midwife practice guidelines as needed.

(10) Carry out responsibilities placed by law or regulation upon a person performing the functions that are performed by a nurse-midwife.

§ 18.6a. Prescribing, dispensing and administering drugs.

(a) *No Schedule I controlled substances.* A nurse-midwife may not prescribe or dispense Schedule I controlled substances as defined by section 4 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-104).

(b) *Prescribing, dispensing and administering drugs.* A nurse-midwife who has prescriptive authority may prescribe, administer and dispense drugs as follows:

(1) A nurse-midwife may prescribe, dispense or administer Schedule II through V controlled substances and legend drugs in accordance with the following restrictions:

(i) A nurse-midwife may not prescribe, dispense, order or administer a controlled substance except for a woman's acute pain.

(ii) In the case of a Schedule II controlled substance, the dose must be limited to 72 hours and may not be extended except with the approval of the collaborating physician.

(iii) In the case of a Schedule III or IV controlled substance, the prescription must be limited to 30 days and shall only be refilled with the approval of the collaborating physician.

(iv) A nurse-midwife may prescribe, dispense, order or administer psychotropic drugs only after consulting with the collaborating physician.

(v) A nurse-midwife may only prescribe or dispense a drug for a patient in accordance with the collaborative agreement.

(vi) A nurse-midwife may not delegate prescriptive authority to another health care provider.

(2) A nurse-midwife authorized to prescribe or dispense, or both, controlled substances, shall register with the United States Drug Enforcement Administration.

(c) *Prescription blanks.* The requirements for prescription blanks are as follows:

(1) Prescription blanks must bear the license number of the nurse-midwife and the name and contact information, including phone number, of the nurse-midwife in a printed format at the heading of the blank, as well as the initials "C.N.M." or similar designation.

(2) The signature of the nurse-midwife must be followed by the initials "C.N.M." or similar designation to identify the signer as a nurse-midwife.

(3) A nurse-midwife may use a prescription blank generated by a hospital or other licensed healthcare facility, provided the information in paragraph (1) appears on the blank.

(4) Prescription blanks may not be presigned by the nurse-midwife or collaborating physician.

(d) *Inappropriate prescribing.* Any party who identifies an inappropriate prescription shall immediately advise the nurse-midwife or the collaborating physician. The nurse-midwife or collaborating physician shall advise the patient to modify or discontinue use of the drug as medically appropriate. In the case of a written prescription, the nurse-midwife or the collaborating physician shall notify the pharmacy of the changes to the prescription. The order to modify or discontinue the use of the drug or prescription must be noted in the patient's medical record. The nurse-midwife shall seek consultation as medically indicated.

(e) *Recordkeeping requirements.* Recordkeeping requirements are as follows:

(1) When prescribing a drug, the nurse-midwife shall record in the patient's medical record the name, amount, directions for use and doses of the drug prescribed, the number of refills, the date of the prescription and the nurse-midwife's name. When utilizing electronic prescribing, the nurse-midwife shall comply with the requirements of the State Board of Pharmacy in § 27.201 (relating to electronically transmitted prescriptions).

(2) When dispensing a drug, the nurse-midwife shall record in the patient's medical record the name, amount, directions for use and doses of the medication dispensed, the date dispensed, and the nurse-midwife's name.

(f) *Compliance with regulations relating to prescribing, administering, dispensing, packaging and labeling of drugs.* A nurse-midwife shall comply with §§ 16.92—16.94 (relating to prescribing, administering and dispensing controlled substances; packaging; and labeling of dispensed drugs) and Department of Health regulations in 28 Pa. Code §§ 25.51—25.58 (relating to prescriptions) and regulations regarding packaging and labeling dispensed drugs. See § 16.94 and 28 Pa. Code §§ 25.91—25.95 (relating to labeling of drugs, devices and cosmetics).

§ 18.7. Disciplinary and corrective measures.

(a) The Board may refuse, revoke, suspend, limit or attach conditions to the license of a nurse-midwife engaging in conduct prohibited by section 41(8) of the act (63 P. S. § 422.41(8)) for Board-regulated practitioners.

(b) The Board will order the emergency suspension of the license of a nurse-midwife who presents an immediate and clear danger for the public health and safety, as required by section 40 of the act (63 P. S. § 422.40).

(c) The license of a nurse-midwife shall automatically be suspended, as required by section 40 of the act.

§ 18.9. Notification of changes in collaboration.

(a) A nurse-midwife licensed to practice midwifery who is unable to maintain a collaborative agreement and cannot arrange interim coverage shall cease practicing until a collaborative agreement is in place.

(b) A nurse-midwife shall notify the Board, in writing, of a change in or termination of a collaborative agreement or a change in mailing address within 30 days. The nurse-midwife shall provide the Board with the nurse-midwife's new address of residence, address of employment and any change of collaborating physician. A change in medical staff of a medical practice identified in the collaborative agreement is not a change in the collaborating agreement, so long as the named collaborating physician continues to collaborate with the nurse-midwife under the collaborative agreement.

(c) Failure of a nurse-midwife to notify the Board within 30 days of changes in, or a termination in the collaborating physician/nurse-midwife relationship is a basis for disciplinary action against the nurse-midwife's license.

(d) A nurse-midwife with prescriptive authority who cannot continue to fulfill the requirements for prescriptive authority shall cease to prescribe and shall so notify the Board in writing within 30 days.

[Pa.B. Doc. No. 09-618. Filed for public inspection April 3, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121, 129 AND 130]

Adhesives, Sealants, Primers and Solvents

The Environmental Quality Board (Board) proposes to amend Chapters 121 and 129 (relating to general provisions; and standards for sources) and to add Subchapter D (relating to adhesives, sealants, primers and solvents) to Chapter 130 (relating to standards for products), to read as set forth in Annex A.

The proposed rulemaking will add definitions to § 121.1 (relating to definitions) for approximately 56 new terms, including those that relate to the adhesive, sealant, primer and solvent product categories that will be regulated under § 129.77 (relating to control of emissions from the use or application of adhesives, sealants, primers and solvents) and Chapter 130, Subchapter D, and will amend definitions for nine existing terms to provide clarity.

The proposed rulemaking will add § 129.77 to regulate the owner or operator of a facility or stationary source that uses or applies, on or after April 15, 2010, a regulated adhesive, sealant, adhesive primer or sealant primer product. The proposal will adopt emission standards and volatile organic compound (VOC) content limits for the industrial or commercial use or application of 37 categories of adhesive, sealant, adhesive primer or sealant primer products, and adhesive or sealant products applied to particular substrates. The proposal will also include requirements for the use of surface preparation solvents and cleanup solvents. Owners and operators using noncomplying products will have the option to use add-on controls as a compliance alternative rather than switching to complying products.

The proposal will add Subchapter D to Chapter 130 to adopt emission standards and VOC content limits for the sale, supply, offer for sale, manufacture, use or application of 37 categories of adhesive, sealant, adhesive primer and sealant primer products; adhesive and sealant products applied to certain substrates; and surface preparation solvents and cleanup solvents. The requirements of the proposed Chapter 130, Subchapter D, will apply to a person who, on or after April 15, 2010, sells, supplies, offers for sale or manufactures for sale an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product for industrial or commercial use or application in this Commonwealth. The requirements will also apply to a person who uses or applies, for compensation, an adhesive, sealant, adhesive primer or sealant primer product; adhesive or sealant products applied to particular substrates; or surface preparation solvent or cleanup solvent products in this Commonwealth.

This proposal was adopted by the Board at its meeting on December 16, 2008.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Arleen J. Shulman, Chief, Division of Air Resource Management, P. O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 772-3436, or Kristen Campfield Furlan, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (select Public Participation).

C. *Statutory Authority*

This proposed rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P. S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth.

D. *Background and Purpose*

The purpose of this proposed rulemaking is to establish a program to limit the emissions of VOCs from the industrial and commercial use and application of certain adhesive, sealant, adhesive primer and sealant primer products; adhesive and sealant products applied to certain substrates; and surface preparation solvent and cleanup solvent products. This proposed rulemaking also extends these product requirements to the owners or operators of facilities that use these products as part of a manufacturing process and provides them with an alternative compliance method of using add-on air pollution controls in place of complying products. VOCs are a precursor for ozone formation. Ground-level ozone is not emitted directly by adhesives, sealants, primers and solvents to the atmosphere, but is formed by a photochemical reaction between VOCs and nitrogen oxides (NOx) in the presence of sunlight.

The United States Environmental Protection Agency (EPA) is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and the environment: ozone, particulate matter, NOx, carbon monoxide, sulfur dioxide and lead. The Federal Clean Air Act (42 U.S.C. §§ 7401—7671q) established two types of NAAQS: primary standards, limits set to protect public health; and secondary standards, limits set to protect public welfare, including protection against visibility impairment and from damage to animals, crops, vegetation and buildings. In 1997, the EPA established the 8-hour ozone NAAQS, a more protective ozone primary and secondary NAAQS to protect public health and welfare.

When ground-level ozone is present in concentrations in excess of the Federal health-based 8-hour NAAQS for ozone, public health and welfare are adversely affected. Ozone exposure correlates to increased respiratory disease and higher mortality rates. Ozone can inflame and damage the lining of the lungs. Within a few days, the damaged cells are shed and replaced, much like the skin peels after sunburn. Over a long time period, lung tissue may become permanently scarred, resulting in permanent

loss of lung function and a lower quality of life. When ambient ozone levels are high, more people with asthma have attacks that require a doctor's attention or use of medication. Ozone also makes people more sensitive to allergens including pet dander, pollen and dust mites, all of which can trigger asthma attacks.

The EPA has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments including asthma. While children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ozone while engaged in activities that involve physical exertion. High levels of ozone also affect animals in ways similar to humans.

In addition to causing adverse human and animal health effects, the EPA has concluded that ozone affects vegetation and ecosystems, leading to reductions in agricultural crop and commercial forest yields by destroying chlorophyll; reduced growth and survivability of tree seedlings; and increased plant susceptibility to disease, pests, and other environmental stresses, including harsh weather. In long-lived species, these effects may become evident only after several years or even decades and have the potential for long-term adverse impacts on forest ecosystems. Ozone damage to the foliage of trees and other plants can decrease the aesthetic value of ornamental species used in residential landscaping, as well as the natural beauty of parks and recreation areas. Through deposition, ground-level ozone also contributes to pollution in the Chesapeake Bay. The economic value of some welfare losses due to ozone can be calculated, such as crop yield loss from both reduced seed production and visible injury to some leaf crops, including lettuce, spinach and tobacco, as well as visible injury to ornamental plants, including grass, flowers and shrubs. Other types of welfare loss may not be quantifiable, such as the reduced aesthetic value of trees growing in heavily visited parks.

High levels of ground-level ozone can also cause damage to buildings and synthetic fibers, including nylon, and reduced visibility on roadways and in natural areas. The implementation of additional measures to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health and welfare, animal and plant health and welfare and the environment.

In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. The proposed rulemaking will support the 8-hour ozone NAAQS attainment demonstrations for the Philadelphia 5-county area (comprising Bucks, Chester, Delaware, Montgomery and Philadelphia Counties) and the 7-county Pittsburgh-Beaver Valley Area. The proposed rulemaking will also provide additional reductions to support the maintenance plans for the remaining areas recently redesignated to attainment of the 8-hour ozone health-based standard.

Further, the proposed rulemaking will provide additional reductions of VOC emissions to meet the revised 8-hour ozone standard of 0.075 part per million (ppm), down from 0.08 ppm, promulgated by the EPA on March 27, 2008 (73 FR 16436). Recommendations for attainment, nonattainment and unclassifiable areas under the new, more stringent 8-hour ozone standard must be submitted to the EPA in March 2009; final action by the

EPA is anticipated in March 2010. The designations will take effect 60 days after the EPA publishes a notice in the *Federal Register*.

There are no Federal limits for the larger container sizes of adhesive, sealant, adhesive primer and sealant primer products that will be subject to regulation under this proposed rulemaking. The staff of the Ozone Transport Commission (OTC) and Member States and the District of Columbia formed a workgroup to discuss control measures for the sale, offer for sale, supply, manufacture, industrial use and commercial application of solvent-based adhesives, sealants and primers during a series of conference calls and workshops held from the spring of 2004 through the autumn of 2006. The OTC workgroup collected and evaluated information regarding emission benefits, cost-effectiveness and implementation issues.

This proposed rulemaking is based on emission reduction measures recommended by the OTC in its 2006 Model Rule for adhesives, sealants and primers, which is based on the 1998 reasonably available control technology (RACT) and best available retrofit control technology (BARCT) determination by the California Air Resources Board (CARB) for the industrial and commercial use and application of adhesives, sealants and primers. The Department has reviewed the OTC 2006 Model Rule and the CARB RACT/BARCT for their applicability to the ozone reduction measures necessary for this Commonwealth.

The OTC workgroup received comments on the 2006 Model Rule from the National Paint and Coatings Association, the Adhesive and Sealant Council, Inc., and LORD Corporation. The Department reviewed these comments for applicability to the development of this Pennsylvania-specific proposed rulemaking.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the proposed rulemaking on March 27 and May 23, 2008. The AQTAC unanimously concurred with the Department's recommendation to seek the Board's approval of the proposed rulemaking, asking the Department to consider reducing recordkeeping requirements for some product users and the special needs of segments of the roofing industry. The Department also consulted with the Citizen's Advisory Council on March 18 and May 20, 2008, and with the Small Business Compliance Advisory Committee on April 23, 2008.

The proposed rulemaking is reasonably necessary to achieve and maintain the health-based 8-hour ozone NAAQS in this Commonwealth. This proposed rulemaking is consistent with regulatory initiatives that will be undertaken by other jurisdictions in the Ozone Transport Region (OTR). The proposed rulemaking, when adopted, will be submitted to the EPA as a revision to the Commonwealth's State Implementation Plan.

E. *Summary of Regulatory Requirements*

This proposed rulemaking amends the definitions in § 121.1 (relating to definitions) of the following terms, to improve clarity, style and format or explain new product categories: "adhesive," "adhesive primer," "aerospace vehicle or component," "as applied," "as supplied," "cyanoacrylate adhesive," "exempt compound or exempt solvent," "sealant" and "solvent."

This proposed rulemaking adds definitions in § 121.1 for the following terms to explain new product categories: "ABS welding adhesive or acrylonitrile-butadiene-styrene welding adhesive," "aerosol adhesive," "architectural sealant or primer," "automotive glass adhesive primer,"

“CPVC plastic or chlorinated polyvinyl chloride plastic,” “CPVC welding adhesive or chlorinated polyvinyl chloride welding adhesive,” “ceramic tile installation adhesive,” “cleanup solvent,” “computer diskette jacket manufacturing adhesive,” “contact bond adhesive,” “cove base,” “cove base installation adhesive,” “diluent,” “drywall installation,” “fiberglass,” “flexible vinyl,” “indoor floor covering installation adhesive,” “laminant,” “low-solids adhesive, sealant or primer,” “marine deck sealant or marine deck sealant primer,” “medical equipment manufacturing,” “metal to urethane/rubber molding or casting adhesive,” “multipurpose construction adhesive,” “nonmembrane roof installation/repair adhesive,” “outdoor floor covering installation adhesive,” “PVC plastic or polyvinyl chloride plastic,” “PVC welding adhesive or polyvinyl chloride welding adhesive,” “panel installation,” “perimeter bonded sheet flooring installation,” “plastic cement welding adhesive,” “plastic cement welding adhesive primer,” “plastic foam,” “plasticizer,” “plastics,” “porous material,” “propellant,” “reactive diluent,” “roadway sealant,” “rubber,” “SCAQMD-South Coast Air Quality Management District,” “sealant primer,” “sheet rubber installation,” “single-ply roof membrane,” “single-ply roof membrane adhesive primer,” “single-ply roof membrane installation and repair adhesive,” “single-ply roof membrane sealant,” “structural glazing adhesive,” “subfloor installation,” “surface preparation solvent,” “thin metal laminating adhesive,” “tire repair,” “tire tread adhesive,” “traffic marking tape,” “traffic marking tape adhesive primer,” “undersea-based weapons systems components” and “waterproof resorcinol glue.”

The proposed definition of the term “single-ply roof membrane” specifies that it is a prefabricated single sheet of rubber, normally ethylene propylene diene terpolymer, that is field-applied to a building roof using one layer of membrane material. The Board seeks comment on whether the definition of this term should be expanded to include other types of single-ply roof membrane, including thermosets and thermoplastics, rather than those only made of rubber.

Proposed § 129.77(a) establishes that this section applies to the owner or operator of a facility that uses or applies, on or after April 15, 2010, an adhesive, sealant, adhesive primer or sealant primer subject to the emissions standards in Table V (relating to VOC content limits for adhesives, sealants, adhesive primers and sealant primers, as applied) of § 129.77; an adhesive or sealant product applied to the listed substrate subject to the emission standards in Table VI (relating to VOC content limits for adhesive or sealant products applied to particular substrates, as applied) of § 129.77; or a surface preparation solvent or cleanup solvent.

Proposed § 129.77(b) establishes that, on or after April 15, 2010, an owner or operator of a facility may not use or apply an adhesive, sealant, adhesive primer or sealant primer that exceeds the applicable VOC content limit in Table V or VI, except as provided elsewhere in § 129.77.

Proposed § 129.77(c) establishes that, on or after April 15, 2010, an owner or operator of a facility may not use or apply a surface preparation or cleanup solvent that exceeds the applicable VOC content limit or composite vapor pressure requirements of this section, except as provided elsewhere in this section.

Proposed § 129.77(d) specifies that the VOC content limits in Table VI apply if the adhesive or sealant does not have a VOC content limit in Table V. This subsection also specifies that if an adhesive is used to bond dissimi-

lar substrates together, the applicable substrate category with the highest VOC content is the limit for this use.

Proposed § 129.77(e) specifies requirements for an owner or operator using a surface preparation solvent or cleanup solvent.

Proposed § 129.77(f) specifies the requirements for removal of an adhesive, sealant, adhesive primer or sealant primer from the parts of spray application equipment.

Proposed § 129.77(g) addresses the requirements for an owner or operator using an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent subject to the emission standard requirements of this section that wants to use add-on air pollution control equipment to comply.

Proposed § 129.77(h) establishes that a person using an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent subject to this section shall store or dispose of all absorbent materials, including cloth or paper, which are moistened with products subject to this section in nonabsorbent containers that are kept closed except when placing materials in or removing materials from the container.

Proposed § 129.77(i) establishes that a person may not solicit, require the use of or specify the application of a product subject to this section if the use or application would result in a violation of this section.

Proposed § 129.77(j) specifies that a person who applies or solicits the application of a product subject to this section may not add solvent to the adhesive, sealant, adhesive primer or sealant primer in an amount in excess of the manufacturer’s recommendation for application, if this additional solvent causes the product to exceed the applicable VOC content limit listed in Table V or VI, unless the emissions are controlled through the use of add-on air pollution control equipment as specified in subsection (g).

Proposed § 129.77(k) provides for certain exemptions, including exemptions for products being tested or evaluated in a research and development, quality assurance or analytical laboratory, if records are maintained as required in subsections (q) and (r); products that are subject to certain other Department regulations; adhesives and sealants that contain less than 20 grams of VOC per liter of adhesive or sealant, less water and less exempt compounds, as applied; cyanoacrylate adhesives; adhesives, sealants, adhesive primers or sealant primers that are sold or supplied by the manufacturer or supplier in containers with a net volume of 16 fluid ounces or less, or a net weight of one pound or less, except plastic cement welding adhesives and contact adhesives; and contact adhesives that are sold or supplied by the manufacturer or supplier in containers with a net volume of 1 gallon or less.

Proposed § 129.77(l) provides exemptions for the use of adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents and cleanup solvents in certain operations, including tire repair operations, if the label of the tire repair adhesive states, “For tire repair only;” the assembly, repair and manufacture of aerospace components or undersea-based weapon systems; the manufacture of medical equipment; and certain plaque laminating operations.

Proposed § 129.77(m) provides a schedule and a phase-in period for the use of compliant single-ply roof membrane installation or repair adhesive, single-ply roof

membrane sealant and single-ply roof membrane adhesive primer to address rubber roofing adhesive curing issues during the colder months of the year. The phase-in strategy is proposed to provide time for product research and development, and for the training of roofing contractors in the effective application of new formulations for use in cold temperatures. According to the Ethylene Propylene Diene Membrane (EPDM) Roofing Association (ERA), compliance with the OTC 2006 Model Rule VOC content limit of 250 grams per liter for single-ply roof membrane installation or repair bonding adhesive is not currently possible in the colder months, as roofing adhesives meeting this limit do not properly cure at temperatures below 40° F. A phase-in strategy has been adopted in Connecticut and is also being considered by New Jersey, New York and Rhode Island and the District of Columbia.

Proposed § 129.77(n) provides an exemption from the requirements of § 129.77 if the total VOC emissions from all adhesives, sealants, adhesive primers and sealant primers used at the facility are less than 200 pounds or an equivalent volume, per calendar year. An owner or operator claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption.

Proposed § 129.77(o) provides an exemption for the use of a noncomplying adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent if the total volume of noncomplying products applied facility-wide does not exceed 55 gallons per calendar year. An owner or operator claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption.

Proposed § 129.77(p) specifies that each owner or operator subject to this section shall maintain records demonstrating compliance with this section, including specific information. Several members of AQTAC questioned the necessity of paragraph (6), which requires that the owner or operator maintain records of the volume used of each of the regulated products. These members suggested that keeping records of small quantities of miscellaneous product use and keeping records of materials used as opposed to materials purchased would be unnecessary and burdensome. These members questioned who should keep records for materials used by outside contractors (for example, roofers and piping contractors). They suggested either revising paragraph (6) to require records of volume of product "purchased" instead of volume of product "used," or deleting paragraph (6). They suggested that a certification that compliant products were used would suffice. Other members of AQTAC thought paragraph (6) should remain intact because of the information it would provide about actual emissions. The Board seeks comment on the alternative approaches suggested by members of AQTAC.

Proposed § 129.77(q) provides recordkeeping requirements for the person conducting testing on products that are subject to the laboratory testing exemption.

Proposed § 129.77(r) specifies that all records made to determine compliance with this section shall be maintained onsite for at least 5 years from the date the record is created and made available to the Department upon request.

Proposed § 129.77(s) specifies, with certain exceptions, that the VOC and solids content of all nonaerosol adhesives, sealants, adhesive primers, sealant primers, surface

preparation solvents and cleanup solvents shall be determined using either EPA Reference Method 24 or SCAQMD Method 304, including updates and revisions.

Proposed § 129.77(t) specifies that the identity and concentration of exempt organic compounds shall be determined using either ASTM D4457 or SCAQMD Method 303, including updates and revisions.

Proposed § 129.77(u) specifies that the VOC content of a plastic cement welding adhesive or primer shall be determined using SCAQMD Method 316A, including updates and revisions.

Proposed § 129.77(v) specifies that to determine if a diluent is a reactive diluent, the percentage of the reactive organic compound that becomes an integral part of the finished material shall be determined using SCAQMD Method 316A, including updates and revisions.

Proposed § 129.77(w) specifies the procedure for determining the composite vapor pressure of organic compounds in cleaning materials.

Proposed § 129.77(x) specifies that the vapor pressure of each component in the cleaning material subject to the requirement of § 129.77(w) may be determined from either ASTM 2879 or one or more of the listed references, including updates and revisions.

Proposed § 129.77(y) specifies that if air pollution control equipment is used to meet the requirements of this section, the owner or operator shall determine the capture efficiency and the control efficiency using certain procedures.

Proposed § 129.77(z) specifies that the active and passive solvent losses from spray gun cleaning systems shall be determined using the SCAQMD method, *General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems*, including updates and revisions.

Proposed § 129.77(aa) specifies the method for calculating the VOC content of adhesive, sealant, adhesive primer or sealant primer products that do not contain reactive diluents.

Proposed § 129.77(bb) specifies the method for calculating the VOC content for adhesive, sealant, adhesive primer or sealant primer products that contain reactive diluents.

Proposed § 129.77(cc) specifies the method for calculating the VOC content for low-solids adhesive, sealant, adhesive primer or sealant primer products.

Proposed § 129.77(dd) specifies the method for calculating percent VOC by weight.

Proposed § 129.77(ee) specifies how to convert from units of grams per liter to units of pounds per gallon.

Proposed § 129.77, Table V lists the VOC content limits for the regulated adhesives, sealants, adhesive primers and sealant primers, as applied.

Proposed § 129.77, Table VI lists the VOC content limits for adhesive or sealant products applied to particular substrates, as applied.

Proposed § 130.701 (relating to applicability) of Chapter 130, Subchapter D, establishes that, except as provided in § 130.703 (relating to exemptions and exceptions), this new subchapter applies to a person who, on or after April 15, 2010, sells, supplies, offers for sale, manufactures for sale, or uses or applies for compensation, in this Commonwealth, an adhesive, sealant, adhesive primer or sealant primer subject to this subchapter.

Proposed § 130.702(a) (relating to emission standards) establishes that on and after April 15, 2010, except as provided in § 130.703 (relating to exemptions and exceptions), a person may not sell, supply, offer for sale or manufacture for sale for use in this Commonwealth an adhesive, sealant, adhesive primer or sealant primer manufactured on or after April 15, 2010, which contains VOCs in excess of the applicable VOC content limits specified in Table I (relating to VOC content limits for adhesives, sealants, adhesive primers and sealant primers, as applied) of § 130.702.

Proposed § 130.702(a) also establishes that on and after April 15, 2010, except as provided in § 130.703, a person may not sell, supply, offer for sale or manufacture for sale for use in this Commonwealth an adhesive or sealant product manufactured on or after April 15, 2010, applied to particular substrates, which contains VOCs in excess of the applicable VOC content limits in Table II (relating to VOC content limits for adhesive or sealant products applied to particular substrates, as applied) of § 130.702.

Proposed § 130.702(b) establishes that on and after April 15, 2010, except as provided in § 130.703, a person may not use or apply for compensation within this Commonwealth an adhesive, sealant, adhesive primer or sealant primer which contains VOCs in excess of the applicable VOC content limits specified in Table I or an adhesive or sealant product applied to particular substrates manufactured on or after April 15, 2010, which contains VOCs in excess of the applicable VOC content limits in Table II.

Proposed § 130.702(c) describes how the VOC content limits in Table II will apply.

Proposed § 130.702(d) establishes additional requirements for persons using a surface preparation solvent or cleanup solvent.

Proposed § 130.702(e) establishes the methods that must be followed for removing adhesive, sealant, adhesive primer or sealant primer from the parts of spray application equipment.

Proposed § 130.702(f) establishes that a person using a product subject to this subchapter shall store or dispose of all absorbent materials, including cloth or paper, which are moistened with adhesives, sealants, primers or solvents subject to this subchapter in nonabsorbent containers that are kept closed except when placing materials in or removing materials from the container.

Proposed § 130.702(g) establishes that a person may not solicit, require the use of or specify the application of a product subject to this subchapter if the use or application would result in a violation of this subchapter.

Proposed § 130.702(h) specifies that a person who applies or solicits the application of an adhesive, sealant, adhesive primer or sealant primer subject to this subchapter may not add solvent to the adhesive, sealant, adhesive primer or sealant primer in an amount in excess of the manufacturer's recommendation for application, if this additional solvent causes the product to exceed the applicable VOC content limit listed in Table I or II.

Proposed § 130.702, Table I lists the VOC content limits for the regulated adhesives, sealants, adhesive primers and sealant primers, as applied.

Proposed § 130.702, Table II lists the VOC content limits for the regulated adhesive or sealant products applied to particular substrates, as applied.

Proposed § 130.703 provides certain exemptions from the requirements of proposed Subchapter D. Proposed subsection (a) provides exemptions for products being tested or evaluated in a research and development, quality assurance or analytical laboratory, if records are maintained as required in § 130.704 (relating to recordkeeping requirements); products that are subject to certain other Department regulations; adhesives and sealants that contain less than 20 grams of VOC per liter of adhesive or sealant, less water and less exempt compounds, as applied; cyanoacrylate adhesives; adhesives, sealants, adhesive primers or sealant primers that are sold or supplied by the manufacturer or supplier in containers with a net volume of 16 fluid ounces or less, or a net weight of 1 pound or less, except plastic cement welding adhesives and contact adhesives; and contact adhesives that are sold or supplied by the manufacturer or supplier in containers with a net volume of 1 gallon or less.

Proposed § 130.703(b) provides exemptions from the requirements of proposed Subchapter D for the use of adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents and cleanup solvents in certain operations, including tire repair operations, if the label of the tire repair adhesive states, "For tire repair only"; the assembly, repair and manufacture of aerospace components or undersea-based weapon systems; the manufacture of medical equipment; and certain plaque laminating operations.

Proposed § 130.703(c) provides a schedule and a phase-in period for the use and application of compliant single-ply roof membrane installation or repair adhesive, single-ply roof membrane sealant and single-ply roof membrane adhesive primer to address rubber roofing adhesive curing issues during the colder months of the year. This phase-in strategy is provided for the same reasons as those described proposed § 129.77(m).

Proposed § 130.703(d) provides an exemption for the sale, supply, offer for sale and manufacture of single-ply roof membrane adhesives, sealants and primers prior to January 1, 2012. This proposed exemption is premised upon adoption of the phase-in strategy in proposed subsection (c).

Proposed § 130.703(e) provides an exemption from many of the requirements of proposed § 130.702 if the total VOC emissions from all adhesives, sealants, adhesive primers and sealant primers used at the facility are less than 200 pounds or an equivalent volume, per calendar year. An owner or operator claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption. An identical exemption is established in § 129.77(n) of this proposed rulemaking. The Board seeks comment on the suitability of including this exemption in Subchapter D, which applies to persons who sell, supply, offer for sale or manufacture for sale, and persons who use or apply for compensation, the regulated products.

Proposed § 130.703(f) provides an exemption for the use of a noncomplying adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent if the total volume of noncomplying products applied facility-wide does not exceed 55 gallons per calendar year. An owner or operator claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption. An identical exemption is established in § 129.77(o) of this proposed rulemaking. The Board seeks

comment on the suitability of including this exemption in Subchapter D, which applies to persons who sell, supply, offer for sale or manufacture for sale, and persons who use or apply for compensation, the regulated products.

Proposed § 130.703(g) provides an exemption for an adhesive, sealant, adhesive primer or sealant primer product if the manufacturer or distributor keeps records demonstrating that the product is intended for shipment and use outside of this Commonwealth and that the manufacturer or distributor has taken reasonably prudent precautions to assure that the product is not distributed to or within this Commonwealth.

Proposed § 130.703(h) precludes the exercise of the exemption provided in subsection (g) for an adhesive, sealant, adhesive primer or sealant primer product sold, supplied or offered for sale by a person to a retail outlet in this Commonwealth.

Proposed § 130.703(i) specifies that the requirements of Subchapter D does not apply to an adhesive, sealant, adhesive primer or sealant primer product that is sold or supplied for use or application at a facility subject to the requirements of § 129.77.

Proposed § 130.703(j) specifies that §§ 130.704 and 130.705 (relating to compliance procedures and test methods) do not apply to the use of an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent at a private residence for a noncommercial purpose.

Proposed § 130.704 specifies that on and after April 15, 2010, a person who sells, supplies, offers for sale, manufactures for sale, uses or applies in this Commonwealth an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product subject to this subchapter shall maintain records demonstrating compliance with this subchapter, including certain information. This section also specifies that all records made to determine compliance with this section shall be maintained onsite for at least 5 years from the date the record is created and made available to the Department upon request.

Several members of AQTAC questioned the necessity of § 130.704(b)(6), which requires that the owner or operator maintain records of the volume used of each of the regulated products. These members suggested that keeping records of small quantities of miscellaneous product use and keeping records of materials used as opposed to materials purchased would be unnecessary and burdensome. These members questioned who should keep records for materials used by outside contractors (for example, roofers and piping contractors). They suggested either revising paragraph (6) to require records of volume of product "purchased" instead of volume of product "used", or deleting paragraph (6). They suggested that a certification that compliant products were used would suffice. Other members of AQTAC thought paragraph (6) should remain intact because of the information it would provide about actual emissions. The Board seeks comment on the alternative approaches suggested by members of AQTAC.

Proposed § 130.705 specifies the compliance procedures, test methods and calculations that shall be used to determine the VOC, solids content and exempt organic compound content of adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents and cleanup solvents subject to this subchapter.

Proposed § 130.706 (relating to container labeling) specifies that on and after April 15, 2010, each manufact-

urer of an adhesive, sealant, adhesive primer or sealant primer product subject to this subchapter shall display certain information on the product container or label.

Consistent with the OTC 2006 Model Rule, the proposed rulemaking does not include a date-coding requirement. This presents problems for tracking the sale and use of product manufactured before the proposed regulatory compliance date of April 15, 2010. The Board seeks comment on whether the final-form regulations should include a date-coding requirement to facilitate enforcement of the regulations and the sale and use of product manufactured before the proposed compliance date of April 15, 2010 (sell-through and use-through). The Department will also consult with other OTR states on this issue.

F. *Benefits, Costs and Compliance*

Benefits

The citizens of this Commonwealth will be the major benefactors from this proposed rulemaking through reduced exposure to a variety of solvents, including hazardous air pollutants (HAPs), that are used in a variety of adhesive, sealant, adhesive primer and sealant primer products. These proposed amendments will result in improved air quality by reducing VOC ozone precursor emissions from the industrial and commercial use and application of the regulated adhesive, sealant and primer products. Benefits will also occur from reduced VOC content in surface preparation solvent and cleanup solvent products. The proposed amendments will encourage the implementation of new technologies and practices, which will reduce emissions of VOCs and HAPs throughout this Commonwealth.

Compliance Costs

The cost of complying with the new requirements includes the cost of using or developing alternative product formulations, including product formulations for low-VOC or water-based adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent products. Based on information provided by the Ventura County Air Pollution Control District (VCAPCD), the CARB determined that the cost-effectiveness of the VCAPCD adhesives rule, which formed the basis of the CARB 1998 RACT/BARCT Determination upon which the OTC 2006 Model Rule is based, ranges from a savings of \$1,060 per ton to a cost of \$2,320 per ton of VOC reduced. Any costs are likely to be less in the OTR, because some of the research and reformulation costs incurred for products sold in California will not have to be incurred again for products sold in the OTR. The CARB also reports a cost-effectiveness of \$9,000 to \$110,000 per ton of VOC reduced should the use of add-on control equipment to comply with the requirements be necessary.

The Department anticipates similar costs in this Commonwealth. MACTEC Federal Programs, a consultant to the OTC, indicated in its report, "Identification and Evaluation of Candidate Control Measures, Final Technical Support Document," that the requirements of the OTC Adhesives, Sealants and Primers Model Rule would reduce emissions of VOC by approximately 21.8 tons per summer day (tpsd) in this Commonwealth. Ozone monitoring season (April 1 through October 31) VOC emission reductions from this rulemaking would be approximately 4,665.2 tons (21.8 tpsd × 214 ozone monitoring season days). Assuming that there are approximately 12 million people living in this Commonwealth, the average ozone

season VOC emissions reduction is calculated to be 0.78 pound of VOC emissions reduced per resident of this Commonwealth.

The total ozone monitoring season costs are calculated by multiplying the maximum estimated cost of \$2,320 per ton of VOC emissions reduced times 4,665.2 tons per ozone monitoring season, which equals approximately \$10,823,264 per ozone monitoring season. The maximum ozone monitoring season cost per resident of this Commonwealth would be approximately \$0.90.

Annual VOC emission reductions from this rulemaking would be approximately 7,957 tons (21.8 tpsd \times 365 days per year) or 1.3 pounds of VOC emissions reduced per resident of this Commonwealth per year. Annual costs would be \$2,320 per ton of VOC emissions reduced times 7,957 tons per year or \$18,460,000. The maximum annual cost per resident of this Commonwealth would be approximately \$1.55.

Cost savings could be incurred if reformulated products are less expensive, with the possibility that residents of this Commonwealth could realize savings of \$0.41 per ozone season per resident (\$1,060 \times 4,665.2 tons divided by 12,000,000 residents) or \$0.70 annually per resident (\$1,060 \times 7,957 tons divided by 12,000,000 residents).

Owners or operators of facilities or stationary sources using regulated adhesive, sealer, primer and solvent products could incur costs of \$9,000 to \$110,000 per ton of VOC emissions reduced, should the use of add-on control equipment be necessary to comply with the requirements of this rulemaking, based on CARB estimates. However, fewer than 40 facilities in this Commonwealth are expected to be required to comply with this rulemaking. Most of the affected facilities already have permits that establish requirements for the use of the adhesive, sealant, primer and solvent products proposed for regulation in this rulemaking.

Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing Regional compliance assistance program.

Paperwork Requirements

The proposed rulemaking includes recordkeeping and reporting requirements in § 129.77 for affected owners and operators of facilities that use or apply the regulated adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent products. These recordkeeping requirements include keeping lists of each regulated product in use or in storage; a data sheet or material list for each product that provides the name of the product, manufacturer's identification, and use for the product; the VOC content for the product as supplied; the catalysts, reducers or other components used and the mix ratio; the VOC content or vapor pressure of each product as applied, if solvent or other VOC is added to the product before application; and the volume used of each product.

For an adhesive, sealant, adhesive primer and sealant primer product subject to the laboratory testing exemption, the person conducting the testing shall make and maintain records of all products used, including the following information: the product name; the product category of the material or type of application; and the VOC content of the material.

Records made to determine compliance with § 129.77 shall be maintained onsite for at least 5 years from the date the record is created and made available to the Department upon request.

The proposed rulemaking includes recordkeeping and reporting requirements in Chapter 130, Subchapter D for a person who sells, supplies, offers for sale or manufactures for sale for use in this Commonwealth an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product subject to this subchapter. The person shall maintain records demonstrating compliance with this subchapter, including the following information: a data sheet or material list which provides the material name, manufacturer identification and material application for each product; the VOC content of each product, as supplied; and the number of gallons of product sold in this Commonwealth.

A person who uses or applies an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product subject to Subchapter D shall maintain records demonstrating compliance with this subchapter, including the following information: a list of each adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent product in use and in storage; a data sheet or material list which provides the product name, manufacturer identification and use or material application for each product included on the list; the VOC content of each product on the list, as supplied; catalysts, reducers or other components used and the mix ratio; the VOC content or vapor pressure of each product on the list, as applied, if solvent or other VOC is added to the product before application; and the volume used of each product on the list.

For an adhesive, sealant, adhesive primer and sealant primer product subject to the laboratory testing exemption of § 130.703(a)(1), the person conducting the testing shall make and maintain records of all materials used, including the following information: the product name; the product category of the material or type of application; and the VOC content of the material.

Records made to determine compliance with Chapter 130, Subchapter D shall be maintained for at least 5 years from the date the record is created and made available to the Department upon request.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposal has incorporated the following pollution prevention incentives:

The proposed amendments will assure that the citizens and the environment of this Commonwealth experience the benefits of reduced emissions of VOCs and HAPs from the industrial and commercial use or application of low-VOC adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent products. Although the proposed requirements are to

address ground-level ozone air quality by reducing emissions of ozone precursors, the reformulation of products to meet the VOC content limits will also result in the reduction of HAP emissions. The proposed amendments will result in improved indoor and outdoor air quality for all citizens of this Commonwealth by reducing VOC ozone precursor emissions and HAP compounds. The reduced levels of HAPs will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of HAP compounds in spillage on the ground.

H. *Sunset Review*

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

I. *Regulatory Review*

In accordance with section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 20, 2009, the Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

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

J. *Public Comments*

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by June 8, 2009. 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 8, 2009. 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 regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by June 8, 2009. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt.

K. *Public Hearings*

The Board will hold three public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held as follows:

- May 4, 2009 1 p.m. Department of Environmental Protection
Southwest Regional Office
Waterfront A Conference Room
400 Waterfront Drive
Pittsburgh, PA 15222
- May 7, 2009 1 p.m. Department of Environmental Protection
Southeast Regional Office
Delaware River Conference Room
2 East Main Street
Norristown, PA 19401
- May 8, 2009 1 p.m. Department of Environmental Protection
Rachel Carson State Office Building
Room 105
400 Market Street
Harrisburg, PA 17105

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Chairperson

Fiscal Note: 7-428. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE III. AIR RESOURCES
CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P.S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

ABS welding adhesive or acrylonitrile-butadiene-styrene welding adhesive—An adhesive intended by the manufacturer to weld acrylonitrile-butadiene-styrene (ABS) pipe, which is made by reacting monomers of acrylonitrile, butadiene and styrene.

* * * * *

Adhesive—

(i) A chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

(ii) The term does not include coatings or finishing materials.

* * * * *

Adhesive primer—[A]

(i) A product intended by the manufacturer for application to a substrate, prior to the application of an adhesive, to provide a bonding surface.

(ii) For purposes of § 129.73 (relating to aerospace manufacturing and rework), a coating applied to an aerospace vehicle or component that does one of the following:

[(i)] (A) Inhibits corrosion and serves as a primer when applied to bare metal or other surfaces prior to adhesive application.

[(ii)] (B) Is applied to surfaces that can be expected to contain fuel, with the exception of fuel tanks.

Aerosol adhesive—An adhesive packaged as an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for handheld application without the need for ancillary hoses or spray equipment.

* * * * *

Aerospace vehicle or component—

[A] (i) For purposes of § 129.73, a fabricated part, processed part, assembly of parts or completed unit, with the exception of electronic components, of [any] an aircraft including[, but not limited to,] airplanes, helicopters, missiles, rockets and space vehicles.

(ii) For purposes of § 129.77 (relating to control of emissions from the use or application of adhesives, sealants, and primers and solvents) and Chapter 130, Subchapter D (relating to adhesives, sealants and primers and solvents), the fabricated part, assembly of parts or completed unit of an aircraft, helicopter, missile or space vehicle, including passenger safety equipment.

* * * * *

Architectural sealant or primer—

(i) A sealant or sealant primer intended by the manufacturer to be applied to stationary architectural structures, including mobile homes, and their appurtenances.

(ii) Appurtenances to a stationary architectural structure include hand railings, cabinets, bathroom and kitchen fixtures, fences, rain gutters and downspouts, and windows.

As applied—

(i) The VOC and solids content of a coating, adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent that is actually used to coat the substrate.

(ii) The term includes the contribution of materials used for in-house dilution of the coating.

As supplied—The VOC and solids content of a coating, adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent as sold and delivered to the end user.

* * * * *

Automotive glass adhesive primer—An adhesive primer labeled by the manufacturer to be applied to automotive glass prior to installation of the glass

using an adhesive or sealant. This primer improves the adhesion to pinch weld and blocks ultraviolet light.

* * * * *

CPVC plastic or chlorinated polyvinyl chloride plastic—A polymer of the vinyl chloride monomer that contains 67% chlorine and is normally identified with a CPVC marking.

CPVC welding adhesive or chlorinated polyvinyl chloride welding adhesive—An adhesive labeled for welding of chlorinated polyvinyl chloride plastic.

* * * * *

Ceramic tile installation adhesive—An adhesive intended by the manufacturer for use in the installation of ceramic tiles.

* * * * *

Cleanup solvent—A VOC-containing material used for either of the following:

(i) To remove a loosely held, uncured (that is, not dry to the touch) adhesive or sealant from a substrate.

(ii) To clean equipment used in applying a material.

* * * * *

Computer diskette jacket manufacturing adhesive—An adhesive intended by the manufacturer to glue the fold-over flaps to the body of a vinyl computer diskette jacket.

* * * * *

Contact bond adhesive—

(i) An adhesive that meets all of the following:

(A) Is designed for application to both surfaces to be bonded together.

(B) Is allowed to dry before the two surfaces are placed in contact with each other.

(C) Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other.

(D) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(ii) The term does not include the following:

(A) Rubber cements that are primarily intended for use on paper substrates.

(B) Vulcanizing fluids that are designed and labeled for tire repair only.

* * * * *

Cove base—A flooring trim unit, generally made of vinyl or rubber, having a concave radius on one edge and a convex radius on the opposite edge that is used in forming a junction between the bottom wall course and the floor or to form an inside corner.

Cove base installation adhesive—An adhesive intended by the manufacturer to be used for the installation of cove base or wall base on a wall or vertical surface at floor level.

* * * * *

Cyanoacrylate adhesive—

(i) For purposes of § 129.77 and Chapter 130, Subchapter D, an adhesive with a cyanoacrylate content of at least 95% by weight.

(ii) A fast-setting, single component adhesive that cures at room temperature.

(iii) The term is also known as “super glue.”

* * * * *

Diluent—A diluting agent added to decrease the viscosity of a material.

* * * * *

Drywall installation—The installation of gypsum drywall to studs or solid surfaces using an adhesive formulated for that purpose.

* * * * *

Exempt compound or exempt solvent—Specified organic compounds that have been designated by the Administrator of the EPA as having negligible photochemical reactivity and are listed in 40 CFR 51.100 (relating to requirements for preparation, adoption and submittal of implementation plans).

* * * * *

Fiberglass—For purposes of §§ 129.77 and 130.702 (relating to emission standards), a material consisting of extremely fine glass fibers. (Editor’s Note: A definition of this term was published for comment in the Pennsylvania Bulletin on April 19, 2008, in a proposed amendment to Chapter 129 (relating to standards for sources) concerning glass melting furnaces. The later of these two rulemakings to be published as a final rulemaking will include both definitions).

* * * * *

Flexible vinyl—Nonrigid polyvinyl chloride plastic with at least 5% by weight plasticizer content.

* * * * *

Indoor floor covering installation adhesive—

(i) An adhesive intended by the manufacturer for use in the installation of wood flooring, carpet, resilient tile, vinyl tile, vinyl backed carpet, resilient sheet and roll or artificial grass.

(ii) The term does not include adhesives used to install ceramic tile or perimeter bonded sheet flooring with vinyl backing onto a nonporous substrate like flexible vinyl.

* * * * *

Laminate—A product made by bonding together two or more layers of material.

* * * * *

Low-solids adhesive, sealant or primer—An adhesive, sealant, adhesive primer or sealant primer product that contains 120 grams or less of solids per liter of material.

* * * * *

Marine deck sealant or marine deck sealant primer—A sealant or sealant primer labeled for application to wooden marine decks.

* * * * *

Medical equipment manufacturing—The manufacture of medical devices including catheters, heart valves, blood cardioplegia machines, tracheostomy tubes, blood oxygenators and cardiatory reservoirs.

* * * * *

Metal to urethane/rubber molding or casting adhesive—An adhesive intended by the manufacturer to bond metal to high density or elastomeric urethane or molded rubber materials, in heater molding or casting processes, to fabricate products like rollers for computer printers or other paper handling equipment.

* * * * *

Multipurpose construction adhesive—An adhesive intended by the manufacturer for use in the installation or repair of various construction materials, including drywall, subfloor, panel, fiberglass reinforced plastic (FRP), ceiling tile and acoustical tile.

* * * * *

Nonmembrane roof installation/repair adhesive—

(i) An adhesive intended by the manufacturer for use in the installation or repair of nonmembrane roofs and that is not intended for the installation of prefabricated single-ply flexible roofing membrane.

(ii) The term includes:

- (A) Plastic or asphalt roof cement.
- (B) Asphalt roof coating.
- (C) Cold application cement.

* * * * *

Outdoor floor covering installation adhesive—An adhesive intended by the manufacturer for use in the installation of floor covering that is both of the following:

- (i) Not in an enclosure.
- (ii) Exposed to ambient weather conditions during normal use.

* * * * *

PVC plastic or polyvinyl chloride plastic—A polymer of the chlorinated vinyl monomer that contains 57% chlorine.

PVC welding adhesive or polyvinyl chloride welding adhesive—An adhesive intended by the manufacturer for use in the welding of polyvinyl chloride (PVC) plastic pipe.

* * * * *

Panel installation—The installation of plywood, predecorated hardboard or tileboard, fiberglass reinforced plastic and similar predecorated or nondecorated panels to studs or solid surfaces using an adhesive formulated for that purpose.

* * * * *

Perimeter bonded sheet flooring installation—The installation of sheet flooring with vinyl backing onto a nonporous substrate using an adhesive designed to be applied only to a strip of up to 4 inches wide around the perimeter of the sheet flooring.

* * * * *

Plastic cement welding adhesive—

(i) An adhesive intended by the manufacturer for use to dissolve the surface of plastic to form a bond between mating surfaces.

(ii) The term does not include the following welding adhesives:

- (A) ABS.
- (B) CPVC.
- (C) PVC.

Plastic cement welding adhesive primer—A primer intended by the manufacturer for use to prepare plastic substrates prior to bonding or welding.

Plastic foam—Foam constructed of plastics.

Plasticizer—A material, like a high boiling point organic solvent, that is incorporated into a vinyl to increase its flexibility, workability or distensibility, as determined by ASTM Method E-260, including updates and revisions.

Plastics—Synthetic materials chemically formed by the polymerization of organic (carbon-based) substances. Plastics are usually compounded with modifiers, extenders or reinforcers and are capable of being molded, extruded, cast into various shapes and films or drawn into filaments.

* * * * *

Porous material—A substance that has tiny openings, often microscopic, into or from which fluids may be absorbed or discharged, including wood, paper and corrugated paperboard.

* * * * *

Propellant—A fluid under pressure that expels the contents of a container when a valve is opened.

* * * * *

Reactive diluent—A liquid reactive organic compound in an uncured adhesive, sealant or primer that reacts chemically or physically during the curing process to become an integral part of a finished material.

* * * * *

Roadway sealant—A sealant intended by the manufacturer for application to public streets, highways and other surfaces, including curbs, berms, driveways and parking lots.

* * * * *

Rubber—A natural or manmade rubber substrate, including styrene-butadiene rubber, polychloroprene (neoprene) rubber, butyl rubber, nitrile rubber, chlorosulfonated polyethylene rubber and ethylene propylene diene terpolymer rubber.

* * * * *

SCAQMD—South Coast Air Quality Management District—The California regional government agency responsible for air pollution control in Los Angeles and Orange counties and parts of Riverside and San Bernardino counties.

* * * * *

Sealant—

(i) For purposes of § 129.73:

(A) A material used to prevent the intrusion of water, fuel, air or other liquids or solids from certain areas of aerospace vehicles or components.

[(ii)] (B) There are two categories of sealants:

[(A)] (I) Extrudable/rollable/brushable sealants.

[(B)] (II) Sprayable sealants.

(ii) For purposes of § 129.77 and Chapter 130, Subchapter D:

(A) A material with adhesive properties that is formulated primarily to fill, seal, waterproof or weatherproof gaps or joints between two surfaces.

(B) The term includes caulks.

Sealant primer—A product intended by the manufacturer for application to a substrate, prior to the application of a sealant, to enhance the bonding surface.

* * * * *

Sheet rubber installation—

(i) The process of applying sheet rubber liners by hand to metal or plastic substrates to protect the underlying substrate from corrosion or abrasion.

(ii) The term includes laminating sheet rubber to fabric by hand.

* * * * *

Single-ply roof membrane—A prefabricated single sheet of rubber, normally ethylene propylene diene terpolymer, that is field applied to a building roof using one layer of membrane material.

Single-ply roof membrane adhesive primer—A primer labeled for use to clean and promote adhesion of the single-ply roof membrane seams or splices prior to bonding.

Single-ply roof membrane installation and repair adhesive—An adhesive labeled for use in the installation or repair of single-ply roof membrane. For purposes of this definition:

(i) Installation includes, as a minimum, attaching the edge of the membrane to the edge of the roof and applying flashings to vents, pipes and ducts that protrude through the membrane.

(ii) Repair includes gluing the edges of torn membrane together, attaching a patch over a hole and reapplying flashings to vents, pipes or ducts installed through the membrane.

Single-ply roof membrane sealant—A sealant labeled for application to single-ply roof membrane.

* * * * *

Solvent—Organic compounds which are liquid at standard conditions and which are used as diluents, thinners, dissolvers, viscosity reducers [or], cleaning agents or other related uses.

* * * * *

Structural glazing adhesive—An adhesive intended by the manufacturer to apply glass, ceramic, metal, stone or composite panels to exterior building frames.

* * * * *

Subfloor installation—The installation of subflooring material over floor joists, including the

construction of load bearing joists. Subflooring material is covered by a finish surface material.

* * * * *

Surface preparation solvent—A solvent used to remove dirt, oil and other contaminants from a substrate prior to the application of an adhesive, sealant, adhesive primer or sealant primer.

* * * * *

Thin metal laminating adhesive—An adhesive intended by the manufacturer for use in bonding multiple layers of metal to metal or metal to plastic in the production of electronic or magnetic components in which the thickness of the bond line is less than 0.25 mils.

* * * * *

Tire repair—A process that includes both of the following steps:

(i) Expanding a hole, tear, fissure or blemish in a tire casing by grinding or gouging.

(ii) Applying adhesive and filling the expanded hole, tear, fissure or blemish with rubber.

Tire tread adhesive—An adhesive intended by the manufacturer for one or more of the following applications:

(i) To the back of precure tread rubber and to the casing and cushion rubber.

(ii) To seal buffed tire casings to prevent oxidation while the tire is being prepared for a new tread.

* * * * *

Traffic marking tape—Preformed reflective film intended by the manufacturer for application to public streets, highways and other surfaces, including curbs, berms, driveways and parking lots.

Traffic marking tape adhesive primer—A primer intended by the manufacturer for application to surfaces prior to installation of traffic marking tape.

* * * * *

Undersea-based weapons systems components—The fabrication of parts, parts assembly or completed units of a portion of a missile launching system used on undersea ships.

* * * * *

Waterproof resorcinol glue—A two-part resorcinol-resin-based adhesive designed for applications where the bond line must be resistant to conditions of continuous immersion in fresh or salt water.

* * * * *

CHAPTER 129. STANDARDS FOR SOURCES

SOURCES OF VOCs

(Editor's Note: Section 129.77 is new and printed in regular type to enhance readability.)

§ 129.77. Control of emissions from the use or application of adhesives, sealants, primers and solvents.

(a) This section applies to the owner or operator of a facility that uses or applies one or more of the following on or after April 15, 2010:

(1) An adhesive, sealant, adhesive primer or sealant primer subject to the emission standards in Table V.

(2) An adhesive or sealant product applied to the listed substrate subject to the emission standards in Table VI.

(3) A surface preparation solvent or cleanup solvent.

(b) On or after April 15, 2010, an owner or operator of a facility may not use or apply at the facility an adhesive, sealant, adhesive primer or sealant primer that exceeds the applicable VOC content limit in Table V or VI, except as provided elsewhere in this section.

(c) On or after April 15, 2010, an owner or operator of a facility may not use or apply at the facility a surface preparation or cleanup solvent that exceeds the applicable VOC content limit or composite vapor pressure requirements of this section, except as provided elsewhere in this section.

(d) The VOC content limits in Table VI for adhesives or sealants applied to particular substrates apply as follows:

(1) If an owner or operator uses an adhesive or sealant subject to a specific VOC content limit in Table V, the specific limit is applicable rather than the adhesive-to-substrate limit in Table VI.

(2) If an adhesive is used to bond dissimilar substrates together, the applicable substrate category with the highest VOC content is the limit for this use.

(e) An owner or operator subject to this section using a surface preparation solvent or cleanup solvent may not:

(1) Except as provided in paragraph (2) for single-ply roof membrane, use materials containing VOCs for surface preparation, unless the VOC content of the surface preparation solvent is less than 70 grams per liter of material or 0.6 pound of VOC per gallon of material.

(2) Use materials containing VOCs for surface preparation or cleanup when applying single-ply roof membrane, unless the composite vapor pressure, excluding water and exempt compounds, of the surface preparation solvent or cleanup solvent is less than or equal to 45 mm mercury at 20° C.

(3) Except as provided in subsection (f), use cleanup solvent materials containing VOCs for the removal of adhesives, sealants, adhesive primers or sealant primers from surfaces, other than from the parts of spray application equipment, unless the composite vapor pressure of the solvent is less than or equal to 45 mm mercury at 20° C.

(f) Removal of an adhesive, sealant, adhesive primer or sealant primer from the parts of spray application equipment shall be performed by one or more of the following methods:

(1) Using an enclosed cleaning system, or an equivalent cleaning system as determined by the test method identified in subsection (z).

(2) Using a solvent with a VOC content less than or equal to 70 grams of VOC per liter of material or 0.6 pound of VOC per gallon of material.

(3) Soaking parts containing dried adhesive in a solvent if the composite vapor pressure of the solvent, excluding water and exempt compounds, is less than or equal to 9.5 mm mercury at 20° C and the parts and solvent are in a closed container that remains closed except when adding parts to or removing parts from the container.

(g) An owner or operator using an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent subject to the emission standard requirements of this section through the use of add-on air pollution control equipment if the following requirements are met:

(1) The VOC emissions from the use of all noncomplying as applied adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents and cleanup solvents subject to the emission standard requirements of this section are reduced by an overall efficiency of at least 85%, by weight.

(i) The capture efficiency of the system must be determined in accordance with subsection (y)(1).

(ii) The control efficiency of the system must be determined in accordance with subsection (y)(2).

(2) The combustion temperature is continuously monitored and recorded if a thermal incinerator is operated.

(3) Inlet and exhaust gas temperatures are continuously monitored and recorded if a catalytic incinerator is operated.

(4) Control device efficiency is monitored continuously if a carbon absorber or control device other than a thermal or catalytic incinerator is operated.

(5) Operation records sufficient to demonstrate compliance with the requirements of this section are maintained in accordance with subsections (p), (q) and (r).

(6) The control equipment is approved, in writing, by the Department in an operating permit.

(h) A person using an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent subject to this section shall store or dispose of all absorbent materials, including cloth or paper, which are moistened with adhesives, sealants, primers, surface preparation solvents or cleanup solvents subject to this section, in nonabsorbent containers that are kept closed except when placing materials in or removing materials from the container.

(i) A person may not solicit, require the use of or specify the application of an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent if the use or application would result in a violation of this section. The prohibition of this subsection applies to all written or oral contracts under which an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent subject to this section is to be used at a location in this Commonwealth.

(j) A person who applies or solicits the application of an adhesive, sealant, adhesive primer or sealant primer subject to this section may not add solvent to the adhesive, sealant, adhesive primer or sealant primer in an amount in excess of the manufacturer's recommendation for application, if this addition causes the adhesive, sealant, adhesive primer or sealant primer to exceed the applicable VOC content limit listed in Table V or VI, unless the emissions are controlled through the use of add-on air pollution control equipment as specified in subsection (g).

(k) This section does not apply to the use or application of the following compounds or products:

(1) Adhesives, sealants, adhesive primers or sealant primers being tested or evaluated in a research and

development, quality assurance or analytical laboratory, if records are maintained as required in subsections (q) and (r).

(2) Adhesives, sealants, adhesive primers or sealant primers that are subject to §§ 129.51, 129.52, 129.67, 129.73, 129.75, 129.101—129.107 or Chapter 130, Subchapter B or C (relating to consumer products; and architectural and industrial maintenance coatings).

(3) Adhesives and sealants that contain less than 20 grams of VOC per liter of adhesive or sealant, less water and less exempt compounds, as applied.

(4) Cyanoacrylate adhesives.

(5) Adhesives, sealants, adhesive primers or sealant primers that are sold or supplied by the manufacturer or supplier in containers with a net volume of 16 fluid ounces or less, or a net weight of 1 pound or less, except plastic cement welding adhesives and contact adhesives.

(6) Contact adhesives that are sold or supplied by the manufacturer or supplier in containers with a net volume of 1 gallon or less.

(l) This section does not apply to the use of adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents or cleanup solvents in the following operations:

(1) Tire repair operations, if the label of the adhesive states, "For tire repair only."

(2) The assembly, repair and manufacture of aerospace components or undersea-based weapons systems.

(3) The manufacture of medical equipment.

(4) Plaque laminating operations in which adhesives are used to bond clear, polyester acetate laminate to wood with lamination equipment installed prior to July 1, 1992. An owner or operator claiming an exemption under this paragraph shall record and maintain operational records sufficient to demonstrate compliance with this exemption, in accordance with subsections (p)—(r).

(m) This section applies to the use or application of single-ply roof membrane installation or repair adhesive, single-ply roof membrane sealant and single-ply roof membrane adhesive primer on the following schedule:

(1) For the years 2010 and 2011, from April 15 through October 15.

(2) On and after January 1, 2012.

(n) This section does not apply if the total VOC emissions from all adhesives, sealants, adhesive primers and sealant primers used at the facility are less than 200 pounds or an equivalent volume, per calendar year. An owner or operator claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption, in accordance with subsections (p)—(r).

(o) This section does not apply to the use of a noncomplying adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent if the total volume of noncomplying adhesives, sealants, primers, surface preparation and cleanup solvents applied facility-wide does not exceed 55 gallons per calendar year. An owner or operator claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption, in accordance with subsections (p)—(r).

(p) Except as provided in subsection (q), each owner or operator subject to this section shall maintain records demonstrating compliance with this section, including the following information:

(1) A list of each adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent product in use and in storage.

(2) A data sheet or material list which provides the product name, manufacturer identification and use or material application for each product included on the list required under paragraph (1).

(3) The VOC content of each product on the list required under paragraph (1), as supplied.

(4) Catalysts, reducers or other components used and the mix ratio.

(5) The VOC content or vapor pressure of each product on the list required by paragraph (1), as applied, if solvent or other VOC is added to the product before application.

(6) The volume used of each product on the list required under paragraph (1).

(q) For an adhesive, sealant, adhesive primer and sealant primer product subject to the laboratory testing exemption of subsection (k)(1), the person conducting the testing shall make and maintain records of all products used, including the following information:

(1) The product name.

(2) The product category of the material or type of application.

(3) The VOC content of the material.

(r) Records made to determine compliance with this section shall be:

(1) Maintained onsite for at least 5 years from the date the record is created.

(2) Made available to the Department upon request.

(s) Except as provided in subsections (u)—(w), the VOC and solids content of all nonaerosol adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents and cleanup solvents shall be determined using one of the following:

(1) EPA Reference Method 24, *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings*, found at 40 CFR 60, Subpart D, Appendix A, including updates and revisions.

(2) SCAQMD Method 304, *Determination of Volatile Organic Compounds (VOC) in Various Materials*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(t) The identity and concentration of exempt organic compounds shall be determined using one of the following:

(1) ASTM D4457, *Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph*, ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, PA 19428-2959 USA including updates and revisions.

(2) SCAQMD Method 303, *Determination of Exempt Compounds*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(u) The VOC content of a plastic cement welding adhesive or primer shall be determined using SCAQMD Method 316A, *Determination of Volatile Organic Compounds (VOC) in Materials Used for Pipes and Fittings*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(v) To determine if a diluent is a reactive diluent, the percentage of the reactive organic compound that becomes an integral part of the finished materials shall be determined using SCAQMD Method 316A, *Determination of Volatile Organic Compounds (VOC) in Materials Used for Pipes and Fittings*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(w) The composite vapor pressure of organic compounds in cleaning materials shall be determined by the following procedure:

(1) Quantifying the amount of each compound in the blend using gas chromatographic analysis, using the following methods:

(i) ASTM E260, *Standard Practice for Packed Column Gas Chromatography*, ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, PA 19428-2959 USA, for organic content, including updates and revisions.

(ii) ASTM D3792, *Standard Test Method for Water Content of Coatings by Direct Injection Into a Gas Chromatograph*, ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, PA 19428-2959 USA, for water content, including updates and revisions.

(2) Calculating the composite vapor pressure using the following equation:

$$Pp_c = \frac{\sum_{i=1}^n (W_i) (VP_i) / Mw_i}{W_w / Mw_w + \sum_{i=1}^n W_e / Mw_e + \sum_{i=1}^n W_i / Mw_i}$$

Where:

Pp_c = VOC composite partial pressure at 20° C, in mm mercury.

W_i = Weight of the “i”th VOC compound, in grams, as determined by ASTM E260.

W_w = Weight of water, in grams, as determined by ASTM D3792.

W_e = Weight of the “i”th exempt compound, in grams, as determined by ASTM E260.

Mw_i = Molecular weight of the “i”th VOC compound, in grams per g-mole, as given in chemical reference literature.

Mw_w = Molecular weight of water, 18 grams per g-mole.

Mw_e = Molecular weight of the “i”th exempt compound, in grams per g-mole, as given in chemical reference literature.

VP_i = Vapor pressure of the “i”th VOC compound at 20° C, in mm mercury, as determined by subsection (x).

(x) The vapor pressure of each single component compound may be determined from one or more of the following:

(1) ASTM D2879, *Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope*, ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, PA 19428-2959 USA, including updates and revisions.

(2) The most recent edition of one or more of the following sources:

(i) *Vapour Pressures of Pure Substances*, Boublik, Elsevier Scientific Publishing Company, New York.

(ii) *Perry's Chemical Engineers' Handbook*, Green and Perry, McGraw-Hill Book Company.

(iii) *CRC Handbook of Chemistry and Physics*, CRC Press.

(iv) *Lange's Handbook of Chemistry*, McGraw-Hill Book Company.

(v) Additional sources approved by the SCAQMD or other California air districts.

(y) If air pollution control equipment is used to meet the requirements of this section, the owner or operator shall make both of the following determinations:

(1) The measurement of capture efficiency shall be conducted and reported in accordance with the EPA Technical Document "*Guidelines for Determining Capture Efficiency*," issued January 9, 1995.

(2) The control efficiency shall be determined in accordance with one of the following:

(i) EPA Reference Method 25, *Determination of Total Gaseous Nonmethane Organic Emissions as Carbon*, found at 40 CFR 60, Subpart D, Appendix A, including updates and revisions.

(ii) EPA Reference Method 25A, *Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer*, found at 40 CFR 60, Subpart D, Appendix A, including updates and revisions.

(iii) EPA Reference Method 25B, *Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer*, found at 40 CFR 60, Subpart D, Appendix A, including updates and revisions.

(iv) CARB Method 100, *Procedures for Continuous Gaseous Emission Stack Sampling*, California Air Resources Board, 1001 "I" Street, Post Office Box 2815, Sacramento, CA 95812 USA, including updates and revisions.

(z) The active and passive solvent losses from the use of an enclosed spray gun cleaning system or equivalent cleaning system, as listed in subsection (f)(1), shall be determined using the SCAQMD method, *General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems*, dated October 3, 1989, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(1) The test solvent for this determination shall be a lacquer thinner with a minimum vapor pressure of 105 mm of mercury at 20° C.

(2) The minimum test temperature shall be 15° C.

(aa) For adhesive, sealant, adhesive primer or sealant primer products that do not contain reactive diluents, grams of VOC per liter of product thinned to the manufacturer's recommendation, less water and exempt compounds, shall be calculated according to the following equation:

Grams of VOC per liter of product, as applied =

$$\frac{Ws - Ww - We}{Vm - Vw - Ve}$$

Where:

Ws = weight of volatile compounds, in grams.

Ww = weight of water, in grams.

We = weight of exempt compounds, in grams.

Vm = volume of material, in liters.

Vw = volume of water, in liters.

Ve = volume of exempt compounds, in liters.

(bb) For adhesive, sealant, adhesive primer or sealant primer products that contain reactive diluents, the VOC content of the product is determined after curing. The grams of VOC per liter of product thinned to the manufacturer's recommendation, less water and exempt compounds, shall be calculated according to the following equation:

Grams of VOC per liter of product, as applied =

$$\frac{Wrs - Wrw - Wre}{Vrm - Vrw - Vre}$$

Where:

Wrs = weight of volatile compounds not consumed during curing, in grams.

Wrw = weight of water not consumed during curing, in grams.

Wre = weight of exempt compounds not consumed during curing, in grams.

Vrm = volume of material not consumed during curing, in liters.

Vrw = volume of water not consumed during curing, in liters.

Vre = volume of exempt compounds not consumed during curing, in liters.

(cc) For low-solids adhesive, sealant, adhesive primer or sealant primer products, grams of VOC per liter of product thinned to the manufacturer's recommendation, including the volume of water and exempt compounds, shall be calculated according to the following equation:

Grams of VOC per liter of product, as applied =

$$\frac{Ws - Ww - We}{Vm}$$

Where:

Ws = weight of volatile compounds, in grams.

Ww = weight of water, in grams.

We = weight of exempt compounds, in grams.

Vm = volume of material, in liters.

(dd) Percent VOC by weight shall be calculated according to the following equation:

$$\% \text{ VOC by weight} = [(Wv / W)] \times 100$$

Where:

Wv = weight of VOCs in grams.

W = weight of material in grams.

(ee) To convert from grams per liter (g/l) to pounds per gallon (lb/gal), multiply the result (VOC content) by 8.345 x 10⁻³ (lb/gal/g/l).

Table V. VOC Content Limits for Adhesives, Sealants, Adhesive Primers and Sealant Primers, As Applied

<i>Adhesive, sealant, adhesive primer or sealant primer category</i>	<i>VOC content limits (pounds VOC per gallon, less water and exempt compounds)*</i>	<i>VOC content limit (grams VOC per liter, less water and exempt compounds)*</i>
Adhesives		
ABS welding	3.3	400
Ceramic tile installation	1.1	130
Computer diskette jacket manufacturing	7.1	850
Contact bond	2.1	250
Cove base installation	1.3	150
CPVC welding	4.1	490
Indoor floor covering installation	1.3	150
Metal to urethane/rubber molding or casting	7.1	850
Multipurpose construction	1.7	200
Nonmembrane roof installation/repair	2.5	300
Outdoor floor covering installation	2.1	250
Perimeter bonded sheet vinyl flooring installation	5.5	660
Plastic cement welding, other than ABS, CPVC or PVC welding	4.3	510
PVC welding	4.3	510
Sheet rubber installation	7.1	850
Single-ply roof membrane installation/repair	2.1	250
Structural glazing	0.8	100
Thin metal laminating	6.5	780
Tire retread	0.8	100
Waterproof resorcinol glue	1.4	170
Sealants		
Architectural	2.1	250
Marine deck	6.3	760
Nonmembrane roof installation/repair	2.5	300
Roadway	2.1	250
Single-ply roof membrane	3.8	450
Other	3.5	420
Adhesive Primers		
Automobile glass	5.8	700
Plastic cement welding	5.4	650
Single-ply roof membrane	2.1	250
Traffic making tape	1.3	150
Other	2.1	250
Sealant Primers		
Marine deck	6.3	760
Nonporous architectural	6.5	775
Porous architectural	2.1	250
Other	6.3	750

*The VOC content is determined as the weight of VOC per volume of product, less water and exempt compounds, as specified in subsections (aa) and (bb) or as the weight of VOC per volume of product, as specified in subsection (cc).

Table VI. VOC Content Limits for Adhesive or Sealant Products Applied to Particular Substrates, As Applied

<i>Adhesive or Sealant Products Applied to the Listed Substrate</i>	<i>VOC content limit (pounds VOC per gallon, less water and exempt compounds)*</i>	<i>VOC content limit (grams VOC per liter, less water and exempt compounds)*</i>
Fiberglass	1.7	200
Flexible vinyl	2.1	250
Metal	0.3	30
Porous material	1.0	120
Rubber	2.1	250
Other substrates	2.1	250

*The VOC content is determined as the weight of VOC per volume of product, less water and exempt compounds, as specified in subsections (aa) and (bb) or as the weight of VOC per volume of product, as specified in subsection (cc).

CHAPTER 130. STANDARDS FOR PRODUCTS

(Editor's Note: Subchapter D is new and printed in regular type to enhance readability.)

Subchapter D. ADHESIVES, SEALANTS, PRIMERS AND SOLVENTS

GENERAL PROVISIONS

Sec.

- 130.701. Applicability.
- 130.702. Emission standards.
- 130.703. Exemptions and exceptions.
- 130.704. Recordkeeping requirements.
- 130.705. Compliance procedures and test methods.
- 130.706. Container labeling.

§ 130.701. Applicability.

(a) Except as provided in § 130.703 (relating to exemptions and exceptions), this subchapter applies to a person who, on or after April 15, 2010, sells, supplies, offers for sale or manufactures for sale for use in this Commonwealth one or more of the following products subject to this subchapter:

- (1) An adhesive, sealant, adhesive primer or sealant primer product.
- (2) An adhesive or sealant product applied to particular substrates.
- (3) A surface preparation solvent or cleanup solvent product.

(b) Except as provided in § 130.703, this subchapter applies to a person who, on or after April 15, 2010, uses or applies for compensation within this Commonwealth one or more of the following products subject to this subchapter:

- (1) An adhesive, sealant, adhesive primer or sealant primer product.
- (2) An adhesive or sealant product applied to particular substrates.
- (3) A surface preparation solvent or cleanup solvent product.

§ 130.702. Emission standards.

(a) Except as provided in § 130.703 (relating to exemptions and exceptions), on and after April 15, 2010, a person may not sell, supply, offer for sale or manufacture for sale for use in this Commonwealth one or more of the following products subject to this subchapter:

- (1) An adhesive, sealant, adhesive primer, or sealant primer product manufactured on or after April 15, 2010,

which contains VOCs in excess of the applicable VOC content limits specified in Table I.

(2) An adhesive or sealant product manufactured on or after April 15, 2010, applied to particular substrates, which contains VOCs in excess of the applicable VOC content limits specified in Table II.

(b) Except as provided in § 130.703, on and after April 15, 2010, a person may not use or apply for compensation within this Commonwealth one or more of the following products subject to this subchapter:

(1) An adhesive, sealant, adhesive primer or sealant primer product which contains VOCs in excess of the applicable VOC content limits specified in Table I.

(2) An adhesive or sealant product applied to particular substrates which contains VOCs in excess of the applicable VOC content limits specified in Table II.

(c) On and after April 15, 2010, the VOC content limits in Table II for adhesives or sealants applied to particular substrates apply as follows:

(1) If a person uses an adhesive or sealant subject to a specific VOC content limit in Table I, the specific limit is applicable rather than the adhesive-to-substrate limit in Table II.

(2) If an adhesive is used to bond dissimilar substrates together, the applicable substrate category with the highest VOC content is the limit for this use.

(d) On and after April 15, 2010, a person subject to this subchapter using a surface preparation solvent or cleanup solvent may not:

(1) Except as provided in paragraph (2) for single-ply roof membrane, use materials containing VOCs for surface preparation, unless the VOC content of the surface preparation solvent is less than 70 grams per liter of material or 0.6 pound of VOC per gallon of material.

(2) If a surface preparation solvent is used in applying single-ply roof membrane, use materials containing VOCs for surface preparation, unless the composite vapor pressure, excluding water and exempt compounds, of the surface preparation solvent is less than or equal to 45 mm mercury at 20° C.

(3) Except as provided in subsection (e), use materials containing VOCs for the removal of adhesives, sealants or adhesive or sealant primers from surfaces, other than from the parts of spray application equipment, unless the composite vapor pressure of the solvent used is less than or equal to 45 mm mercury at 20° C.

(e) On and after April 15, 2010, the removal of an adhesive, sealant, adhesive primer or sealant primer from the parts of spray application equipment shall be performed by one or more of the following methods:

(1) Using an enclosed cleaning system or equivalent cleaning system, as determined by the test method identified in § 130.705(g) (relating to compliance procedures and test methods).

(2) Using a solvent with a VOC content less than or equal to 70 grams of VOC per liter of material or 0.6 pound of VOC per gallon of material.

(3) Soaking parts containing dried adhesive in a solvent if the composite vapor pressure of the solvent, excluding water and exempt compounds, is less than or equal to 9.5 mm mercury at 20° C and the parts and solvent are in a closed container that remains closed except when adding parts to or removing parts from the container.

(f) On and after April 15, 2010, a person using adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents or cleanup solvents subject to this subchapter shall store or dispose of all absorbent materials, including cloth or paper, which are moistened with

adhesives, sealants, primers or solvents subject to this subchapter, in nonabsorbent containers that are kept closed except when placing materials in or removing materials from the container.

(g) On and after April 15, 2010, a person may not solicit, require the use of or specify the application of an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent if the use or application would result in a violation of this subchapter. The prohibition of this subsection applies to all written or oral contracts under which an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent subject to this subchapter is to be used at a location in this Commonwealth.

(h) On and after April 15, 2010, a person who applies or solicits the application of an adhesive, sealant, adhesive primer or sealant primer subject to the requirements of this subsection may not add solvent to the adhesive, sealant, adhesive primer or sealant primer in an amount in excess of the manufacturer's recommendation for application, if this addition causes the adhesive, sealant, adhesive primer or sealant primer to exceed the applicable VOC content limit listed in Table I or II.

Table I. VOC Content Limits for Adhesives, Sealants, Adhesive Primers and Sealant Primers, As Applied

<i>Adhesive, sealant, adhesive primer or sealant primer category</i>	<i>VOC content limit (pounds VOC per gallon, less water and exempt compounds)*</i>	<i>VOC content limit (grams VOC per liter, less water and exempt compounds)*</i>
Adhesives		
ABS welding	3.3	400
Ceramic tile installation	1.1	850
Computer diskette jacket manufacturing	7.1	850
Contact bond	2.1	250
Cove base installation	1.3	150
CPVC welding	4.1	490
Indoor floor covering installation	1.3	150
Metal to urethane/rubber molding or casting	7.1	850
Multipurpose construction	1.7	200
Nonmembrane roof installation/repair	2.5	300
Outdoor floor covering installation	2.1	250
Perimeter bonded sheet vinyl flooring installation	5.5	660
Plastic cement welding, other than ABS, CPVC or PVC welding	4.3	510
PVC welding	4.3	510
Sheet rubber installation	7.1	850
Single-ply roof membrane installation/repair	2.1	250
Structural glazing	0.8	100
Thin metal laminating	6.5	780
Tire retread	0.8	100
Waterproof resorcinol glue	1.4	170
Sealants		
Architectural	2.1	250
Marine deck	6.3	760
Nonmembrane roof installation/repair	2.5	300
Roadway	2.1	250

<i>Adhesive, sealant, adhesive primer or sealant primer category</i>	<i>VOC content limits (pounds VOC per gallon, less water and exempt compounds)*</i>	<i>VOC content limit (grams VOC per liter, less water and exempt compounds)*</i>
Single-ply roof membrane	3.7	450
Other	3.5	420
Adhesive Primers		
Automotive glass	5.8	700
Plastic cement welding	5.4	650
Single-ply roof membrane	2.1	250
Traffic marking tape	1.3	150
Other	2.1	250
Sealant Primers		
Marine deck	6.3	760
Nonporous architectural	2.1	250
Porous architectural	6.5	775
Other	6.3	760

*The VOC content is determined as the weight of VOC per volume of product, less water and exempt compounds, as specified in § 130.705(h) and (i) or as the weight of VOC per volume of product, as specified in § 130.705(j).

Table II. VOC Content Limits for Adhesives or Sealant

<i>Adhesive or Sealant Products Applied to the Listed Substrate</i>	<i>VOC content limit (pounds VOC per gallon, less water and exempt compounds)*</i>	<i>VOC content limit (grams VOC per liter, less water and exempt compounds)*</i>
Fiberglass	1.7	200
Flexible vinyl	2.1	250
Metal	0.3	30
Porous material	1.0	120
Rubber	2.1	250
Other substrates	2.1	250

*The VOC content is determined as the weight of VOC per volume of product, less water and exempt compounds, as specified in § 130.705(h) and (i) or as the weight of VOC per volume of product, as specified in § 130.705(j).

§ 130.703. Exemptions and exceptions.

(a) This subchapter does not apply to the use or sale of the following compounds or products:

(1) Adhesives, sealants, adhesive primers or sealant primers being tested or evaluated in a research and development, quality assurance or analytical laboratory, if records are maintained as required under § 130.704 (relating to recordkeeping requirements).

(2) Adhesives, sealants, adhesive primers or sealant primers that are subject to §§ 129.51, 129.52, 129.67, 129.73, 129.75, 129.101—129.107 or Chapter 130, Subchapter B or C (relating to consumer products; and architectural and industrial maintenance coatings).

(3) Adhesives and sealants that contain less than 20 grams of VOC per liter of adhesive or sealant, less water and less exempt compounds, as applied.

(4) Cyanoacrylate adhesives.

(5) Adhesives, sealants, adhesive primers or sealant primers that are sold or supplied by the manufacturer or supplier in containers with a net volume of 16 fluid ounces or less, or a net weight of 1 pound or less, except plastic cement welding adhesives and contact adhesives.

(6) Contact adhesives that are sold or supplied by the manufacturer or supplier in containers with a net volume of 1 gallon or less.

(b) This subchapter does not apply to the use of adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents or cleanup solvents in the following operations:

(1) Tire repair operations, if the label of the adhesive states, "For tire repair only."

(2) The assembly, repair and manufacture of aerospace components or undersea-based weapons systems.

(3) The manufacture of medical equipment.

(4) Plaque laminating operations in which adhesives are used to bond clear, polyester acetate laminate to wood with lamination equipment installed prior to July 1, 1992. A person claiming an exemption under this paragraph shall record and maintain operational records sufficient to demonstrate compliance with this exemption, in accordance with § 130.704.

(c) This subchapter does not apply to the use or application of single-ply roof membrane installation or repair adhesive, single-ply roof membrane sealant and single-ply roof membrane adhesive primer prior to April

15, 2010. This subchapter applies to the use and application of these products on the following schedule:

(1) For the years 2010 and 2011, from April 15 through October 15.

(2) On and after January 1, 2012.

(d) This subchapter does not apply to the sale, supply, offer for sale or manufacture for sale of a single-ply roof membrane installation or repair adhesive, single-ply roof membrane sealant or single-ply roof membrane adhesive primer prior to January 1, 2012.

(e) Section 130.702(a)—(e) (relating to emission standards) does not apply if the total VOC emissions from all adhesives, sealants, adhesive primers and sealant primers used at the facility are less than 200 pounds or an equivalent volume, per calendar year. A person claiming exemption under this paragraph shall record and maintain operational records sufficient to demonstrate compliance with this exemption, in accordance with § 130.704.

(f) Section 130.702(a)—(e) does not apply to the use of a noncomplying adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent if the total volume of noncomplying adhesives, sealants, primers, surface preparation solvents and cleanup solvents applied facility-wide does not exceed 55 gallons per calendar year. A person claiming exemption under this subsection shall record and maintain operational records sufficient to demonstrate compliance with this exemption, in accordance with § 130.704.

(g) This subchapter does not apply to an adhesive, sealant, adhesive primer or sealant primer product that does not comply with § 130.702 if the manufacturer or distributor of the noncomplying product makes and keeps records demonstrating both of the following:

(1) The noncomplying adhesive, sealant, adhesive primer or sealant primer product is intended for shipment and use outside of this Commonwealth.

(2) The manufacturer or distributor has taken reasonably prudent precautions to assure that the noncomplying adhesive, sealant, adhesive primer or sealant primer product is not distributed to or within this Commonwealth.

(h) The exemption in subsection (g) does not apply to an adhesive, sealant, adhesive primer or sealant primer product that is sold, supplied or offered for sale by a person to a retail outlet in this Commonwealth.

(i) This subchapter does not apply to an adhesive, sealant, adhesive primer or sealant primer product that is sold or supplied for use or application at a facility subject to the requirements of § 129.77 (relating to control of emissions from the use or application of adhesives, sealants and primers).

(j) Sections 130.704 and 130.705 (relating to compliance procedures and test methods) do not apply to the use of an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent at a private residence for a noncommercial purpose.

§ 130.704. Recordkeeping requirements.

(a) On and after April 15, 2010, a person who sells, supplies, offers for sale or manufactures for sale for use in this Commonwealth an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product subject to this subchapter shall maintain records demonstrating compliance with this subchapter, including the following information:

(1) A data sheet or material list which provides the material name, manufacturer identification and material application for each product.

(2) The VOC content of each product, as supplied.

(3) The number of gallons of product sold in this Commonwealth.

(b) On and after April 15, 2010, a person who uses or applies an adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent or cleanup solvent product subject to this subchapter shall maintain records demonstrating compliance with this subchapter, including the following information:

(1) A list of each adhesive, sealant, adhesive primer, sealant primer, surface preparation solvent and cleanup solvent product in use and in storage.

(2) A data sheet or material list which provides the product name, manufacturer identification and use or material application for each product included on the list required under paragraph (1).

(3) The VOC content of each product on the list required under paragraph (1), as supplied.

(4) Catalysts, reducers or other components used and the mix ratio.

(5) The VOC content or vapor pressure of each product on the list required under paragraph (1), as applied, if solvent or other VOC is added to the product before application.

(6) The volume used of each product on the list required under paragraph (1).

(c) For an adhesive, sealant, adhesive primer and sealant primer product subject to the laboratory testing exemption of § 130.703(a)(1) (relating to exemptions and exceptions), on and after April 15, 2010, the person conducting the testing shall make and maintain records of all materials used, including the following information:

(1) The product name.

(2) The product category of the material or type of application.

(3) The VOC content of the material.

(d) Records made to determine compliance with this subchapter shall be:

(1) Maintained for at least 5 years from the date the record is created.

(2) Made available to the Department upon request.

§ 130.705. Compliance procedures and test methods.

(a) Except as provided in subsections (c)—(e), the VOC and solids content of all nonaerosol adhesives, sealants, adhesive primers, sealant primers, surface preparation solvents and cleanup solvents shall be determined using one of the following:

(1) EPA Reference Method 24, *Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings*, found at 40 CFR 60, Subpart D, Appendix A, including updates and revisions.

(2) SCAQMD Method 304, *Determination of Volatile Organic Compounds (VOC) in Various Materials*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(b) The identity and concentration of exempt organic compounds shall be determined using one of the following:

(1) ASTM D4457, *Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph*, ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959 USA, including updates and revisions.

(2) SCAQMD Method 303, *Determination of Exempt Compounds*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(c) The VOC content of a plastic cement welding adhesive or primer shall be determined using SCAQMD Method 316A, *Determination of Volatile Organic Compounds (VOC) in Materials Used for Pipes and Fittings*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(d) To determine if a diluent is a reactive diluent, the percentage of the reactive organic compound that becomes an integral part of the finished materials shall be determined using SCAQMD Method 316A, *Determination of Volatile Organic Compounds (VOC) in Materials Used for Pipes and Fittings*, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(e) The composite vapor pressure of organic compounds in cleaning materials shall be determined by the following procedure:

(1) Quantifying the amount of each compound in the blend using gas chromatographic analysis, using the following methods:

(i) ASTM E260, *Standard Practice for Packed Column Gas Chromatography*, ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959 USA, for organic content, including updates and revisions.

(ii) ASTM D3792, *Standard Test Method for Water Content of Coatings by Direct Injection Into a Gas Chromatograph*, ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959 USA, for water content, including updates and revisions.

(2) Calculating the composite vapor pressure using the following equation:

$$Pp_c = \frac{\sum_{i=1}^n (W_i) (VP_i)/Mw_i}{W_w/Mw_w + \sum_{i=1}^n W_e/Mw_e + \sum_{i=1}^n W_i/Mw_i}$$

Where:

Pp_c = VOC composite partial pressure at 20° C, in mm Hg.

W_i = Weight of the "i"th VOC compound, in grams, as determined by ASTM E260.

W_w = Weight of water, in grams as determined by ASTM D3792.

W_e = Weight of the "i"th exempt compound, in grams, as determined by ASTM E260.

Mw_i = Molecular weight of the "i"th VOC compound, in grams per g-mole, as given in chemical reference literature.

Mw_w = Molecular weight of water, 18 grams per g-mole.

Mw_e = Molecular weight of the "i"th exempt compound, in grams per g-mole, as given in chemical reference literature.

VP_i = Vapor pressure of the "i"th VOC compound at 20° C, in mm mercury, as determined by subsection (f).

(f) The vapor pressure of each single component compound may be determined from one or more of the following:

(1) ASTM D2879, *Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope*, ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428-2959 USA, including updates and revisions.

(2) The most recent edition of one or more of the following sources:

(i) *Vapour Pressures of Pure Substances*, Boublik, Elsevier Scientific Publishing Company, New York.

(ii) *Perry's Chemical Engineers' Handbook*, Green and Perry, McGraw-Hill Book Company.

(iii) *CRC Handbook of Chemistry and Physics*, CRC Press.

(iv) *Lange's Handbook of Chemistry*, McGraw-Hill Book Company.

(v) Additional sources approved by the SCAQMD or other California air districts.

(g) The active and passive solvent losses from the use of an enclosed spray gun cleaning system or equivalent cleaning system, as listed in § 130.702(e)(1) (relating to emission standards), shall be determined using the SCAQMD method, *General Test Method for Determining Solvent Losses from Spray Gun Cleaning Systems*, dated October 3, 1989, SCAQMD, 21865 Copley Drive, Diamond Bar, CA 91765 USA, including updates and revisions.

(1) The test solvent for this determination shall be a lacquer thinner with a minimum vapor pressure of 105 mm of mercury at 20° C.

(2) The minimum test temperature shall be 15° C.

(h) For adhesive, sealant or primer products that do not contain reactive diluents, grams of VOC per liter of product thinned to the manufacturer's recommendation, less water and exempt compounds, shall be calculated according to the following equation:

Grams of VOC per liter of product, as applied =

$$\frac{Ws - Ww - We}{Vm - Vw - Ve}$$

Where:

Ws = weight of volatile compounds, in grams.

Ww = weight of water, in grams.

We = weight of exempt compounds, in grams.

Vm = volume of material, in liters.

Vw = volume of water, in liters.

Ve = volume of exempt compounds, in liters.

(i) For adhesive, sealant or primer products that contain reactive diluents, the VOC content of the product is

determined after curing. The grams of VOC per liter of product thinned to the manufacturer's recommendation, less water and exempt compounds, shall be calculated according to the following equation:

$$\text{Grams of VOC per liter of product, as applied} = \frac{Wrs - Wrw - Wre}{Vrm - Vrw - Vre}$$

Where:

Wrs = weight of volatile compounds not consumed during curing, in grams.

Wrw = weight of water not consumed during curing, in grams.

Wre = weight of exempt compounds not consumed during curing, in grams.

Vrm = volume of material not consumed during curing, in liters.

Vrw = volume of water not consumed during curing, in liters.

Vre = volume of exempt compounds not consumed during curing, in liters.

(j) For low-solids adhesive, sealant or primer products, grams of VOC per liter of product thinned to the manufacturer's recommendation, including water and exempt compounds, shall be calculated according to the following equation:

$$\text{Grams of VOC per liter of product, as applied} = \frac{Ws - Ww - We}{Vm}$$

Where:

Ws = weight of volatile compounds, in grams.

Ww = weight of water, in grams.

We = weight of exempt compounds, in grams.

Vm = volume of material, in liters.

(k) Percent VOC by weight shall be calculated according to the following equation:

$$\% \text{ VOC by weight} = [(Wv / W)] \times 100$$

Where:

Wv = weight of VOCs in grams.

W = weight of material in grams.

(l) To convert from grams per liter (g/l) to pounds per gallon (lb/gal), multiply the result (VOC content) by 8.345 x 10⁻³ (lb/gal/g/l).

§ 130.706. Container labeling.

On and after April 15, 2010, each manufacturer of an adhesive, sealant, adhesive primer or sealant primer product subject to this subchapter shall display the following information on the product container or label:

(1) A statement of the manufacturer's recommendation regarding thinning, reducing or mixing of the product, except that:

(i) This requirement does not apply to the thinning of a product with water.

(ii) If thinning of the product prior to use is not necessary, the recommendation must specify that the product is to be applied without thinning.

(2) The maximum or the actual VOC content of the product as supplied, displayed as one of the following:

(i) Weight of VOC per volume of product, less water and exempt compounds, calculated in accordance with § 130.705(h) and (i) (relating to compliance procedures and test methods).

(ii) Weight of VOC per volume of product, calculated in accordance with § 130.705(j).

(3) The maximum or the actual VOC content of the product as applied, which includes the manufacturer's maximum recommendation for thinning, displayed as one of the following:

(i) Weight of VOC per volume of product, less water and exempt compounds, calculated in accordance with § 130.705(h) and (i).

(ii) Weight of VOC per volume of product, calculated in accordance with § 130.705(j).

[Pa.B. Doc. No. 09-619. Filed for public inspection April 3, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 62]

[L-2008-2069115/57-266]

Licensing Requirements for Natural Gas Suppliers

The Pennsylvania Public Utility Commission (Commission) on December 4, 2008, adopted a proposed rule-making order which revises the Commission's natural gas supplier licensing regulations regarding level of security needed and forms of security used to satisfy statutory security requirements for licensing.

Executive Summary

In its October 2005 Report to the General Assembly on its investigation into competition in Pennsylvania's retail natural gas market, the Commission found that there was not effective competition in the natural gas retail market based in part on the low number of natural gas suppliers (NGSs) participating in the market. Docket No. I-00040103. The amount of financial security that an NGS needed to provide for licensing was identified as a possible barrier to market entry and participation. See 66 Pa.C.S. § 2208(c)(1)(i).

Based on the Commission's finding, a collaborative of stakeholders (SEARCH) was convened to discuss ways to increase effective competition. The report on SEARCH suggested the use of reasonable criteria for adjusting the amount of security required for licensing and the use as security of NGS accounts receivable in Purchase of Receivables Programs (POR) as two ways to increase the number of suppliers participating in the retail market. The Commission adopted this suggestion in its Final Search Order and Action Plan, order entered September 11, 2008 at Docket No. I-00040103F0002 and directed that the Commission's regulation in 52 Pa. Code § 62.111 (relating bonds and other security) be revised accordingly.

This proposed rulemaking revises § 62.111 to include: (1) the use of NGS accounts receivables in a Commission approved POR program to satisfy part of, or the total security requirement; (2) the adoption of standard language for financial instruments used for security; and (3) the development of reasonable criteria for a natural gas distribution company (NGDC) to use in adjusting the

level of security that a NGS must provide to maintain its license. The proposed revisions will better balance the ability of a NGS to provide adequate security to maintain its license with a NGDC's actual risk of financial loss in the event of supplier default.

Public Meeting held
December 4, 2008

Commissioners Present: James H. Cawley, Chairpersons; Tyrone J. Christy, Vice Chairperson, Concurring in result only; Robert F. Powelson; Kim Pizzingrilli, Statement attached; Wayne E. Gardner

Licensing Requirements For Natural Gas Suppliers; SEARCH Final Order and Action Plan: Natural Gas Supplier Issues; Doc. No. L-2008-2069115; I-00040103F0002

Proposed Rulemaking Order

In its September 11, 2008 Final Order and Action Plan regarding the Commission's *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group*¹ (*SEARCH Order*), Docket No. I-00040103F0002 (*SEARCH Order*), the Commission determined that one way to increase effective competition in the retail natural gas market was to revise the natural gas supplier licensing regulations² in regard to the level of security needed and the forms of security that could be used to satisfy the statutory security requirement for licensing. Accordingly, this proposed rulemaking order sets forth revisions to the Commission's natural gas supplier licensing regulations on these matters.

Discussion

Section 2208(c)(1)(i) of the Public Utility Code establishes the security requirements for the issuance and maintenance of a natural gas supplier (NGS) license. The section also authorizes the natural gas distribution company (NGDC) to determine the amount and form of the bond or other security that is required for a NGS license. The bonding amount must be based on criteria that were approved by the Commission in each natural gas distribution company's restructuring filing. This section reads as follows:

(c) Financial fitness.—

(1) In order to ensure the safety and reliability of the natural gas supply service in this Commonwealth, no natural gas supplier license shall be issued or remain in force unless the applicant or holder, as the case may be, complies with all of the following:

(i) *Furnishes a bond or other security in a form and amount to ensure the financial responsibility of the natural gas supplier. The criteria each natural gas distribution company shall use to determine the amount and form of such bond or other security shall be set forth in the natural gas distribution company's restructuring filing.* In approving the criteria, commission considerations shall include, but not be limited to, the financial impact on the natural gas distribution company or an alternative supplier of last resort of a default or subsequent bankruptcy of a natural gas supplier. The commission shall periodically review the criteria upon petition by any party. The amount and form of the bond or other security

¹ The Stakeholders had been convened based on the Commission finding that "effective competition" did not exist in the retail natural gas market in accordance with 66 Pa.C.S. § 2204(g) (relating to investigation and report to General Assembly). See *Investigation into the Natural Gas Supply Market: Report to the General Assembly on Competition in Pennsylvania's Retail Natural Gas Supply Market*, Order entered at Docket No. I-00040103.

² Natural gas supplier licensing regulations may be found at 52 Pa. Code §§ 62.101—62.114.

may be mutually agreed to between the natural gas distribution company or the alternate supplier of last resort and the natural gas supplier or, failing that, shall be determined by criteria approved by the commission.

66 Pa.C.S. § 2208(c)(1)(i)(emphasis added).

The Commission's NGS licensing regulations became effective on publication in the *Pennsylvania Bulletin* on July 21, 2001. 31 Pa. B. 3943. *Licensing Requirements for Natural Gas Suppliers*, Order entered April 19, 2001 at Docket No. L-00000150. Section 62.111 addresses bonds and other security. 52 Pa. Code § 62.111. This section reads as follows:

§ 62.111. Bonds or other security.

(a) A license will not be issued or remain in force until the licensee furnishes proof of a bond or other security. See section 2208(c)(1)(i) of the act (relating to requirements for natural gas suppliers).

(b) The purpose of the security requirement is to ensure the licensee's financial responsibility. See section 2208(c)(1)(i) of the act.

(c) The amount and the form of the security, if not mutually agreed upon by the NGDC and the licensee, shall be based on the criteria established in this section. The criteria shall be applied in a nondiscriminatory manner. The Commission will periodically review the established criteria upon petition by any party.

(1) The amount of the security should be reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee. At a minimum, the amount of security should materially reflect the difference between the cost of gas incurred and the supplier's charges, if any, incurred by the NGDC or supplier of last resort during one billing cycle.

(i) The amount of security established under this paragraph may be modified based on one or more of the following:

(A) The licensee's past operating history, including the length of time that the licensee operated on the NGDC's system, the number of customers served and past supply reliability problems.

(B) The licensee's credit reports.

(C) The number and class of customers being served.

(D) Information that materially affects a licensee's creditworthiness.

(E) The licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs.

(ii) The amount of the security may be adjusted, but not more often than every 6 months. The adjustments shall be reasonable and based on one or more of the following criteria:

(A) Changes in a licensee's recent operating history on the NGDC's system.

(B) Changes in a licensee's credit reports.

(C) Changes in the number or class of customers being served by the licensee.

(D) Changes in circumstances that materially affect a licensee's creditworthiness.

(E) The licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs.

(2) The following legal and financial instruments and property shall be acceptable as security:

(i) Bond.

(ii) Irrevocable letter of credit.

(iii) Corporate, parental or other third-party guaranty.

(3) In addition to the requirements in this section, small suppliers with annual operating revenues of less than \$1 million may utilize real or personal property with the following supporting documentation acceptable as security:

(i) A verified statement from the licensee that it has clear title to the property and that the property has not been pledged as collateral, or otherwise encumbered in regard to any other legal or financial transaction.

(ii) A current appraisal report of the market value of the property.

(d) The licensee shall submit to the Commission documentation demonstrating that it has complied with the bonding or security requirement. One copy of each bond, letter of credit, or other financial or legal instrument or document evidencing an agreement between the licensee and the NGDC shall be submitted to the Commission.

(e) Licensee liability for violations of 66 Pa.C.S. (relating to the Public Utility Code) and Commission orders and regulations is not limited by these security requirements.

In the *SEARCH Order*, the Commission identified NGDC security requirements as one barrier to supplier participation in the retail market³. Referencing the *SEARCH Report*, the *SEARCH Order* discussed the criteria used by the NGDC in establishing a security level and the extent of the Commission's authority under the law to modify security requirements:

The criteria that are to be used by the NGDC to set the amount and form of the security were established in each company's restructuring proceeding. The level of security is based on a formula that takes into account the NGDC's exposure to costs. For the retail supply market, this formula involves the peak day demand estimate for capacity, number of days' potential exposure in a billing cycle, and commodity estimates for quantity and cost. Offsets to the amount of security that a NGS must provide may include calls on capacity, receivable purchases or receivable pledges. NGDC costs related to supplier default as set forth in Section 2207(k) of the Public Utility Code may also be taken into account when establishing the amount of security required. 66 Pa.C.S. § 2207(k). *SEARCH Report*, pp. 18-19.

If a NGDC and NGS cannot come to a mutual agreement, the level or form of security is determined by criteria approved by the Commission. See 66 Pa.C.S. § 2208(c)(1). These criteria were established in the Commission's NGS licensing regulations and are to be used to determine security levels and acceptable forms for the security when voluntary agreement is not reached. See 52 Pa. Code § 62.111.

Section 62.111(c) permits the use of the irrevocable letters of credit, corporate parental or other third party guaranty, and real or personal property. Personal property would include the use of escrow account or the pledge or purchase of receivables. 52 Pa. Code § 62.111(c). *SEARCH Report*, pp. 18-19.

Also, an individual NGDC's security requirement, including the level of security, is subject to periodic review by the Commission. 66 Pa.C.S. § 2208(c). See also, *UGI Utilities, Inc.—Gas Division v. PA PUC*, 878 A. 2d 186 (Pa. Cmwlth. Ct. 2005) appeal den. 586 Pa. 732; 890 A.2d 1062 (2005) (the Commission has discretion to approve criteria to be used to determine the financial security necessary based upon financial impact on the NGDC by a default by a NGS). Thus, a supplier is not without a remedy to address unreasonable security requirements of a NGDC on a case-by-case basis.

SEARCH Order, pp. 23-24.

The *SEARCH Order* also discussed the suppliers' position that uniformity in the use of security instruments across NGDC service territories, and greater acceptance of other types of security by the NGDCs would decrease costs for suppliers and remove a barrier to supplier entry and participation.

However, the *SEARCH Report* states that suppliers observe that the use of security instruments is not uniform among the companies and contend that this variability is a barrier to market entry and multi-system participation. Suppliers also raised concerns about the escalating cost of security to match the growth of their sales, and opined that there should be a limitation on the frequency of review of required security levels, with specific triggers for that review, such as a percentage change in pool size. *SEARCH Report*, p. 19.

Suppliers also view the NGDC's acceptance of only certain financial instruments as a barrier to market entry. Suppliers prefer to use corporate guarantees as the predominant practice. Further, to ensure fairness and remove a possible barrier for market entry, suppliers believe that specific criteria for acceptable financial instruments should be established in a regulation or order rather than permitting companies to set those through tariffs. *SEARCH Report*, p. 19.

Establishing standard language for the form of the financial instrument used for security and reasonable criteria for the amount of security should assist NGSs in obtaining security in an acceptable form and amount, while aiding the NGDC in collecting a claim against the security in the event of supplier default. North American Energy Standards Board (NAESB) forms and business practices could be reviewed for appropriateness to develop uniform language to address this issue. *SEARCH Report*, p. 21. Also, the use of a POR program should be examined as a way to reduce the level of required security, to lessen the need for frequent credit reviews and to ameliorate adjustments in security level that might normally be triggered by changes in a company's creditworthiness rating, which can occur for reasons unrelated to its immediate business interaction and relationships. *SEARCH Report*, p. 21.

SEARCH Order, pp. 24-25.

After our review of the *SEARCH Report*, we determined that it is in the public interest to initiate a rulemaking to address security requirements related to NGS licensing.

³ This subject is fully discussed in the *SEARCH Report* in Section I (Creditworthiness/Security) at pp. 18-21.

SEARCH Order, p. 25. The task involves the revision of the NGS licensing regulations at Section 62.111 (relating to bonds or other security), and other related regulations in regard to the required level of security and the acceptable forms of security permitted to satisfy the statutory security requirement for licensing at 66 Pa.C.S. § 2208(c)(i) (relating to requirements for natural gas suppliers; financial fitness). The goal is to update the Commission's existing regulations regarding security requirements to better balance the ability of NGS firms to provide adequate security with the NGDC's risk of a supplier default. Specific matters that were to be addressed included (1) the use of NGS accounts receivables in purchase of receivables programs as fulfillment of some part or all of security requirements; (2) the adoption of standard language for financial instruments used for security; and (3) the development of reasonable criteria for NGDCs to use to establish the amount of security necessary for licensing purposes.

With this order, we initiate this proposed rulemaking. The following revisions are proposed to be made to the NGS licensing regulations at Section 62.111 (relating to bonds or other security).

Section 62.111(c)(1)(ii)

This subsection states that the amount of the security may be adjusted, but not more often than every six months, and the adjustments must be reasonable. It then lists criteria upon which these adjustments must be based. In response to suppliers' complaints about the frequency of security level adjustments and the need for specific triggering events for creditworthiness reviews and security adjustments, we have revised the criteria to make them more stringent. This means that only significant changes in the NGS's operation that would materially affect the NGDC system operation or reliability or that would materially affect the NGS's creditworthiness can trigger a review and adjustment.

Section 62.111(c)(2)

This subsection lists the legal and financial instruments that shall be acceptable for security. We have revised the list to include escrow accounts, accounts pledged to the NGDC or sold by the supplier in a NGDC purchase of receivables program, and "calls on capacity" or other operational offsets that may be mutually agreeable to NGDC and NGS.

Section 62.111(c)(4)

This subsection is a new subsection and states that when practicable, the NGDC shall use applicable North American Energy Standards Board forms or language for financial and legal instruments.

Section 62.111(c)(5)

This subsection is a new subsection that imposes an annual reporting requirement on the NGDCs. The purpose of this reporting requirement is to gather information about the NGDC's application of established criteria to set and adjust levels of security for suppliers that operate on the NGDC's system. The report will be filed with the Commission's Secretary.

Section 62.111(c)(6)

Section 62.111(c)(6) is a new subsection that lists four Commission processes that a NGS may pursue if it is unable to reach an agreement with the NGDC on the form or amount of security to be provided: informal mediation; alternate dispute resolution with the OALJ; litigation of a formal complaint; and petition for Commis-

sion review of NGDC criteria for security levels. The first alternative presented, informal mediation, may be requested by filing a dispute with the Commission's Secretary. The Office of Competitive Market Oversight⁴ will act as the mediator between the NGS and the NGDC.

Conclusion

The goal of this proposed rulemaking is to revise the security requirements for NGS licensing, lower barriers to market entry and to increase supplier participation. This is the first step of the *SEARCH Order's* Action Plan to increase effective competition in Pennsylvania's retail natural gas market.

The Commission seeks comments on the proposed revisions to our licensing regulation. Parties submitting comments are requested to provide supporting justification for requested revisions, and to propose regulatory language for incorporation into the final-form regulation.

Accordingly, under sections 501, 504 and 2203(12) and 2208 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 2203(12) and 2208; 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 in 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are proposing to amend our regulation as set forth in Annex A, attached hereto;

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 19, 2009, Commission submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees (Committees). In addition to submitting the proposed rulemaking, the Commission provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the department, the General Assembly and the Governor of objections raised.

Therefore,

It Is Ordered That:

1. A rulemaking docket shall be opened to amend the regulation relating to bonds and other security in 52 Pa. Code § 62.111 as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.

3. The Secretary shall submit this order and Annex A for review and comments to the Independent Regulatory Review Commission and the legislative standing committees.

⁴ In the Action Plan, the Commission directed that an independent unit be created within the Commission to oversee the development and the functioning of the competitive retail natural gas market. *SEARCH Order*, pp. 8-10 and Ordering Paragraph 5. The unit is to be created by January 5, 2009. The working name for the unit, Office of Competitive Market Oversight, is subject to change.

4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original and 15 copies of written comments referencing the docket number of the proposed regulation be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. To facilitate posting, all filed comments shall be forwarded by means of electronic mail to Patricia Krise Burket at pburket@state.ps.us, Annunciata Marino at annmarino@state.pa.us, and Cyndi Page at cypage@state.pa.us

6. A copy of this Order and Annex A shall be served on all jurisdictional natural gas distribution companies, all licensed natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate and all other parties that filed comments at the Docket number I-00040103.

7. That the contact persons for this proposed rule-making are Patricia Krise Burket, Law Bureau, (717) 787-3463 (legal) and Annunciata Marino, (717) 772-2151 (technical).

By the Commission

JAMES J. MCNULTY,
Secretary

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE

Subchapter D. LICENSING REQUIREMENTS FOR NATURAL GAS SUPPLIERS

§ 62.111. Bonds or other security.

* * * * *

(c) The amount and the form of the security, if not mutually agreed upon by the NGDC and the licensee, shall be based on the criteria established in this section. The criteria shall be applied in a nondiscriminatory manner. The Commission will periodically review the established criteria upon petition by any party.

(1) The amount of the security should be reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee. At a minimum, the amount of security should materially reflect the difference between the cost of gas incurred and the supplier's charges, if any, incurred by the NGDC or supplier of last resort during one billing cycle.

* * * * *

(ii) The amount of the security may be adjusted, but not more often than every 6 months. The adjustments [shall] must be reasonable and based on one or more of the following criteria:

(A) [Change] Significant changes in a licensee's recent operating history on the NGDC's system that have materially affected NGDC system operation or reliability.

(B) [Changes] A change in a licensee's credit reports that materially affects a licensee's creditworthiness.

(C) [Changes] A significant change in the number of customers or a change in the class of customers being served by the licensee. An increase of 25% in the number of customers would represent a significant change that would justify an NGDC directing that additional security be provided.

(D) [Changes] A change in circumstances that materially [affect] affects a licensee's creditworthiness.

(E) [The] A change in the licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs that materially affects NGDC system operation or reliability.

(2) The following legal and financial instruments and property shall be acceptable as security:

* * * * *

(iv) Escrow account.

(v) Accounts receivable pledged to the NGDC or sold by a supplier participating in a NGDC purchase of receivables program that is consistent with Commission orders, guidelines and regulations governing the programs.

(vi) Calls on capacity or other operational offsets as may be mutually agreed upon by the NGDC and the NGS.

* * * * *

(4) When practicable, the NGDC shall use applicable North American Energy Standards Board forms or language for financial and legal instruments that are used as security.

(5) The NGDC shall file an annual report with the Secretary no later than April 30 of each year. The report must contain the following information for the prior calendar year:

(i) The criteria that is being used to establish the amount of security that a supplier must provide to be granted a license.

(ii) The criteria that is being used to determine the amount of security that a supplier must provide to maintain a license.

(iii) The criteria that is being used to determine that a change in the amount of security is needed for the supplier to maintain a license.

(iv) The number of times in the last quarter that the NGDC determined that a change in the level of security was needed for a supplier to maintain its license.

(v) The types of legal and financial instruments and property, real and personal, that the NGDC accepted as security for licensing purposes.

(6) When there is a dispute relating to the form or amount of security, the NGS may:

(i) Submit the dispute to the Secretary for assignment to the appropriate bureau for informal mediation and resolution.

(ii) File a formal complaint with the Commission and request alternative dispute resolution by the Office of Administrative Law Judge.

(iii) File a formal complaint with the Commission and proceed with the litigation of the complaint.

(iv) File a petition with the Commission and request review of the criteria used by the NGDC.

* * * * *

[Pa.B. Doc. No. 09-620. Filed for public inspection April 3, 2009, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 439a, 461a, 463a, 465a AND
499a]

Junkets; Slot Machines; and Practice and Procedures; Omnibus Amendments

The Pennsylvania Gaming Control Board (Board), under its 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. §§ 1205, 1207 and 1322 (relating to license or permit application hearing process; public input hearings; regulatory authority of the Board; and slot machine accounting controls and audits), proposes to amend Chapters 439a, 461a, 463a, 465a and 499a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The proposed rulemaking contains numerous editorial changes to improve the clarity of existing provisions; brings the Board's regulations in line with current practices; and eliminates or streamlines existing requirements and procedures to improve the effectiveness of the Board's regulatory programs.

Explanation of Amendments to Chapters 439a, 461a, 463a, 465a and 499a

Throughout this rulemaking the Board has replaced references to the "Office of Gaming Operations" with the new name, "Bureau of Gaming Operations." Additionally the Board has deleted the definition of "Slots Lab" and references to this term and to "Gaming Lab" and replace them with the "Bureau of Gaming Laboratory Operations" which is the name that is used for this Bureau in other chapters.

In § 461a.12 (relating to progressive slot machines), a new subsection (g) is being added to require that the Bureau of Gaming Laboratory Operations test and certify progressive slot machines prior to the progressive slot machines being made available to the public for play. This reflects the current practice of the Bureau of Gaming Laboratory Operations, but it will now be a regulatory requirement.

In § 463a.1(c) (relating to possession of slot machines generally), the Board has limited the requirement to file a petition requesting permission to possess slot machines to: educational institutions; unlicensed manufacturers, manufacturer designees or suppliers who want to exhibit or demonstrate slot machines; and the general category of "other persons." There is no need for the other entities listed in subsection (b) to file a petition because they are either licensed by the Board or are law enforcement agencies. The Board will be able to monitor slot machines in the possession of these entities through the periodic reports they are required to file. The Board also believes that requiring common carriers to file a petition is impracticable and unnecessary because of the short dura-

tion of the time common carriers will have the slot machines in their possession and because information related to all shipments is filed with the Board under § 463a.2 (relating to transportation of slot machines into, within and out of this Commonwealth).

In § 463a.7 (relating to off premise storage of slot machines), the Board is simplifying the process for reviewing requests from slot machine licensees to store slot machines off the premises of a licensed facility. These amendments replace the requirement that these requests be filed as a petition and approved by the Board with the requirement that these requests be filed as a written request with the Bureau of Gaming Operations which will be approved by the Board's Executive Director. This should reduce the amount of time required to process these requests.

In § 465a.9(c) (relating to surveillance system; surveillance department control; surveillance department restrictions), the Board is deleting the requirement that slot machine licensees have audio surveillance capability in the count room. Because of changes in count room equipment technology and the capabilities of the central control computer system to track gaming revenues, there is no need to have audio recordings of count room activities.

In subsections (c) and (e), "automated teller machines" (ATMs) have been added to the lists of items that require camera coverage and video recording. Slot machine licensees' surveillance systems already cover ATMs, but they were not previously included in the Board's regulations. Gaming conducted at slot machines has also been added to the list in subsection (e) for the same reason. Additionally in subsection (e), the reference to "satellite cage" has been moved from paragraph (2) which covers the main bank and vault to paragraph (1) which covers the cashier cage.

In § 465a.9(i), the Board is reducing the time period for retention of surveillance recordings from 30 days to 7 days for the main bank and vault, the drop, the count and gaming conducted at slot machines. Because of the internal control requirements associated with the activities that are conducted in these areas, if there are going to be any problems for which these recordings would be needed, they will occur within the 7-day time frame.

In § 465a.25 (relating to counting and recording of slot cash storage boxes), the Board is deleting the "at least 48 hours" from the advance notice requirement for changes to the time the slot cash storage boxes are to be counted. Because there is video surveillance during the count process and the continuing presence of the Board's casino compliance representatives at the licensed facilities, there is no need for two days advanced notice on changes to this schedule.

In § 465a.26 (relating to jackpot payouts), the requirement in subsection (b)(3) and (7)(viii)(A) that the witness of a jackpot between \$1,200 and \$9,999.99 be "a lead slot attendant or higher" has been replaced with "a security department member or a slot operations department member other than the preparer." This will make it easier for slot machine licensees to verify jackpots and allow more efficient use of personnel.

In § 499a.1 (relating to appearance in person), a new subsection (b) has been added that clarifies who may represent a party in nonadversarial proceedings before the Board. It is modeled on the provisions in 1 Pa. Code § 31.21 (relating to appearance in person) and will reduce the need for some parties to hire legal counsel to represent them.

Affected Parties

Slot machine licensees will benefit from the simplification of the process for reviewing requests for off premise storage of slot machines and for verifying jackpots, the elimination of the requirement for audio surveillance capability in the count room, the reduction in the time periods for retention of some video recordings and the elimination of minimum of 48 hours notice on changes to the count schedule. Slot machine licensees will also be required to have progressive slot machines certified by the Bureau of Gaming Laboratory Operations prior to their use by the gaming public. Licensed and governmental entities and common carriers will no longer have to file petitions to possess slot machines. Parties in some Board proceedings will not be required to be represented by legal counsel.

Fiscal Impact

Commonwealth

To the extent that this rulemaking simplifies some administrative processes, there may be some slight savings to the Board. The Department of Revenue and the State Police may also experience some small savings from no longer having to file a petition to possess slot machines.

Political Subdivisions

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

Private Sector

Slot machine licensees will experience some cost savings because of the revisions and elimination of unnecessary regulatory requirements. There should be little to no costs associated with the new requirement that progressive slot machines be certified prior to the use because this represents the current practice of the Bureau of Gaming Laboratory Operations.

General Public

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

Paperwork Requirements

This proposed rulemaking may reduce the paperwork associated with filing requests for off premise storage of slot machines. Licensed and governmental entities and common carriers will no longer have to file petitions to possess slot machines.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation No. 125-99.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 24, 2009, the Board submitted

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

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

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-99. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 439a. JUNKET ENTERPRISES

§ 439a.7. Junket schedules.

* * * * *

(b) A junket schedule shall be filed with the Bureau **[of Corporate Compliance and Internal Controls] of Gaming Operations** 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] of Gaming Operations** by the slot machine licensee by the close of the next business day.

* * * * *

§ 439a.8. Junket arrival reports.

* * * * *

(b) Junket arrival reports must:

* * * * *

(2) Include information required under § 439a.7 (relating to junket schedules) that has not been previously provided to the **[Office] Bureau** of Gaming Operations in a junket schedule pertaining to the particular junket, or an amendment thereto.

* * * * *

§ 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 **[Office] Bureau** of Gaming Operations 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.

* * * * *

§ 439a.11. Purchase of patron lists.

* * * * *

(c) The report required by subsection (a) shall be filed with the [Office] Bureau of Gaming Operations, no later than 7 days after the receipt of the list by the purchaser.

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

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

* * * * *

[Slot Lab—The Bureau of Gaming Laboratory Operations of the Board.]

* * * * *

§ 461a.4. Submission for testing and approval.

* * * * *

(g) When an applicant for, or holder of, a manufacturer license seeks Board approval of a slot machine prototype, associated equipment prototype, or any modification thereto, it shall submit to the [Slot Lab] Bureau of Gaming Laboratory Operations the following:

(1) A prototype of the equipment, device or software accompanied by a written request for testing and approval. The manufacturer shall transport the equipment, device or software at its own expense and deliver it to the [offices of the Board's Slot Lab] Bureau of Gaming Laboratory Operations in accordance with instructions provided.

* * * * *

(5) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the [Slot Lab] Bureau of Gaming Laboratory Operations to conduct the testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board and published in the Pennsylvania Bulletin and posted on the Board's [website] web site. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

* * * * *

(8) In the case of a slot monitoring system, casino management system, player tracking system, wide area progressive system, gaming voucher system, external bonusing system, cashless funds transfer system, automated gaming voucher, coupon redemption or jackpot payout machine, coupon system or any other equipment or system required to be tested and approved under subsection (c):

* * * * *

(xiv) Any specialized hardware, software or other equipment, inclusive of technical support and maintenance applicable thereto, required by the [Slot Lab] Bureau of Gaming Laboratory Operations to conduct the testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board and published in the Pennsylvania Bulletin and

posted on the Board's [website] web site. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

* * * * *

(h) At the conclusion of testing of a prototype or modification by the [Slot Lab] Bureau of Gaming Laboratory Operations, but prior to a decision to approve a prototype or modification, the Board may require a trial period of scope and duration as it deems appropriate to assess the operation of the prototype or modification in a live gaming environment. The conduct of the trial period shall be subject to compliance by the licensed manufacturer, licensed manufacturer designee, applicable licensed suppliers, and the slot machine licensee with specific terms and conditions as may be required by the Board, which may include development and implementation of product specific accounting and internal controls, periodic data reporting to the Board and compliance with technical standards on trial periods or the prototype or modification adopted by the Board and published in the Pennsylvania Bulletin and posted on the Board's [website] web site. The Board may authorize the receipt of compensation by a licensed manufacturer, licensed manufacturer designee or licensed supplier during the trial period. The Board may order termination of the trial period if it determines that the licensed manufacturer, licensed manufacturer designee, applicable licensed suppliers or the slot machine licensee conducting the trial period has not complied with the terms and conditions required by the Board or that the product is not performing as expected.

(i) At the conclusion of testing of a prototype or modification, the [Slot Lab] Bureau of Gaming Laboratory Operations will report to the Board the results of its testing. Upon receipt of the [Slot Lab's] Bureau of Gaming Laboratory Operations' report, the Board will:

* * * * *

§ 461a.5. Slot machine conversions.

A slot machine licensee shall:

* * * * *

(2) Give prior notice of a slot machine conversion to the [Slot Lab] Bureau of Gaming Laboratory Operations in writing.

* * * * *

§ 461a.7. Slot machine minimum design standards.

* * * * *

(y) A slot machine on the gaming floor must have a label on the top of the slot machine and on the front of the slot machine near the bill validator that displays the asset number and the gaming floor plan location number of the slot machine. The labels must have white lettering on a black background or other color combination approved by the [Office] Bureau of Gaming Operations, may not be easily removed and must be easily visible to the surveillance department. The label on the top of the slot machine must be at least 1.5 inches by 5.5 inches and the label on the front of the slot machine must be at least 1 inch by 2.5 inches.

§ 461a.8. Gaming vouchers.

* * * * *

(m) A slot machine licensee shall provide written notice to the [Slot Lab] Bureau of Gaming Laboratory Operations of any adjustment to the value of any gaming voucher. The notice shall be made prior to, or concurrent with, the adjustment.

* * * * *

§ 461a.10. Automated gaming voucher and coupon redemption machines.

* * * * *

(b) Automated gaming voucher and coupon redemption machines may be located on or proximate to the gaming floor of a licensed facility and must be subject to surveillance coverage under § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions). Each automated gaming voucher and coupon redemption machine must have a label on the top of the automated gaming voucher and coupon redemption machine and on the front of the automated gaming voucher and coupon redemption that displays the asset number of the automated gaming voucher and coupon redemption machine. The labels must have white lettering on a black background or other color combination approved by the [Office] Bureau of Gaming Operations and may not be easily removed. The label on the top of the automated gaming voucher and redemption machine must be at least 1.5 inches by 5.5 inches and the label on the front of the automated gaming voucher and coupon redemption machine must be at least 1 inch by 2.5 inches.

* * * * *

§ 461a.12. Progressive slot machines.

* * * * *

(g) A slot machine that offers either a new progressive jackpot or a modification of an existing progressive jackpot may not be made available for play by the public until the slot machine has been tested and certified by the Bureau of Gaming Laboratory Operations.

(h) Progressive meters may not be turned back to a lesser amount unless one of the following occurs:

* * * * *

[(h)] (i) * * *

[(i)] (j) * * *

[(j)] (k) * * *

* * * * *

[(k)] (l) * * *

* * * * *

[(l)] (m) * * *

[(m)] (n) * * *

§ 461a.18. Cashless funds transfer systems.

* * * * *

(g) A slot machine licensee shall notice the [Slot Lab] Bureau of Gaming Laboratory Operations in writing of any adjustment to the amount of a credit transferred to a slot machine by means of a cashless funds transfer system. The notice shall be made on or before the date of adjustment.

§ 461a.22. Automated jackpot payout machines.

* * * * *

(b) An automated jackpot payout machine must have a label on the top of the automated jackpot payout machine and on the front of the automated jackpot payout machine that displays the asset number of the automated jackpot payout machine. The labels must have white lettering on a black background or other color combination approved by the [Office] Bureau of Gaming Operations, may not be easily removed and must be easily visible to the surveillance department. The label on the top of the automated jackpot payout machine must be at least 1.5 inches by 5.5 inches and the label on the front of the automated jackpot payout machine must be at least 1 inch by 2.5 inches.

* * * * *

§ 461a.26. Testing and software installation on the live gaming floor.

(a) Prior to the testing of slot machines, associated equipment and displays on a live gaming floor during a slot machine licensee's normal hours of operation, the slot machine licensee shall notify the [Board's Gaming Lab] Bureau of Gaming Laboratory Operations in writing at least 72 hours prior to the test date. The notification must include the following:

* * * * *

(b) A slot machine licensee shall notify the [Board's Gaming Lab] Bureau of Gaming Laboratory Operations at least 72 hours prior to the installation of any new software or the installation of any change in previously approved software for:

* * * * *

CHAPTER 463a. POSSESSION OF SLOT MACHINES

§ 463a.1. Possession of slot machines generally.

* * * * *

(c) Persons seeking to possess slot machines under [subsection (b)] subsection (b)(4), (5) and (8) shall submit a petition to the Board as required under § 493a.4 (relating to petitions generally). The petition to the Board must contain:

* * * * *

§ 463a.2. Transportation of slot machines into, within and out of this Commonwealth.

In furtherance of section 1511 of the act (relating to the declaration of exemption from Federal laws prohibiting slot machines), prior to the transport or movement of a slot machine into this Commonwealth, from one person authorized to possess slot machines under § 463a.1 (relating to possession of slot machines generally) to another person authorized within this Commonwealth or transport or movement out of this Commonwealth, the persons causing the slot machine to be transported or moved shall notify the Bureau of Gaming Laboratory Operations, BIE and the [Office] Bureau of Gaming Operations in writing or in an electronic format approved by the Board. The notice shall be submitted no later than the day the slot machine is transported and include the following information:

* * * * *

§ 463a.7. Off premises storage of slot machines.

(a) A slot machine licensee may not store slot machines off the premises of a licensed facility without prior approval from the [Board] Board's Executive Director.

(b) A slot machine licensee seeking to store slot machines off the premises of a licensed facility shall [file] submit a [petition to the Board] written request to the Bureau of Gaming Operations for off premise storage [as required under § 493a.4 (relating to petitions generally)]. The [petition] request must include:

* * * * *

(2) A description of the type of surveillance system that has been or will be installed at the proposed storage facility.

(3) The plan to provide 24 hour, 7 day a week security at the proposed storage facility.

(4) The number and manufacturer of the slot machines that will be stored at the proposed storage facility.

(5) The date that the slot machines are expected to arrive at the proposed storage facility.

* * * * *

(c) Before [acting] the Board's Executive Director will act on a request for off premise storage of slot machines, the Board will inspect the proposed storage facility.

(d) The [Board] Board's Executive Director will approve or disapprove requests within 60 days. Requests approved by the [Board] Board's Executive Director may be subject to specific terms and conditions imposed by the [Board] Board's Executive Director.

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

§ 465a.2. Internal control systems and audit protocols.

* * * * *

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the [Office] Bureau of Gaming Operations using the Amendment and Waiver Request Form posted on the Board's web site (www.pgcb.state.pa.us). A request for a change or amendment must include electronic copies of the attestations required under [subsections] subsection (b)(1) and (2). The slot machine licensee shall also submit a written copy of the change or amendment and the required attestations to the Department. The slot machine licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the slot machine licensee receives a notice under subsection (g) tolling the change or amendment.

(g) If during the 30-day review period in subsection (f), the [Office] Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, the [Office] Bureau of Gaming Operations, by written notice to the slot machine licensee, will:

* * * * *

(i) When a change or amendment has been tolled under subsection (g), the slot machine licensee may submit a revised change or amendment within 30 days of receipt of the written notice from the [Office] Bureau of Gaming Operations. The slot machine licensee may implement the revised change or amendment on the 30th calendar day following the filing of the revision unless it receives written notice under subsection (g) tolling the change or amendment.

* * * * *

§ 465a.4. Standard financial and statistical reports.

(a) Within 30 days of the close of each calendar quarter, slot machine licensees shall file a report which includes a detailed reconciliation of the amount invoiced by the Department to the tax accrual determined by the slot machine licensee's revenue/income audit process. The reconciliation shall be determined by the slot machine licensee on at least a weekly basis and the report must provide the date and the amount of any differences found during the reconciliation process. The report shall be filed electronically with the [Board's Office] Bureau of Gaming Operations and the Department's Bureau of Fiscal Management.

* * * * *

§ 465a.5. Annual audit; other reports; suspicious activity and currency transaction reporting.

* * * * *

(n) Prior to commencing gaming operations, a slot machine licensee shall file with the [Office] Bureau of Gaming Operations, in a manner to be prescribed by the [Office] Bureau of Gaming Operations, a copy of its compliance program required under 31 CFR 103.64 (relating to special rules for casinos). Thereafter, a slot machine licensee shall file with the [Office] Bureau of Gaming Operations any amendment or supplement to its compliance program on or before the effective date of the amendment or supplement.

§ 465a.8. Licensed facility.

* * * * *

(d) Slot machine licensees shall, in accordance with section 1207(13) of the act (relating to regulatory authority of board), provide for and maintain onsite facilities for use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as the gaming floor, in locations approved by the [Office] Bureau of Gaming Operations and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department and the Pennsylvania State Police at the facility including the following:

* * * * *

(8) Signs indicating the location of the Board's office. The size, location and design of the signs must be approved by the [Office] Bureau of Gaming Operations.

* * * * *

§ 465a.9. Surveillance system; surveillance department control; surveillance department restrictions.

* * * * *

(c) The surveillance system required in this section must include the following:

(1) Light sensitive cameras with lenses of sufficient magnification to allow the operator to read information on a slot machine reel strip and credit meter and equipped with 360° pan, tilt and zoom capabilities, without camera stops, to clandestinely monitor in detail and from various vantage points, including the following:

* * * * *

(iii) The operations conducted at automated bill breaker **machines, automated** gaming voucher [**redemption,]** and coupon redemption [**and**] **machines, automated** jackpot payout machines and **automated teller machines.**

* * * * *

(4) [**Audio capability in the count room installed in a manner that conforms to section 1522 of the act.**

(5) One or more monitoring rooms in the licensed facility which shall be staffed by employees of the slot machine licensee's surveillance department who shall at all times monitor the activities enumerated in paragraph (1). Each monitoring room shall be equipped with or serviced by:

* * * * *

[(6)] (5) * * *

[(7)] (6) * * *

* * * * *

(e) A slot machine licensee's surveillance system must continuously record, during the times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

(1) Each transaction conducted on the gaming floor or at a cashiers' cage **or satellite cage.** Coverage of the transaction must include, but not be limited to, recording transmissions from cameras used to observe the face of each patron transacting business at a cashiers' cage **or satellite cage** from the direction of the cashier.

(2) The main bank, vault [**, satellite cages**] and other areas specified in writing by the Board.

* * * * *

(6) [**Automated**] **The operations conducted at automated** bill breaker **machines, automated** gaming voucher [**redemption,]** and coupon redemption [**and**] **machines, automated** jackpot payout machines [**whenever the machines are opened for replenishment or other servicing**] and **automated teller machines.**

* * * * *

(8) **The gaming conducted at slot machines.**

* * * * *

(j) [**Except for subsection (e)(3), the**] **The** surveillance recordings required under [**subsection (e)**] **subsection (e)(1), (5), (6) and (7)** shall be retained for a minimum of 30 days. [**Other**] **All other** surveillance recordings shall be retained for a **minimum of 7** days. Surveillance recordings shall be made available for review upon request by the Board or the Pennsylvania State Police.

* * * * *

§ 465a.18. **Transportation of slot cash storage boxes to and from bill validators; storage.**

(a) Slot machine licensees shall file with the [**Office**] **Bureau** of Gaming Operations a schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room.

(b) Slot machine licensees shall maintain immediately available to the [**Office**] **Bureau** of Gaming Operations and the Pennsylvania State Police, a current list, with credential numbers, of all employees participating in the transportation of slot cash storage boxes. Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, change in the areas to be dropped or the transportation route to the count room shall be noticed to the [**Office**] **Bureau** of Gaming Operations in advance.

* * * * *

§ 465a.25. **Counting and recording of slot cash storage boxes.**

(a) A slot machine licensee shall file with the [**Office**] **Bureau** of Gaming Operations a schedule setting forth the specific times during which the contents of slot cash storage boxes are to be counted and recorded. Any deviation from the schedule shall be noticed to the [**Office**] **Bureau** of Gaming Operations and the casino compliance supervisor at the licensed facility [**at least 48 hours**] in advance.

* * * * *

§ 465a.26. **Jackpot payouts.**

* * * * *

(b) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must, at a minimum, include:

* * * * *

(3) A requirement that if the jackpot range is \$1,200 to \$9,999.99, the witness on the two-part manual jackpot payout receipt and the two-part electronically generated jackpot payout slip be a [**lead slot attendant or above**] **security department member or a slot operations department member other than the preparer.**

* * * * *

(7) A requirement that the following information be on the two-part manual jackpot payout receipt:

* * * * *

(viii) If the slot machine or the progressive meter is reset prior to the patron being paid or if payment is made directly to the patron by a slot attendant, the following additional signatures or identification codes:

(A) The signature or identification code of a security department member or slot operations department member other than the preparer attesting to the winning

combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the amount is below [\$1,200] \$10,000.

(B) [The signature or identification code of a lead slot attendant or above attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is between \$1,200 and \$9,999.99.

(C)] The signature or identification code of a slot shift supervisor or above attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is between \$10,000 and \$24,999.99.

[(D)] (C) The signature or identification code of a slot shift manager or above attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is \$25,000 or more.

* * * * *

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 499a. REPRESENTATION BEFORE THE BOARD

§ 499a.1. Appearance in person.

* * * * *

(b) In nonadversarial proceedings:

(1) A member of a partnership may represent the partnership.

(2) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.

(3) An officer or employee of another agency or of a political subdivision may represent the agency or political subdivision in presenting any submittal to the Board.

(c) A party, other than an individual appearing on his own behalf, in an adversary proceeding before the Board shall be represented by an attorney authorized to appear before the Board in accordance with § 499a.2 (relating to appearance by attorney).

[(c)] (d) This section supersedes 1 Pa. Code § 31.21 (relating to appearance in person).

[Pa.B. Doc. No. 09-621. Filed for public inspection April 3, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) by notational vote completed on March 4, 2009, proposed the following rulemaking:

Amend §§ 141.43 and 141.44 (relating to deer; and bear) to remove the prohibition on the use of magnifying telescopic sights on bows and crossbows during deer and bear archery seasons.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public by Commission news release on March 5, 2009. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 17, 2009.

1. Purpose and Authority

On January 27, 2009, the Commission adopted regulatory amendments that, in relevant part, authorized the use of the crossbow during deer and bear archery seasons. This authorization was qualified by language prohibiting the use of magnifying telescopic sights on bows and crossbows. In light of extensive public comment received by the Commission concerning the prohibition on the use of magnifying telescopic sights on crossbows during the respective archery seasons, the Commission is prepared to revisit and promote further discussion on the issue. To this end, the Commission is proposing to amend §§ 141.43 and 141.44 to remove the prohibition on the use of magnifying telescopic sights on crossbows.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.43 and 141.44 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.43 and 141.44 to remove the prohibition on the use of magnifying telescopic sights on bows and crossbows during deer and bear archery seasons.

3. Persons Affected

Persons wishing to hunt white-tailed deer or black bear during their respective archery seasons within this Commonwealth may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in any additional cost or paperwork.

5. *Effective Date*

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717)783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-284. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.43. Deer.

(a) *Archery deer season.*

* * * * *

(2) *Prohibitions.* While hunting deer during the archery deer season, it is unlawful to:

* * * * *

[(iii) Use magnifying telescopic sights.]

* * * * *

§ 141.44. Bear.

(a) *Archery bear season.*

* * * * *

(2) *Prohibitions.* While hunting bear during the archery bear season, it is unlawful to:

* * * * *

[(v) Use magnifying telescopic sights.]

* * * * *

[Pa.B. Doc. No. 09-622. Filed for public inspection April 3, 2009, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of General Services

The Executive Board approved a reorganization of the Department of General Services effective March 18, 2009.

The organization chart at 39 Pa.B. 1671 (April 4, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-623. Filed for public inspection April 3, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of State

The Executive Board approved a reorganization of the Department of State effective March 18, 2009.

The organization chart at 39 Pa.B. 1672 (April 4, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-624. Filed for public inspection April 3, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Pennsylvania Game Commission

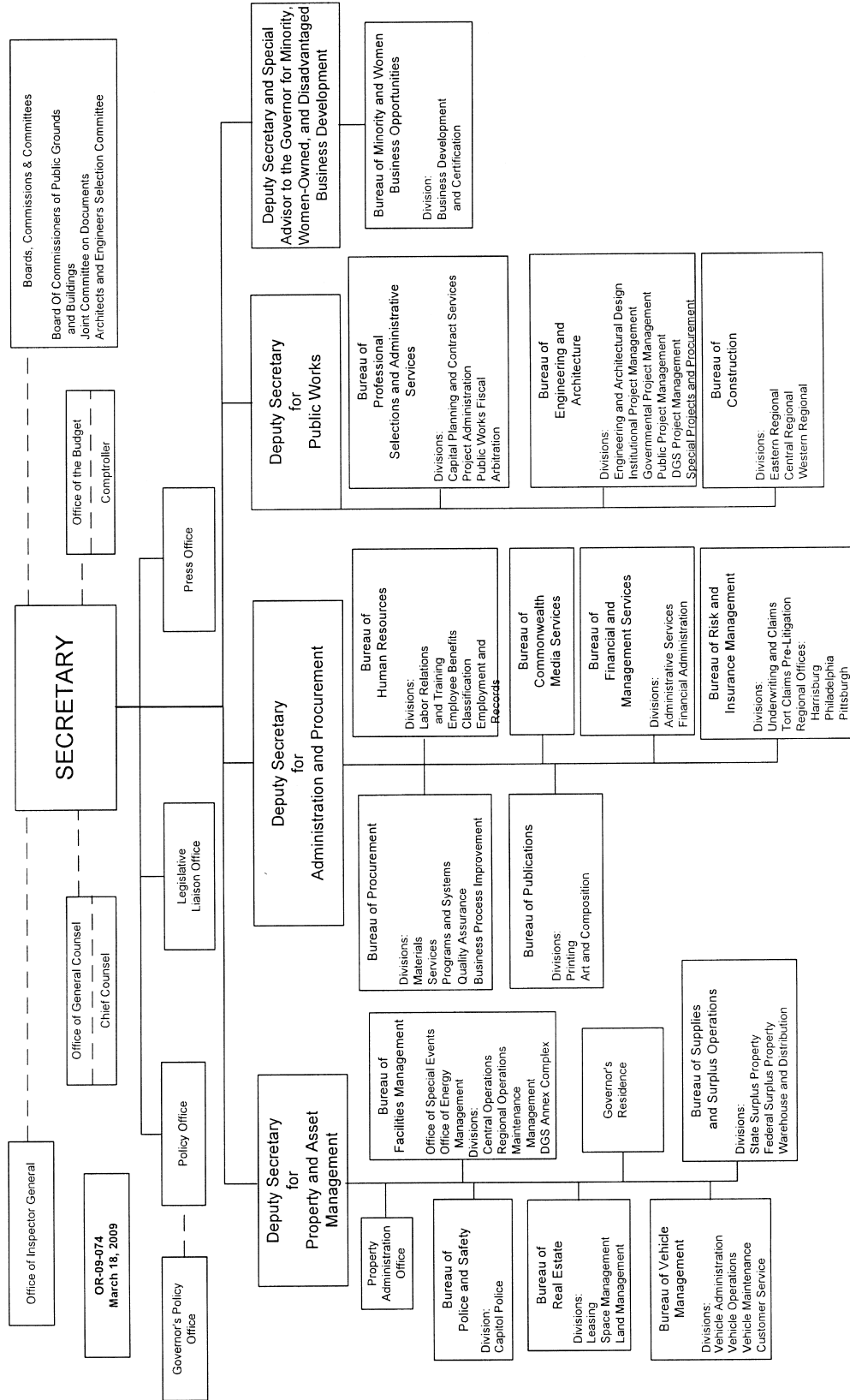
The Executive Board approved a reorganization of the Pennsylvania Game Commission effective March 18, 2009.

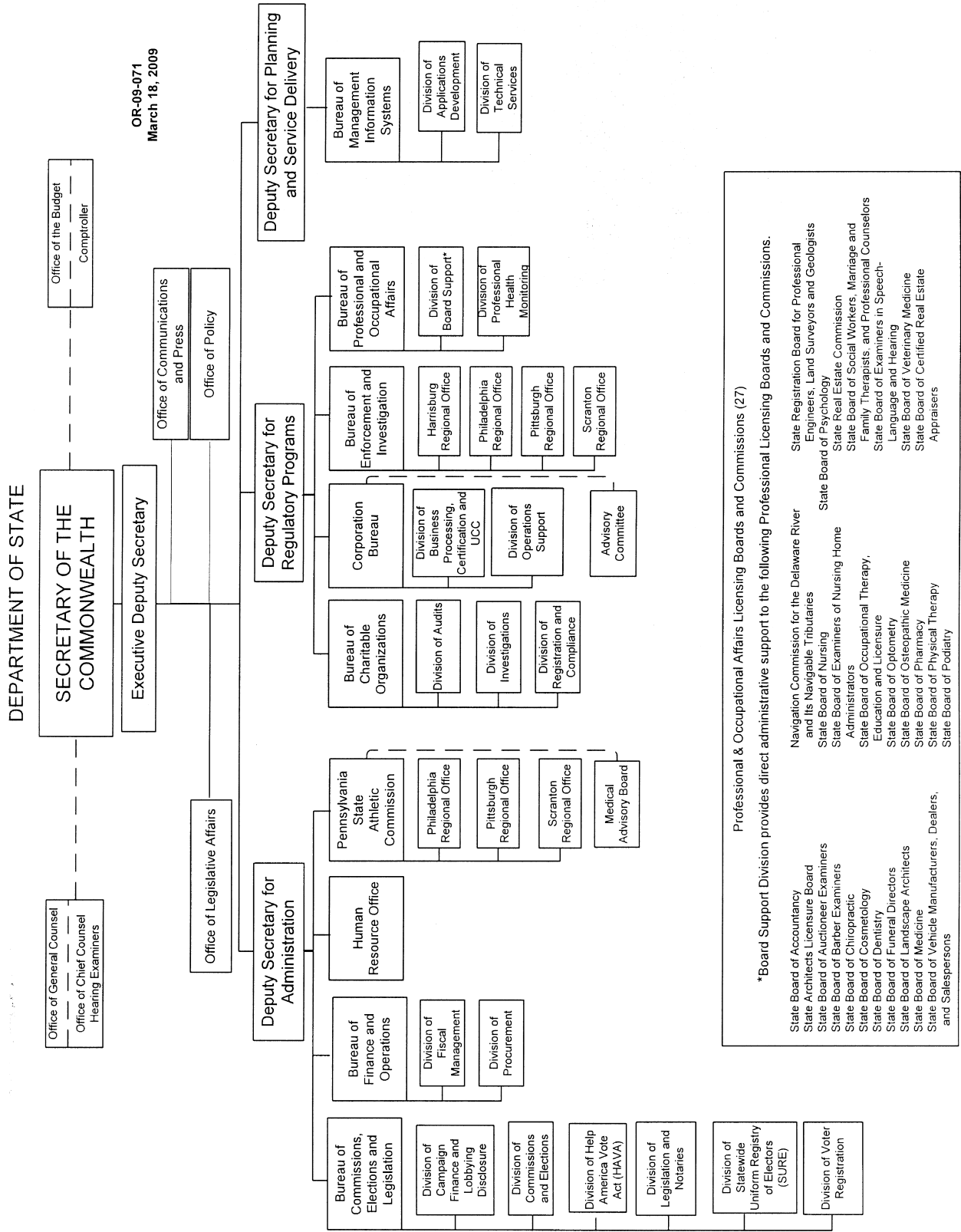
The organization chart at 39 Pa.B. 1673 (April 4, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

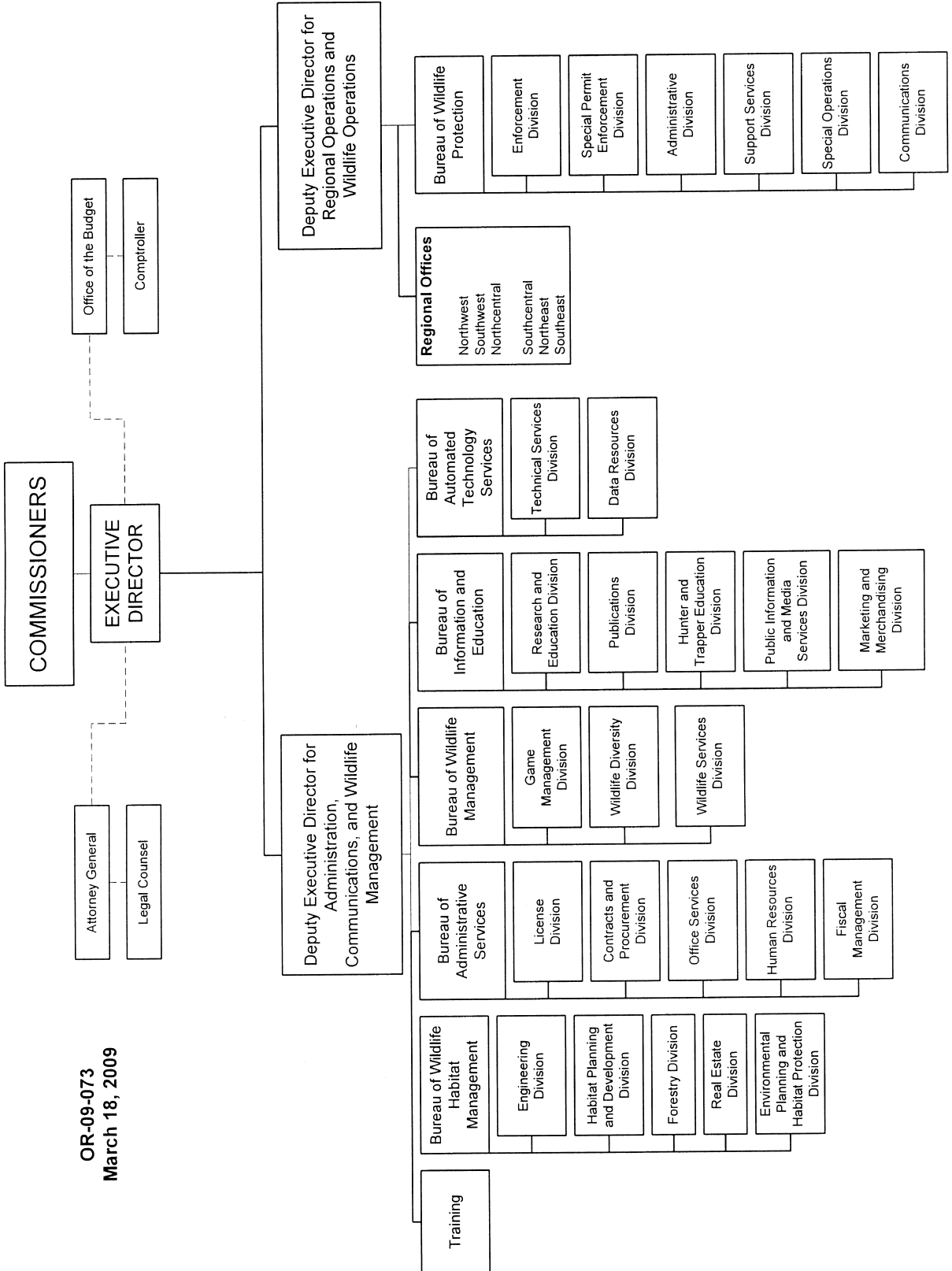
[Pa.B. Doc. No. 09-625. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES





GAME COMMISSION



OR-09-073
March 18, 2009

Title 37—LAW

PART III. AGENCIES AND OFFICERS

[37 PA. CODE CH. 96]

Interim Guidelines for the Implementation of the Recidivism Risk Reduction Incentive

The Department of Corrections (Department) has established guidelines for the implementation of 44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive) under section 9 of the act of September 25, 2008 (P. L. 1026, No. 81) which added 44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive).

A. Effective Date

The interim guidelines will become effective upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

Further information concerning the interim guidelines may be obtained from the Department of Corrections, 2520 Lisburn Road, P. O. Box 598, Camp Hill, PA 17001. The interim guidelines are published on the Department's web site at www.cor.state.pa.us.

C. Statutory Authority

The interim guidelines are published under 44 Pa.C.S. § 5308 (relating to written guidelines and regulations) which requires the Department, upon consultation with the Board of Probation and Parole, to develop written interim guidelines which are not subject to the Regulatory Review Act (71 P. S. §§ 745.1—745.25). The interim guidelines are effective for a period of 2 years and must be replaced with regulations promulgated consistently with the Regulatory Review Act within the 3-year period during which the interim guidelines are effective.

D. Purpose and Background

A growing body of scientific evidence indicates that the risks that an offender will commit additional crimes can be reduced through the completion of programs intended to address the offender's criminogenic needs. On September 25, 2008, Governor Rendell signed into law legislation that, inter alia, established the recidivism risk reduction incentive (RRRI). The RRRI seeks to improve public safety by encouraging offenders to complete programs that scientific evidence suggests may reduce the risk that the offender will commit a future crime.

The RRRI Act applies only to a select group of "eligible offenders" and not to all persons convicted of crime. Eligible offenders generally are low-risk offenders who have not committed personal injury crimes as defined in the Crime Victims Act (18 P. S. §§ 11.101—11.5102) or any violation of the 18 Pa.C.S. §§ 6101—6127 (relating to Uniform Firearms Act). Certain other offenses also are excluded from the eligible offender definition. Additionally, only those offenders being sentenced to a term of confinement in the Department are eligible for purposes of the RRRI.

A judge sentencing an eligible offender to confinement in the Department is required to impose both a traditional minimum sentence and a RRRI minimum sentence. A RRRI minimum sentence is not required if the eligible offender has previously been sentenced to two or more RRRI minimum sentences. The RRRI minimum sentence is equal to 3/4 of the minimum sentence if the traditional minimum sentence is 3 years or less and to 5/6 of the minimum sentence if the traditional minimum sentence is greater than 3 years.

The Department will conduct an assessment of the treatment needs and risks of eligible offenders it receives using Nationally recognized assessment tools. The results of the assessment will be used to develop a program plan that is designed to reduce the risk of recidivism using RRRI programs. An RRRI program is a program that scientific evidence suggests may reduce the risk that an offender will commit additional crimes. An offender who successfully completes the program plan, maintains a good conduct record, and continues to remain an eligible offender can be paroled on the RRRI minimum sentence date unless the Board of Probation and Parole determines that parole would present an unreasonable risk to public safety or that other specified conditions have not been satisfied.

E. Paperwork

The interim guidelines will not appreciably increase the paperwork requirements of the counties. Counties currently submit to the Department a Court Commitment form (DC-300B). The form will be modified to include information relevant to the RRRI minimum sentence. The Department will use the existing documentation and other evaluative tools in performing assessments.

F. Fiscal Impact

The interim guidelines will be fiscally neutral with respect to counties. The Department anticipates a savings of \$42,784,000 through the first 5 years of the program.

JEFFREY A. BEARD, Ph.D.,
Secretary

(Editor's Note: Title 37 of the *Pennsylvania Code* is amended by adding a statement of policy in §§ 96.1—96.6 to read as set forth in Annex A.)

Fiscal Note: 19-SOP-10. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICERS

Subpart B. DEPARTMENT OF CORRECTIONS CHAPTER 96. RECIDIVISM RISK REDUCTION INCENTIVE

Sec.	
96.1.	Authority and purpose.
96.2.	Definitions.
96.3.	RRRI programs.
96.4.	Commitment documents.
96.5.	Assessment and program plan.
96.6.	Notification to the Board and certification.

§ 96.1. Authority and purpose.

(a) On September 25, 2008, the RRRI was established under the act. The RRRI seeks to improve public safety by encouraging eligible offenders to complete programs that scientific evidence suggests may reduce the risk that the offender will commit a future crime. Eligible offenders generally are low-risk offenders who have not committed personal injury crimes as defined in the Crime Victims Act (18 P. S. §§ 11.101—11.5102), any violation of 18 Pa.C.S. Chapter 61 (relating to the Uniform Firearms Act) or certain other enumerated offenses. A judge sentencing an eligible offender to confinement in the Department generally is required to impose both a traditional minimum sentence and an RRRI minimum sentence equal to 3/4 of the minimum sentence if the traditional minimum sentence is 3 years or less and to 5/6 of the minimum sentence if the traditional minimum sentence is greater than 3 years.

(b) The Department will conduct an assessment of the treatment needs and risks of eligible offenders it receives using Nationally recognized assessment tools. The results of the assessment will be used to develop a program plan that is designed to reduce the risk of recidivism using RRRRI programs. An RRRRI program is a program that scientific evidence suggests may reduce the risk that an offender will commit additional crimes. An offender who successfully completes the program plan, maintains a good conduct record and continues to remain an eligible offender can be paroled on the RRRRI minimum sentence date unless the Board determines that parole would present an unreasonable risk to public safety or that other specified conditions have not been satisfied.

(c) This chapter was established under the acts, and is intended to inform judges, prosecutors, defense counsel, defendants, court personnel and the general public about the RRRRI.

§ 97.2. Definitions.

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

Act—44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive).

Board—The Pennsylvania Board of Probation and Parole.

Court—The trial judge exercising sentencing jurisdiction over an eligible offender under the act or the president judge or the president judge's designee if the original trial judge is no longer serving as a judge of the sentencing court.

Defendant—An individual charged with a criminal offense.

Department—The Department of Corrections of the Commonwealth.

Eligible offender—A defendant or prisoner convicted of a criminal offense who will be committed to the custody of the Department and who meets the following eligibility requirements:

(i) Does not demonstrate a history of present or past violent behavior.

(ii) Has not been subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, or the attorney for the Commonwealth has not demonstrated that the defendant has been found guilty of or was convicted of an offense involving a deadly weapon or offense under 18 Pa.C.S. Chapter 61 (relating to firearms and other dangerous articles) or the equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(iii) Has not been found guilty or previously convicted or adjudicated delinquent for an attempt or conspiracy to commit a personal injury crime as defined under section 103 of the Crime Victims Act (18 P.S. § 11.103), or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(iv) Has not been found guilty or previously convicted or adjudicated delinquent for violating any of the following provisions or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation:

(A) 18 Pa.C.S. § 4302 (relating to incest).

(B) 18 Pa.C.S. § 5901 (relating to open lewdness).

(C) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(D) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(E) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(F) 18 Pa.C.S. Chapter 76, Subchapter C (relating to Internet child pornography).

(G) Received a criminal sentence under 42 Pa.C.S. § 9712.1 (relating to sentences for certain drug offenses committed with firearms).

(H) Any offense listed under 42 Pa.C.S. § 9795.1 (relating to registration).

(v) Is not awaiting trial or sentencing for additional criminal charges, if a conviction or sentence on the additional charges would cause the defendant to become ineligible under this definition.

(vi) Has not been found guilty or previously convicted of violating section 13(a)(3)(14), or (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(a)(14)(3) or (37)), when the sentence was imposed under 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii), (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking sentencing and penalties).

Program plan—An individualized plan recommended by the Department that contains approved treatment and other approved programs designed to reduce recidivism risk of a specific prisoner.

RRRI—Recidivism Risk Reduction Incentive.

§ 96.3. RRRRI programs.

(a) Before designating a program as an RRRRI program, the Department will publish for public comment a detailed description of the program, the types of offenders who will be eligible to participate in the program, the name and citation of research reports that demonstrate the effectiveness of the proposed program and the name and address of a Department contact person responsible for receiving public comment. Publication will be made by placing the description on the Department's public web site (www.cor.state.pa.us) as well as publishing the description in the *Pennsylvania Bulletin* and delivering a copy of the list to the Judiciary Committee of the Senate, the Judiciary Committee of the House of Representatives, the Board, the Pennsylvania Commission on Sentencing and the Victim Advocate.

(b) Public comment will be received for at least 60 days following the date of publication in the *Pennsylvania Bulletin*. The Department will consider public comment received prior to designating a program as an RRRRI program.

§ 96.4. Commitment documents.

The Department's Court Commitment Form (DC-300B) has been modified to enable the entry of the traditional minimum sentence, an RRRRI minimum sentence and a maximum sentence. The DC-300B also includes an area in which court officials can indicate if the attorney for the Commonwealth waived the eligibility requirements. The DC-300B is included in the Administrative Office of the Pennsylvania Courts' electronic docketing system.

§ 96.5. Assessment and program plan.

(a) The Department will assess the treatment needs and risks of every defendant sentenced to an RRRRI minimum sentence. Assessments will be made using Nationally-recognized assessment tools that have been normed and validated.

(b) The Department will develop a program plan designed to reduce the risk of recidivism through the use of RRRRI programs that are appropriate for the particular defendant. The program plan may also include non-RRRI programs that the Department in its sole discretion believes are appropriate for the particular defendant.

(c) Each defendant sentenced to an RRRRI minimum sentence will be advised and asked to acknowledge that he is required to successfully complete the program plan. If the defendant refuses to sign the acknowledgement, a Department staff member will note the refusal to sign the acknowledgement.

§ 96.6. Notification to the Board and certification.

(a) The Department will, in a manner agreed to between the Board and the Department, inform the Board when a defendant who is scheduled for parole review is serving an RRRRI minimum sentence.

(b) For each defendant serving an RRRRI minimum sentence, the Department will, in a manner agreed to between the Board and the Department, and if appropriate, certify to the Board that the following conditions have been met:

(1) The Department conducted an appropriate assessment of the treatment needs and risks of the defendant using Nationally-recognized assessment tools that have been normed and validated.

(2) The Department developed a program plan based upon the assessment that was designed to reduce the risk of recidivism through the use of RRRRI programs authorized and approved under the act that were appropriate for the particular defendant.

(3) The Department advised the defendant that he was required to successfully complete the program plan.

(4) The defendant successfully completed all required RRRRI programs or other programs designated in the program plan.

(5) The defendant maintained a good conduct record following imposition of the RRRRI minimum sentence. For purposes of this paragraph, generally a defendant may be deemed to have maintained good conduct if he incurred no more than one Class 1 misconduct or two Class 2 misconducts while incarcerated with the Department. However, reviewing staff shall have discretion to certify or refuse to certify that a defendant maintained good conduct based upon the totality of the defendant's conduct with the Department.

(6) The defendant continues to be an eligible offender.

(c) The Department will continue to monitor the factors in subsection (b) until the defendant has been actually released from custody and will notify the Board of any material change in one or more of the factors.

[Pa.B. Doc. No. 09-626. Filed for public inspection April 3, 2009, 9:00 a.m.]

Title 52—PUBLIC UTILITIES**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

[52 PA. CODE CH. 69]

Interconnection Application Fees

The Pennsylvania Public Utility Commission (Commission) on February 26, 2009, adopted a final policy statement which establishes standards fees for interconnection in this Commonwealth.

Public Meeting held
February 26, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Interconnection Application Fees; M-00051865

Policy Statement

By the Commission:

The Commission issued a proposed Policy Statement at this docket on June 26, 2008 (June 26 Order). The proposed Policy Statement set forth a series of standard fees for interconnection applications, reviews of generating facilities and completion of the interconnection under the Commission's Regulations at 52 Pa. Code §§ 75.21, 75.22, 75.31—75.40 and 75.51. The standard fees established in this Policy Statement will be presumed reasonable. An Electric Distribution Company (EDC) that wishes to deviate from the standard fees set forth in this Policy Statement will be required to file for Commission approval of any such deviation. The EDC will have the burden of proof to establish, in an on the record proceeding, that the proposed deviation is justified. June 26 Order at 3.

The proposed fee structure and levels are based, in part, on the fee schedule established in New Jersey, consistent with the directive set forth in the Alternative Energy Portfolio Standards Act (AEPS) (73 P. S. § 1648.5). There, this Commission is directed to establish interconnection rules "consistent with rules defined in other states within the service region of the regional transmission organization that manages the transmission system in any part of this Commonwealth." The fee structure set forth in this Policy Statement is aligned with the levels of review for interconnection requests in Pennsylvania, Levels 1 through 4. We departed from the New Jersey structure in the Proposed Policy Statement by proposing a flat fee of \$250 for Level 1 reviews. New Jersey did not have a fee for Level 1 reviews. June 26 Order at 5. We will revisit the issue of fees for Level 1 reviews in this Opinion and Order.

The balance of the review levels tracked the New Jersey fee structure by providing for a base fee and a per-kW fee tied to the nameplate capacity of the proposed generating facility. For Level 2, the base fee was proposed

to be \$250 with a per-kW fee of \$1 for the nameplate capacity rating of the generating facility. For Level 3, the base fee was proposed to be \$350 with a per-kW fee of \$2. June 26 Order at 5. We also noted that there are various studies and analyses that may be required in the higher level projects. Again, we adopted the New Jersey model and provided for a cap on hourly charges that would apply to such studies and analyses. Hourly fees for studies and analyses may not exceed \$100 per hour for Levels 2 and 3. June 26 Order at 8.

New Jersey does not have a Level 4 review as does Pennsylvania. Because of the nature of a Level 4 review, it could mimic reviews for Level 1, Level 2 or Level 3. Accordingly, we proposed that in those instances, the fee for a Level 4 review would be consistent with the fee levels for the applicable level of review actually performed, even though it is classified as a Level 4 review. For actual Level 4 reviews on larger capacity systems that do not mimic a different review level, we proposed to use the Level 3 review fee structure. June 26 Order at 6.

The June 26 Order and the Annex containing the proposed Policy Statement were published at 38 Pa.B. 4107 (August 2, 2008). Comments to the proposed Policy Statement were received from the Office of Consumer Advocate (OCA), the Department of Environmental Protection (DEP), The Mid-Atlantic Solar Energy Industries Association and The Solar Alliance (collectively, The Solar Alliance), the Energy Association of Pennsylvania (EAP), Duquesne Light Company (Duquesne) and Metropolitan Edison Company and Pennsylvania Power Company (collectively, First Energy).

Initially, we note that those parties which commented specifically on the use of a policy statement for the establishment of interconnection fees favored this approach. In particular, First Energy notes that the use of a policy statement provides for the flexibility needed to review and, if needed, change the various fee structures and levels over time as changing circumstances warrant. First Energy Comments at 2. Each of the parties that filed comments favor a uniform fee approach across the Commonwealth. The structure and level of the fees proposed generated some disagreement among the commenting parties.

Level 1 Reviews

With regard to Level 1 Reviews, The Solar Alliance, the OCA and the DEP all recommended that no fee be charged. These parties commented that New Jersey does not charge a fee and suggested that Pennsylvania should attempt to remain consistent with surrounding states. See such as, The Solar Alliance Comments at 2; OCA Comments at 2-4; DEP Comments at 1-2. Interestingly, the The Solar Alliance submitted information regarding existing EDC fees for small generation facilities (up to 40 kW). According to The Solar Alliance, such fees range from flat fees of \$35 to \$100 for solar photovoltaic (PV) systems and up to \$300 for nonsolar PV systems. The Solar Alliance Comments at 2.

Conversely, Duquesne comments that a \$250 Level 1 fee will not compensate it for the time necessary to evaluate a Level 1 application through to actual interconnection. Duquesne states that the average Level 1 application will require approximately 8.5 hours of time at an average cost of \$80 per hour (including vehicles). Thus, Duquesne states that the average Level 1 application costs approximately \$680. Duquesne Comments at 2-3.

The EAP comments that a variety of factors have an impact on solar development. However, the EAP states

that it would "support an application fee of \$250 for Level 1, noting the actual costs would be partially subsidized and noting the likelihood that Level 1 applicants will also need to obtain a permit from the local government entity." EAP Comments at 7. First Energy supports the EAP Comments. First Energy Comments at 4.

In our view, the DEP and The Solar Alliance have proposed a fair compromise which resolves the discussion around the proposed \$250 Level 1 fee and no fee at all in Level 1 applications. The DEP and The Solar Alliance each propose a Level 1 flat fee of \$100 if any fee must be imposed. The DEP Comments at 2; Solar Alliance Comments at 2. We also note that the OCA suggested that if any fee must be imposed, the OCA recommends a reduction to some level below the proposed \$250. OCA Comments at 4.

We are aware that the EAP, First Energy and Duquesne have expressed concerns that even the proposed amount of \$250 will not compensate EDCs for their costs in evaluating Level 1 applications. However, we must balance that assertion with the AEPS directive that we try to remain consistent with neighboring states. In addition, the Level 1 process is expressly designed to be the most simplified interconnection process. These are low capacity, pre-certified systems. Over time, we expect the EDCs and the solar industry to become more familiar with these systems which will result in a reduction in EDC efforts to process these types of applications. As we have stated, because these standardized fees are established through a Policy Statement, we will periodically review the fee levels. If these fee levels require adjustment, we will be able to do so.

Given the AEPS Act's promotion of alternative energy sources, in particular solar based systems, we find that a standard fee for Level 1 applications of \$100 is appropriate. We are also persuaded by the OCA, The Solar Alliance and the DEP that the lower fee is necessary to put Pennsylvania on a better footing in comparison to sister states which are also competing for these types of installations. See *e.g.*, OCA Comments at 2-3.

Levels 2 and 3

Our proposed fees for Levels 2 and 3 include a base fee depending on the review level and a per-kW fee based on the nameplate capacity of the generating facility to be interconnected. For Level 2, the base fee proposed was \$250 plus \$1 per kW of nameplate capacity. For Level 3, the base fee proposed was \$350 plus \$2 per kW of nameplate capacity. The escalation in fee levels are designed to account for the increasing complexity of Level 2 and then Level 3 reviews.

Our interconnection Regulations also provide that there may be additional studies required at these Levels. For example, our 52 Pa. Code § 75.38(e) provides that additional studies may be required in the event that one or more Level 2 screens were failed by the proposed generator facility. Another example is found in 52 Pa. Code § 75.39(b)(5) relating to Level 3 interconnection feasibility studies. As was done in New Jersey, we provided for a cap on the cost of such studies at no more than \$100 per hour. Finally, we noted that in the event that an application did not meet the requirements of the level of review initially sought, the application could be resubmitted under another review procedure and the EDC could impose a fee consistent with the new level of review.

The EAP proposed increasing the base fee for Level 2 applications from \$250 to \$350. The EAP also proposed increasing the per kW fees for Level 2 applications from

\$1 per kW to \$2 per kW. The EAP also proposed increasing the per kW fees for Level 3 applications from \$2 to \$3. The EAP stated that its proposed increases “better reflect actual costs; otherwise all ratepayers would be subsidizing the costs associated with processing interconnection applications...” EAP Comments at 6. The EAP also observes that its proposed fee schedule “is dramatically lower than those charged by utilities in other jurisdictions and mindful of the fees likely to be charged by municipalities.” Id. at 10.

The DEP expresses concerns about combining a base fee with an escalating fee on a kW nameplate capacity basis. The DEP states that “some larger projects may pay base fees that exceed reasonable and prudent costs actually incurred by the EDCs for application review.” DEP Comments at 2. The DEP suggests that its concerns arise, in part, from the proposed engineering and analysis fee of \$100 per hour. The DEP recommends that we revise the fees to institute a cap that allows EDCs to collect no more than reasonable costs actually associated with application review. Alternatively, the DEP suggests that we impose the requirement that EDCs track actual application review time and credit excess application fees to any engineering and interconnection study costs. Id.

The Solar Alliance presents concerns similar to those advanced by the DEP. The Solar Alliance observes that the Level 2 and Level 3 fees in New Jersey are lower than those proposed here. The base fee for Level 2 reviews in New Jersey is \$50 and the base fee for Level 3 reviews is \$100. The Solar Alliance states that it is more concerned with the per kW fee. The Solar Alliance suggests that a cap of \$500 be placed on the per kW nameplate capacity charge if the application involves inverter equipment which meets the IEE 1547 and UL 1741 standards. If additional review is required, the Solar Alliance suggests that the \$100 per hour charge could apply at that point provided that the Customer-generator receives an estimate of those fees in advance. Solar Alliance Comments at 2-3.

The Solar Alliance also requests that clarification be made regarding application fees in the event an application is resubmitted under a different level of review. The Solar Alliance requests that it be made clear that the EDC would be permitted to charge only the incremental cost of the second review, not a full application fee. In the event that a higher fee was initially imposed than actually required under the resubmitted level, the EDC should refund the incremental difference. Solar Alliance Comments at 3-4.

We find that the fee structure and levels proposed for Levels 2 and 3 are appropriate at this point in time. We are mindful of the example provided by The Solar Alliance in which a 3 MW solar PV project submitted under a Level 3 application would result in a \$6,350 application fee. Although the resulting fee appears large, it must be viewed in perspective. A 3 MW solar PV installation is an extremely large project which may, or may not, be interconnected at the distribution level. We do not find, at this point in time, that a \$6,350 application fee for a 3 MW capacity plant is unreasonable. We note that The Solar Alliance does not supply information regarding the overall cost of the installation and the size of the application fee in relationship to that cost. It is highly doubtful that such an application fee would be considered an impediment to such a project. The Solar Alliance has presented no information which would suggest that is the case.

We do agree with The Solar Alliance and the DEP that certain clarifications should be made. First, concern has been expressed with regard to the \$100 hourly cap for engineering and other studies. We emphasize that the \$100 per hour fee is a cap and consistent with the New Jersey fee schedule. It is to be hoped that charges will be less than that figure, but they can be no more. The Policy Statement should not be viewed as setting engineering and study fees at \$100 per hour. We also note that our Regulations expressly provide for good faith estimates when higher levels of engineering studies are required before a customer-generator agrees to such studies. See *e.g.*, 52 Pa. Code § 75.39(b)(5) (relating to Level 3 Reviews).

We are also persuaded that, in those instances when an application is resubmitted under a different level, the EDC should be entitled to recover only the additional incremental cost of the second review, not a full application fee. This would include a refund of an incremental amount due to an initial application fee that is higher than the application fee at the resubmitted level.

We have considered the various comments that suggest tracking of costs and crediting application fees toward such costs before moving to the per-kW charge. We have also considered the comments which propose a cap on the per-kW charge. However, those application fee structures are in line with the New Jersey fee structure and are an integral aspect of uniform charges. Other than evaluation studies for higher level reviews, for which good faith estimates are required, the fees stated herein permit Customer-generators and their vendors to know what the project application fees will be up front. Over time, we expect that the evaluation studies themselves will become fairly well established with substantial uniformity in cost as all parties become familiar with them. It is also expected that, as more and more studies are performed, the cost should decrease as more information and data will be available from prior studies. Again, we would expect to obtain information on that aspect of the application fees as this Policy Statement is examined in the future.

Level 4 Reviews

As we stated in the June 26 Order, Level 4 Reviews will be conducted in a variety of circumstances. In those instances when a Level 4 application is processed using the Level 1, Level 2 or Level 3 review process, the fees set forth for those particular review levels shall apply. No fee shall be assessed for an area network impact study conducted under 52 Pa. Code § 75.40. A Level 4 application reviewed under 52 Pa. Code § 75.40(d) (relating to Level 4 interconnection review) shall be subject to a base fee of \$350 plus \$2 per kW of the nameplate capacity rating of the customer-generator's facility. If an application is denied because it does not meet the requirements of a Level 4 review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee representing the incremental costs for the resubmitted application consistent with the fees established for the new level of review. This is consistent with our discussion of Level 2 and Level 3 reviews, previously.

Based on the foregoing discussion, the Commission will establish the following standard fee schedule for interconnection applications in this Commonwealth:

Level 1—flat fee of \$100. If an application is denied because it does not meet the requirements of a Level 1 review, and the applicant resubmits the application under

another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application, consistent with the fees established for the new level of review.

Level 2—base fee of \$250 plus \$1 per kW of the nameplate capacity rating of the Customer-generator's facility, plus the cost of any minor modifications to the EDC's distribution system or additional review if required under 52 Pa. Code § 75.38. Costs for such minor modifications or additional review shall be based on EDC estimates and shall be subject to review by the Commission at the request of either party. Costs for engineering work done as part of any additional review shall not exceed \$100 per hour. If an application is denied because it does not meet the requirements of a Level 2 review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application, consistent with the fees established for the new level of review.

Level 3—base fee of \$350 plus \$2 per kW of the nameplate capacity rating of the Customer-generator's facility, plus the cost of any feasibility studies, system impact studies and/or facilities studies required under 52 Pa. Code § 75.39. Costs for engineering work done as part of a feasibility study, system impact study or facilities study shall not exceed \$100 per hour. If the EDC must install facilities in order to accommodate the interconnection of the Customer-generator facility, the cost of such facilities shall be the responsibility of the Customer-generator. If an application is denied because it does not meet the requirements of a Level 3 review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

Level 4—in those instances when a Level 4 application is processed using the Level 1, Level 2 or Level 3 review process, the fees set forth in those particular review levels shall apply. No fee shall be assessed for an area network impact study conducted under 52 Pa. Code § 75.40. A Level 4 application reviewed under 52 Pa. Code § 75.40(d) shall be subject to a base fee of \$350 plus \$2 per kW of the nameplate capacity rating of the Customer-generator's facility. If an application is denied because it does not meet the requirements of a Level 4 Review, and the applicant resubmits the application under another review procedure in accordance with the Commission's Regulations, the EDC may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

Conclusion

Based on the foregoing discussion, we will adopt this Policy Statement regarding standard fees for interconnection in Pennsylvania; *Therefore,*

It Is Ordered That:

1. The amendments to Chapter 69 (relating to general orders, policy statements and guidelines on fixed utilities) as set forth in Annex A are adopted.

2. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. The Policy Statement shall become effective upon publication in the *Pennsylvania Bulletin*.

5. A copy of this order shall be posted on the Commission's public Internet domain and served on the Office of Consumer Advocate, the Office of Small Business Advocate, and all participants in the Commission's Interconnection Standards Working Group.

6. The contact persons for this matter are Greg Shawley, Bureau of Conservation, Economics and Energy Planning, (717) 787-5369 (technical) and H. Kirk House, Office of Special Assistants, (717) 772-8495 (legal).

By the Commission

JAMES J. MCNULTY,
Secretary

(Editor's Note: Title 52 of the Pa. Code is amended by adding a statement of policy in §§ 69.2101—69.2103 to read as set forth at 38 Pa.B. 4107 (August 2, 2008); and by adding § 69.2104 to read as set forth in Annex A.

For a notice relating to this Statement of Policy, see 39 Pa.B. 1657 (April 4, 2009).)

Fiscal Note: 57-263. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS

POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

INTERCONNECTION APPLICATION FEES

§ 69.2104. Interconnection application fees.

The following fee structures and fees will be deemed appropriate for use by electric distribution companies when processing interconnection applications filed under §§ 75.21, 75.22, 75.31—75.40 and 75.51 (relating to interconnection standards):

(1) *Level 1 applications.* If an application is denied because it does not meet the requirements of a Level 1 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

(2) *Level 2 applications.* Base fee of \$250 plus \$1 per kW of the nameplate capacity rating of the customer-generator's facility, plus the cost of any minor modifications to the electric distribution company's distribution system or additional review if required under § 75.38 (relating to Level 2 interconnection review). Costs for minor modifications or additional review must be based on electric distribution company estimates and must be subject to review by the Commission at the request of either party. Costs for engineering work done as part of any additional review should not exceed \$100 per hour. If an application is denied because it does not meet the requirements of a Level 2 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution

company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

(3) *Level 3 applications.* Base fee of \$350 plus \$2 per kW of the nameplate capacity rating of the customer-generator's facility, plus the cost of any feasibility studies, system impact studies or facilities studies required under § 75.39 (relating to Level 3 interconnection review). Costs for engineering work done as part of a feasibility study, system impact study or facilities study should not exceed \$100 per hour. If the electric distribution company must install facilities to accommodate the interconnection of the customer-generator facility, the cost of the facilities shall be the responsibility of the customer-generator. If an application is denied because it does not meet the requirements of a Level 3 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

(4) *Level 4 applications.* In those instances when a Level 4 application is processed using the Level 1, Level 2 or Level 3 review process, the fees set forth for those particular review levels should apply. A fee may not be assessed for an area network impact study conducted under § 75.40 (relating to Level 4 interconnection review). A Level 4 application reviewed under § 75.40(d) should be subject to a base fee of \$350 plus \$2 per kW of the nameplate capacity rating of the customer-generator's facility. If an application is denied because it does not meet the requirements of a Level 4 review, and the applicant resubmits the application under another review procedure in accordance with this title, the electric distribution company may impose a fee for the incremental expense attributable to the resubmitted application consistent with the fees established for the new level of review.

[Pa.B. Doc. No. 09-627. Filed for public inspection April 3, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending March 24, 2009.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-17-2009	VIST Bank Wyomissing Berks County	The Heritage of Green Hills 200 Tranquility Lane Reading Berks County (Limited Service Facility)	Opened

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-16-2009	Susquehanna Bank Lititz Lancaster County	<i>To:</i> 10 Marketplace Boulevard Monroe Township Snyder County <i>From:</i> 48 Orchard Drive Shamokin Dam Snyder County	Effective

Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-16-2009	First Columbia Bank & Trust Co. Bloomsburg Columbia County	<i>Into:</i> 232 East Street Bloomsburg Columbia County <i>From:</i> 11 West Main Street Bloomsburg Columbia County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-20-2009	Firsttrust Savings Bank Conshohocken Montgomery County	405 Oxford Valley Road Fairless Hills Bucks County	Closed
3-23-2009	United-American Savings Bank Pittsburgh Allegheny County	3353 SR 130 Harrison City Westmoreland County	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
3-24-2009	Jonestown Bank and Trust Company of Jonestown, PA Jonestown Lebanon County	Amend Article V of the Articles of Incorporation	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
		Amendment to Article V excludes from otherwise applicable pre-emptive rights of shareholders the offer and sale of common stock under a dividend reinvestment and stock purchase plan (or similar plan) approved by the Board of Directors in which holders of the outstanding shares are eligible to participate (subject to the terms and conditions of the plan).	

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
3-24-2009	Alcose Credit Union, White Oak and Basil Community Credit Union, Pittsburgh Surviving Institution: Alcose Credit Union, White Oak	White Oak	Approved

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-628. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Weatherization Assistance Program's Proposed State Plan

The Department of Community and Economic Development (Department) publishes notice of a public hearing to be held at 10 a.m. on Tuesday, April 14, 2009, in Room 125-B, Plaza Level of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the Weatherization Assistance Program's proposed State Plan to be submitted to the United States Department of Energy for program year 2009-2010, regarding use of regular, appropriated Department of Energy funds. This hearing will not address the American Recovery and Reinvestment Act Funding.

A copy of this plan may be obtained by contacting the Department of Community and Economic Development, Center for Community Empowerment, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 787-1984 or it can be downloaded from the Department's web site at www.newpa.com.

Written comments may be submitted to Jamesetta Reed, Director, Center for Community Empowerment, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 until 5 p.m. on April 14, 2009.

Persons with a disability who wish to attend this hearing and require auxiliary aid, services or other accommodations to participate in the proceedings, contact Yvonne Adams at (717) 787-1984 to discuss how the Department may accommodate their needs.

GEORGE E. CORNELIUS,
Acting Secretary

[Pa.B. Doc. No. 09-629. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Resolution Approving the Petition of the Center Area School District and the Monaca School District Into One School District

Whereas, on the 18th day of September, 2008, the State Board of Education, acting under to section 224 of the Public School Code of 1949 (School Code) (24 P. S. § 2-224) adopted a resolution approving the petition of the Center Area School District and the Monaca School District to combine into one school district, finding that the combination of the two school districts would be in the best interests of the educational system of the Commonwealth of Pennsylvania; and

Whereas, as part of its Resolution and acting under to section 224 of the School Code, the State Board of Education (Board) directed the Secretary of Education to issue a certificate creating the new school district, effective July 1, 2009.

Whereas, acting under to section 224 of the School Code and the Resolution of the Board, and with the power vested in me, I, Gerald L. Zahorchak, Secretary of Education, issued a Certificate creating, effective July 1, 2009, a new school district of the third class consisting of the Township of Center, the Township of Potter and the Borough of Monaca, all situate in Beaver County, and to be known as the Center-Monaca School District or such other name upon which the boards of school directors of the two school districts might, in accordance with law, mutually agree and certify to the Department of Education before July 1, 2009.

Whereas, on February 12, 2009, at a combined meeting of the Center Area School District and the Monaca School District adopted separate resolutions selecting the name for the newly merged district effective July 1, 2009, to be known as the Central Valley School District.

Now, Therefore, acting under section 224 of the School Code and the Resolution of the State Board of Education, and with the power vested in me, I, Gerald L. Zahorchak, Secretary of Education, issue this Certificate creating, effective July 1, 2009, a new school district of the third class consisting of the Township of Center, the Township of Potter and the Borough of Monaca, all situate in Beaver County, and to be known as the Central Valley School District.

Given under my hand and seal this 16th day of March, 2009.

GERALD L. ZAHORCHAK,
Secretary

[Pa.B. Doc. No. 09-630. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060470 (Nonmunicipal sewage)	Geisinger Foundation/Marworth Lily Lake Road Waverly, PA 18471	Lackawanna North Abington Township	UNT Ackerly Creek 4F	Y

Chesapeake Bay nutrient monitoring requirements for ammonia nitrogen, kjeldahl nitrogen, and Nitrite-Nitrate as N, Total Nitrogen and Total Phosphorus are being added to this permit.

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0247502 (Sew)	John and Kathleen Kauffman 227 Conway Street Carlisle, PA 17013-3602	Cumberland County North Newton Township	7B	Y
PA0033391 (Sew)	Pine Manor, LLC P. O. Box 677 Morgantown, PA 19543	Dauphin County Londonderry Township	UNT of Lynch Run 7-G	Y
PA0083585 (Sew)	Todd Township Fulton County Knobsville WWTF 2998 East Dutch Corner Road McConnellsburg, PA 17233	Fulton County Todd Township	Licking Creek 13-B	Y
PA0086550 (Sew)	Jeffrey and Rose Siddens 65 Stonewall Lane Alburtis, PA 18011	Berks County Longswamp Township	UNT Swabia Creek 2-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0111953 SN	Guardian Elder Care, Inc. Highlands Continuing Care Facility P. O. Box 10 LaPorte, PA 18626	Sullivan County LaPorte Borough	UNT to Mill Creek 10B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0239283	Castle Cheese, Inc. 2850 Perry Highway Slippery Rock, PA 16057	Scott Township Lawrence County	Slippery Rock Creek 20-C	Y
PA0210153	Coinco, Inc., d/b/a Morco Corp. 125 High Street Cochranon, PA 16314	Cochranon Borough Crawford County	UNT to French Creek 16-D	Y
PA0222836	Wendy L. Davis SFTF 106 Bend Road New Wilmington, PA 16142	Wilmington Township Mercer County	UNT to the West Branch Little Neshannock Creek 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.

PA0052761, Sewage, SIC 4952, **Buckingham SNF, LLC**, 820 Durham Road, Newtown, PA 18940. This existing facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Activity: Applicant requests a transfer and renewal of an NPDES permit for a discharge of treated effluent from a sewage treatment facility serving the Buckingham Valley Rehabilitation and Nursing Center.

The receiving stream, a UNT to Mill Creek, is in the State Water Plan Watershed 2F and is classified for: WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, Southeast Division, is located on Neshaminy Creek and is approximately 18 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.014 mgd:

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum mg/l
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
CBOD ₅					
(5-1 to 10-31)			10		20
(11-1 to 4-30)			20		40
Total Suspended Solids			30		60
NH ₃ -N					
(5-1 to 10-31)			3.0		6.0
(11-1 to 4-30)			9.0		18.0
(NO ₂ +NO ₃) as N					
(7-1 to 10-31)			8.0		16.0
Total Residual Chlorine			0.1		0.25
Fecal Coliform (Col/100 ml)			200		1,000*
Dissolved Oxygen			5.0 minimum		
pH (Standard Units)			6.0 minimum		9.0
Phosphorus as P:					
(4-1 to 10-31)	0.1		0.8		1.6
(11-1 to 3-31)					
(Issuance—Year 2)	Report		Report		Report
(Year 3—Expiration)	0.2		1.6		3.2

* No greater than 10% of the samples tested may exceed 1,000 col/100 ml.

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

1. Notification of Designation of Responsible Operator.
2. Abandon STP when Public Sewers Become Available.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sewers.
5. Necessary Property Rights.
6. Dry Stream Discharge.
7. Change in Ownership.
8. Chlorine Minimization.
9. Proper Sludge Disposal.
10. Operator Training.
11. Operation and Maintenance Plan.
12. Laboratory Certification.
13. Fecal Coliform Reporting.
14. Twice per Month Sampling.
15. Instantaneous Maximum Limitations.

PA0043974, Sewage, SIC 4953, **Valley Forge Sewer Authority**, 333 Pawling Road, Phoenixville, PA 19460-2656. The facility is located in Schuylkill Township, **Chester County**.

Description of Activity: Discharge of treated sewage from Valley Forge Sewer Authority WWTP into Schuylkill River in Schuylkill Township, Chester County.

The receiving stream, Schuylkill River, is in the State Water Plan Watershed 3D and is classified for WWF and MF. The nearest downstream public water supply intake for Pennsylvania American-Norristown Water Treatment Plant is approximately 7 miles below the point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 9.2 mgd, are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
CBOD ₅					
(5-1 to 10-31)	1,535	2,302	20	30	40
(11-1 to 4-30)	1,918	3,069	25	40	50
Total Suspended Solids	2,302	3,453	30	45	60
Ammonia as N					
(5-1 to 10-31)	614		8.0		16.0
(11-1 to 4-30)	1,228		16.0		32.0
Phosphorus as P			Monitor		
Fecal Coliform (#/100 ml)			200		1,000*
Dissolved Oxygen			Shall not be less than 5.0 mg/l at all times		
pH (Standard Units)			within limits of 6.0 to 9.0 Standard Units at all times		
Total Dissolved Solids			1,000	2,000 Daily Maximum	2,500
Total Residual Chlorine			0.5		1.6
Copper, Total			Monitor		
Lead, Total			Monitor		
Zinc, Total			Monitor		
Silver, Total			Monitor		
Chromium, Hex			Monitor		
Cyanide, Free			Monitor		
Chloroform			Monitor		
Bis(2-Ethylhexyl)Phthalate			Monitor		

The proposed effluent limits for Outfall 001, based on a design flow of 11.75 mgd, are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
CBOD ₅					
(5-1 to 10-31)	1,535	2,302	16	24	32
(11-1 to 4-30)	1,918	3,069	20	30	40
Total Suspended Solids	2,939	4,410	30	45	60
Ammonia as N					
(5-1 to 10-31)	614		6.3		12.5
(11-1 to 4-30)	1,228		12.5		25.0
Phosphorus as P	196		2.0		4.0
Fecal Coliform (#/100 ml)			200		1,000*
Dissolved Oxygen			Shall not be less than 5.0 mg/l at all times		
pH (Standard Units)			Within limits of 6.0 to 9.0 Standard Units at all times		
Total Dissolved Solids			1,000	2,000 Daily Maximum	2,500
Total Residual Chlorine			0.3		1.0
Copper, Total			0.033	0.066 Daily Maximum	0.083
Lead, Total			Monitor		
Zinc, Total			Monitor		
Silver, Total			Monitor		
Chromium, Hex			Monitor		
Cyanide, Free			Monitor		
Chloroform			Monitor		
Bis(2-Ethylhexyl)Phthalate			Monitor		

* Shall not exceed in more than 10% samples.

The EPA waiver is not in effect.

Other Requirements:

1. Notification of Designated Operator.
2. Average Weekly Definition.
3. Remedial Measures.
4. No Stormwater Runoff.
5. Acquiring Necessary Rights.
6. Change in Ownership.
7. Approved Tests Methods.

8. TRC Minimizations.
9. Proper Sludge Disposal.
10. Watershed TMDL/WLA Analysis.
11. WET Test for Next Renewal.
12. Certified Operator Requirements.
13. I Max Requirements.
14. Stormwater Requirements.
15. Pretreatment Program Requirements.
16. Operations and Maintenance Plan.
17. Laboratory Certification.
18. I-Max Requirements for Fecal Coliform.
19. No PCBs Discharge.
20. PCBs Monitoring Requirements.

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

PA0065251, Sewage, **His Camps, Inc.**, R. R. 1, Box 1601, Hallstead, PA 18822. This proposed facility is located in Liberty Township, **Susquehanna County**.

Description of Proposed Activity: NPDES Permit for a new, treated sewage discharge.

The receiving stream, a UNT to Snake Creek, is in the State Water Plan Watershed 04E and is classified for: CWF. The nearest downstream public water supply intake is located in Danville on the Susquehanna River over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.009750 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10.0	20.0
Total Suspended Solids	10.0	20.0
NH ₃ -N		
(5-1 to 1-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Dissolved Oxygen	A minimum of 4.0 mg/l at all times.	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a Geometric Mean	
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean	
pH	6.0 to 9.0 Standard Units at all times.	
Total Residual Chlorine	Nondetectable	

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l) Monthly Average</i>	<i>Mass (lbs) Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report
Kjeldahl-N	Report	Report	
Nitrate-Nitrate as N	Report	Report	
Total Nitrogen	16.3, Offset by credits	Report	Report
Total Phosphorus	9.9, Offset by credits	Report	Report
Net Total Nitrogen		Report	0*
Net Total Phosphorus		Report	0*

*This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

The applicant proposes to utilize nitrogen offsets based upon the retirement of existing septic systems at the camp. The applicant also proposes to purchase nitrogen and phosphorus credits from Red Barn Trading Company, LLC. An executed contract will be required before permit issuance.

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

Application No. PA 0043052, Sewage, **Township of Spring**, 2800 Shillington Road, Sinking Spring, PA 19608-1682. This facility is located in Township of Spring, **Berks County**.

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

The receiving stream, Cacoosing Creek, is in Watershed 3-C, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Borough of Pottstown Water and Sewer Authority is located on the Schuylkill River, approximately 25 miles downstream. The discharge is not expected to affect the water supply.

The proposed Interim effluent limits for Outfall 001 for a design flow of 1.28 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3.5		7.0
(11-1 to 4-30)	10.5		21
Total Residual Chlorine	0.45		1.48
Total Phosphorus	Report		
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

The proposed Final effluent limits for Outfall 001 for a design flow of 1.28 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3.5		7.0
(11-1 to 4-30)	10.5		21
Total Phosphorus	2.0		4.0
Total Residual Chlorine	0.28		0.92
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

The proposed Final effluent limits for Outfall 001 for a design flow of 2.0 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3.5		7.0
(11-1 to 4-30)	10.5		21
Total Phosphorus	1.28		2.5
Total Residual Chlorine	0.19		0.63
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

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

The EPA waiver is not in effect.

Application No. PA 0038598, Industrial Waste, SIC Code 0921, **Susquehanna Aquacultures, Inc.**, P. O. Box 306, York Haven, PA 17370. This facility is located in East Manchester Township, **York County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream, Susquehanna River, is in Watershed 7-F, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Wrightsville Water Supply Company located on the Susquehanna River, approximately 11 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 6.62 mgd are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH		From 6.0 to 9.0 inclusive	
Temperature		Monitor and Report	
Net Total Suspended Solids	30		60
Total Suspended Solids (Intake)	Monitor and Report		
(Effluent)	Monitor and Report		
Net CBOD ₅	25		50
CBOD ₅ (Intake)	Monitor and Report		
(Effluent)	Monitor and Report		

Chesapeake Bay Requirements

	Concentration (mg/l)		Mass (lbs)	
	Monthly Average	Quarterly	Annual	Annual
Ammonia-N	Report	Report	Report	Report
Kjeldahl-N	Report	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	Report	XXX
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report

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

The EPA waiver is not in effect.

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

PA0024163, Sewage, **Cambria Township Sewer Authority**, P. O. Box 247, Revloc, PA 15948. This application is for renewal of an NPDES permit to discharge treated sewage from Revloc Wastewater Treatment Plant in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as South Branch of Blacklick Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the United States Army Corps of Engineers Conemaugh River Lake Facility.

Outfall 001: existing discharge, design flow of 0.5 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0032271, Sewage, **Bureau of State Parks, Keystone State Park**, 1150 Keystone Park Road, Derry, PA 15627-3679. This application is for renewal of an NPDES permit to discharge treated sewage from Keystone State Park Sewage Treatment Plant in Derry Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as McCune Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Municipal Authority of Buffalo Township located on the Allegheny River.

Outfall 001: existing discharge, design flow of 0.075 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅				
(5-1 to 10-31)	20			40
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	2.0			4.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.1			0.2
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0030694, Sewage, **Exco-North Coast Energy, Inc.**, One GoJo Plaza, Suite 325, Akron, OH 44311-1062. This application is for renewal of an NPDES permit to discharge treated sewage from Camp Henry Kaufmann STP in Fairfield Township, **Westmoreland County**.

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

Outfall 001: existing discharge, design flow of 0.0216 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	12.5			25.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0041564, Sewage, **S2 Properties, Inc.**, P. O. Box 24509, Pittsburgh, PA 15234-4509. This proposed facility is located in Lancaster Township, **Butler County**.

Description of Proposed Activity: New permit replacing an expired permit.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the potable water supply (Public Water Supplier) is located on the Beaver River (Beaver Falls Municipal Authority) and is approximately 10 miles below point of discharge.

The receiving stream, the UNT to Doe Run, is in Watershed 20-C and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.02 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Phosphorus	2		4

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a Geometric Average 2,000/100 ml as a Geometric Average	
Total Residual Chlorine	0.2		0.5
Dissolved Oxygen		minimum of 5 mg/l at all times	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

PA0103781, Industrial Waste, **Wheatland Tube Company**, P. O. Box 606, Wheatland, PA 16161. This proposed facility is located in Sharon City, **Mercer County**.

Description of Proposed Activity: New NPDES permit for an existing discharge of treated industrial waste, noncontact cooling water and stormwater. This is a minor discharge from a primary industry. SIC Code 3317 (Steel Pipe and Tube). The previous permit expired because of effluent violations and could not be renewed.

The receiving water is Shenango River. The receiving stream is in State Water Plan 20-A and is classified for the following uses: WWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, PA American Water Company intake on the Shenango River, is located at New Castle and is approximately 24 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of N/A mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)		XX			
(MO) Iron		XX		XX	
(MO) Lead		XX		XX	
(MO) Oil and Grease				XX	

The proposed effluent limits for Outfall 002 based on a design flow of 0.95 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)	XX				
(CH-95) Oil and Grease			15		30
(MO) Iron			XX		
(MO) Lead			XX		
(CH-95) pH			Within limits of 6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfall 302 based on a design flow of N/A mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow	XX				
(BAT) TSS	78	208	XX		
(BAT) Oil and Grease		52		XX	

The proposed effluent limits for Outfall 402 based on a design flow of N/A mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)	XX				
(BAT and NSPS) TSS	126	282	XX		
(BAT and NSPS) O and G	36	105	XX		
(BAT and NSPS) Lead	0.5	1.6	XX		
(BAT and NSPS) Zinc	0.6	1.8	XX		
(BAT and NSPS) Naphthalene		0.1			
(BAT and NSPS) Tetrachloroethylene					

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)

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

WQM Permit No. 0909402, Sewerage, **Northampton Bucks County Municipal Authority**, 111 Township Road, Richboro, PA 18954-1550. This proposed facility is located in Northampton Township, **Bucks County**.

Description of Action/Activity: Replacement of several pipe segments that have insufficient peak flow capacity with a larger diameter pipe.

WQM Permit No. 2309404, Sewerage, **Chadds Ford Township Sewer Authority**, 10 Ring Road, Chadds Ford, PA 19317. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Action/Activity: Installation of new pumps, an automatic influent screen and an influent flow equalization tank.

WQM Permit No. 2309405, Sewerage, **Chadds Ford Township Sewer Authority**, 10 Ring Road, Chadds Ford, PA 19317. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Action/Activity: New tertiary disk filter.

WQM Permit No. 1508417, Sewerage, **Philadelphia Water Department, ARAMARK Tower**, 5th Floor, 1101 Market Street, Philadelphia, PA 19107-2994. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Action/Activity: Construction and operation of the State Road parallel relief sewer gravity.

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

WQM Permit No. 3909402, Sewerage, **Lehigh County Authority**, 1053 Spruce Street, P. O. Box 3348, Allentown, PA 18106. This proposed facility is located in Upper Milford Township, **Lehigh County**.

Description of Proposed Action/Activity: This project consists of installation of sanitary sewers to serve the Village of Vera Cruz and surrounding areas.

WQM Permit No. 4509402, **Rainmaker Capital of Chestnuthill, LLC**, 3 Quail Run, Boonton, NJ 07005. This proposed facility is located in Chestnuthill Township, **Monroe County**.

Description of Proposed Action/Activity: This project involves construction of a 5,000 gpd sewage treatment system and an elevated sand mound absorption area.

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

WQM Permit No. 0109401, Sewerage, **Steve and Cindy Sheets**, 385 Bull Valley Road, Aspers, PA 17304. This proposed facility is located in Butler Township, **Adams County**.

Description of Proposed Action/Activity: Application for construction/operation of a small flow sewage treatment system to serve their single-family residence at 1669 Old Carlisle Road.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 6509402, Sewerage, **Municipal Authority of Washington Township**, 283 Pine Run Church Road, Apollo, PA 15613. This proposed facility is located in Washington Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer line extension.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

WQM Permit No. 6589410-A1, Sewerage, **Ashbridge Oil Company, Inc.**, P. O. Box 5478, Johnstown, PA 15904-5478 This existing facility is located in Donegal Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for permit amendment to update Robyns Shop Donegal Tri Fuel sewage treatment plant.

WQM Permit No. 0409401, Sewerage, **Lakeview Estates**, P. O. Box 3, New Brighton, PA 15066 This proposed facility is located in Marion Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewage treatment plant to serve apartments and one cottage.

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.

Lehigh County Conservation District: Lehigh Agricultural Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q202R(1)	Headlands Realty Corp. Attn: Botond Farkas One Meadowlands Plaza East Rutherford, NJ 07073	Lehigh	Lower Macungie Township	Swabia Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033609002	Paul Lantz Builders 140 Stubel Road Strasburg, PA 17579	Lancaster	Bart Township	West Branch Octoraro Creek HQ-CWF-MF

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

Butler County Conservation District, 122 McCune Drive, Butler, PA 16001-6501, (724) 284-5270.

NPDES

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI 0610 09 001	SR 0079, Section 230 Seneca Missing Ramps Department of Transportation District 10-0 2550 Oakland Avenue Indiana, PA 15701	Butler	Jackson Township Harmony Borough	Little Connoquenessing Creek 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)

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Mercer Vu Farms, Inc. 122275 Mt. Pleasant Road Mercersburg, PA 17236	Franklin	1,394.2	2,100	Dairy	NA	Renewal

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996561, Public Water Supply.

Applicant	Nestle Waters North America, Inc.
Township or Borough	Dallas, TX
Responsible Official	Jeremy Sprinzl QA Manager
Type of Facility	Out-of-State Bottled Water System
Application Received Date	March 17, 2009

Description of Action Applicant requesting the Department of Environmental Protection's approval to sell bottled water in Pennsylvania under the following brand names: Nestle Pure Life Purified Water, Nestle Pure Life Distilled Water and Gerber Purified Water.

Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996558, Public Water Supply.

Applicant	Nestle Waters North America, Inc.
Township or Borough	Stanwood, MI
Responsible Official	John Mill Quality Control Manager
Type of Facility	Out-of-State Bottled Water System
Application Received Date	March 18, 2009

Description of Action Applicant requesting the Department of Environmental Protection's approval to sell a new purified bottled water product in this Commonwealth. The following bottled water brands are to be sold in Pennsylvania: Ice Mountain Natural Spring Water, Ice Mountain Distilled Water, Ice Mountain Drinking Water, Ice Mountain Fluoridated Water for Kids and Gerber Purified Water.

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

Application No. 4009507, Public Water Supply.

Applicant	Nature's Way Purewater Systems, Inc.
Responsible Official	Dupont Borough Sandy Insalaco President/CEO Nature's Way Purewater Systems, Inc. 164 Commerce Road Dupont, PA 18641
Type of Facility	Bottled Water Facility

Consulting Engineer James P. Palumbo, P. E.
Quad Three Group, Inc.
72 Glenmaura National
Boulevard
Moosic, PA 18507

Application Received Date March 4, 2009

Description of Action Installation of deionized water treatment system and mineral and fluoride injection system to produce new products using existing bottled water production lines.

Application No. 4009508, Public Water Supply.

Applicant **Eugene H. Wolfgang Enterprises, Inc.**
North Whitehall Township
Lehigh County

Responsible Official Eugene H. Wolfgang
3426 Faye Drive
Orefield, PA 18069

Type of Facility Community Water System

Consulting Engineer Terry P. DeGroot, P. E.
Terraform Engineering
One East Broad Street
Suite 330
Bethlehem, PA 18018
(484) 895-4632

Application Received Date March 6, 2009

Description of Action Application for construction of a replacement well source and hydro pneumatic tank for the community water system serving Ossie's Mobile Home Community.

Application No. 3909504, Public Water Supply.

Applicant **Chernay Printing, Inc.**
City of Coopersburg

Responsible Official Edmund Ward
Chernay Printing, Inc.
7483 South Main Street
Coopersburg, PA 18036

Type of Facility NTNC PWS

Consulting Engineer George W. Ruby, P. E.
Ruby Engineering
3605 Island Club Drive
Unit 9
North Port, FL 34288-6611

Application Received Date March 11, 2009

Description of Action Applicant proposes the installation of treatment facilities for the reduction of arsenic levels in system.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 0409505, Public Water Supply.

Applicant **Municipal Water Authority of Aliquippa**
160 Hopewell Avenue
Aliquippa, PA 15001

Township or Borough Hopewell and Raccoon Townships

Responsible Official Eugene Smith, Jr.
General Manager
Municipal Water Authority of Aliquippa
160 Hopewell Avenue
Aliquippa, PA 15001

Type of Facility Water treatment plant

Consulting Engineer Widmer Engineering, Inc.
806 Lincoln Place
Beaver Falls, PA 15010

Application Received Date March 18, 2009

Description of Action Construction of the First Alley booster pump station and upgrade to the existing Raccoon booster pump station.

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

Application No. 1009501, Public Water Supply.

Applicant **Edgar Mountain Management Company, LLC, d/b/a Woodbine Oakes Mobile Home Park**

Township or Borough Oakland Township
Butler County

Responsible Official Monty Edgar, Owner

Consulting Engineer William J. McGarvey, P. E.
McGarvey Engineering
172 Woodcrest Road
Butler, PA 16002

Application Received Date March 16, 2009

Description of Action Permitting existing system, also upgrades and repair to piping and treatment building; install new water storage tanks and booster pumps.

MINOR AMENDMENT

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

Application No. 6409502MA, Minor Amendment, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
Waymart Borough
Wayne County

Responsible Official Roswell McMullen
Aqua Pennsylvania, Inc.
HC 6
Box 6040
Hawley, PA

Type of Facility Public Water System

Consulting Engineer Entech Engineering, Inc.
4 South 4th Street
P. O. Box 32
Reading, PA

Application Received Date March 5, 2009

Description of Action The replacement of a rubber lined reservoir with a steel water storage tank.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 0409504MA, Minor Amendment.

Applicant **Monaca Borough Water Department**
928 Pennsylvania Avenue
Monaca, PA 15061

Township or Borough Monaca Borough

Responsible Official Thomas Ely
Council President
Monaca Borough Water Department
928 Pennsylvania Avenue
Monaca, PA 15061

Type of Facility Water system

Consulting Engineer Widmer Engineers
61 East Wheeling Street
Washington, PA 15301

Application Received Date March 17, 2009

Description of Action Construction of a new 500,000 gallon elevated water storage tank and replacement of waterlines throughout the Borough of Monaca.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demon-

strates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Oak Tree Industrial Associates, Hatfield Township, **Montgomery County**. Michael A. Christie, P. G., Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Roger Altemose, Oak Tree Industrial Associates, 2880 Bergey Road, Suite D, Hatfield, PA 19440 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of lead. The proposed future use of the property will be light industrial.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

908 Manor Street Property, City of Lancaster, **Lancaster County**. Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Mehari Kifle, 769 Euclid Avenue, Lancaster, PA 17603, submitted a Notice of Intent to Remediate site soils contaminated with PCE from an automobile repair garage. The site will be remediated to the Residential Statewide Health Standard and will operate as an automobile repair garage.

US Foodservice, Inc., Allegheny Township, **Blair County**. Delta Consultants, P. O. Box 415, Hershey, PA 17033, on behalf of US Foodservice, Inc., 6685 Crescent Drive, Norcross, GA 30071, submitted a Notice of Intent to Remediate site soils contaminated with non-PCB trans-

former oil from electrical transformers. The site will be remediated to the Residential Statewide Health Standard and will remain commercial.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Renewal Applications Received

Bio-Team Mobile, LLC, 6 East Kendig Road, Willow Street, PA 17584. License No. PA-HC 0225. Effective January 20, 2009.

Medical Waste Recovery, Inc., 9 Broadway, Suite 30, Denville, NJ 07834. License No. PA-HC 0233. Effective February 12, 2009.

Alpha Bio/Med Services, LLC, 7 West Eby Road, Leola, PA 17540. License No. PA-HC 0234. Effective February 12, 2009.

Stericycle, Inc., 1525 Chestnut Hill Road, Morgantown, PA 19543-9508. License No. PA-HC 0196. Effective February 18, 2009.

S-J Transportation Co., Inc., P. O. Box 169, Woodstown, NJ 08098. License No. PA-HC 0031. Effective February 24, 2009.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 101699. Waste Management of Fairless, LLC, 1000 New Ford Mill Road, Morrisville, PA 19067, Falls Township, **Bucks County**. Application for a new 198-acre landfill to be known as Fairless Landfill received under 25 Pa. Code § 271.202. An alternative project timeline of 600 days was negotiated for the review of the Phases I and II components of the application. The application was received by the Southeast Regional Office on March 23, 2009.

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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar; New Source Review Chief, (484) 250-5920.

15-0115E: QVC, Inc. (1200 Wilson Drive, West Chester, PA 19380) for installation of a replacement 2-MW generator at an existing facility in West Goshen Township, **Chester County**. Along with three other 2-MW generators, NO_x emissions will be restricted to 7.63 tpy. The company shall comply with good air pollution control practices, monitoring and recordkeeping procedures designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer; Program Manager, (570) 327-3637.

14-00039: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) for construction of two portable crushing plants, two portable screening plants,

and five conveyors at the Glenn O. Hawbaker, Inc.—Recycling Center in Potter Township, **Centre County**.

59-00004D: Ward Manufacturing, LLC (117 Gulick Street, Blossburg, PA 16912) to construct a natural gas-fired wastewater evaporator in Blossburg Borough, **Columbia County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

25-124D: Mayer Brothers Construction Co. (1902 Cherry Street, Erie, PA 16502) for an increase in annual throughput restrictions associated with the hot mix asphalt plant at their facility in the City of Erie, **Erie County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

15-0060D: Southeastern Chester County Refuse Authority (P. O. Box 221, Kennett Square, PA 19348) for installation of an enclosed flare for the control of VOC emissions from an existing landfill located at 219 Street Road, London Grove Township, **Chester County**. The flare will have a destruction efficiency of 98% for VOC or have a VOC emission rate of 20 ppmv or less (measured as hexane at 3% oxygen). The flare will be equipped with a flow meter to continuously monitor the flow of landfill gas to the flare when operating. This facility is a minor facility. The Plan Approval will contain recordkeeping requirements 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, William R. Weaver, New Source Review Chief, (717) 705-4702.

07-03043B: McLanahan Corp. (200 Wall Street, Hollidaysburg, PA 16648) for a special down-draft and cure spray booth with intake and exhaust filters for their facility in Hollidaysburg Borough, **Blair County**. The plan approval will include restrictions, monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

67-05114B: BAE Systems Land and Armaments, LP (1100 Bairs Road, York, PA 17404) for revision of the 41 tpy VOC emission limit on surface coating operations at their armored military vehicle manufacturing/refurbishing facility in West Manchester Township, **York County**. The surface coating operations will be capped at a new limit of 57.2 tons of VOC per year. The plan approval will contain emission restrictions, monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00015: Rohm and Haas Co.—Bristol Facility (200 Route 413, Bristol Township, Bucks County, PA 19007) for an administrative amendment to the Title V Operating Permit at their Bristol facility in Bristol Township, **Bucks County**. The facility is a diverse chemical manufacturing plant with a variety of continuous and batch-type processes. In general, the plant specializes in various acrylate polymerization reactions to produce products such as emulsions, plastics, coatings and resins.

The permit is being amended to incorporate changes approved under the following plan approvals: Plan Approval 09-0015G to revise the limit for emissions of NOx and CO from the regenerative thermal oxidizer; Plan Approval 09-0015H for the installation of a carbon adsorption system to replace the existing waste water treatment plant scrubber (Source C03).

23-00089: FPL Energy Marcus Hook, LP, (Delaware Avenue and Green Street, Marcus Hook, PA 19061) for operation of three combined cycle combustion turbines with a combined output of 750 MW in the Borough of Marcus Hook, **Delaware County**. The permit is for a Title V facility. This Title V Permit contains the following emission limits for each of the three combined cycle combustion turbine: 112.3 tons NOx per year, 29.6 tons VOCs per year, 246.6 tons CO per year, 119.3 tons PM per year, 63.4 tons SO₂ per year, and 22.1 tons sulfuric acid mist per year. The operation is subjected to NSPS Subparts Da, Gg and J. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.

53-00001: Tennessee Gas Pipeline Co. (197 Tennessee Road, Coudersport, PA 16915) for renewal of the Title V Operating Permit for their facility in Hebron Township, **Potter County**. The facility is currently operating under TVOP 53-00001, which was issued November 17, 1999. The facility's main sources include 14 natural gas-fired compressor engines, natural gas dehydration unit and various space/water heaters. The facility has the potential to emit major quantities of CO, NOx, VOCs and HAP (in the form of formaldehyde) emissions. The facility has the potential to emit SOx and PM emissions less than the major emissions thresholds. The proposed title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00166: M & M Stone Co. (460 Indian Creek Road, Harleysville, PA 19438) is a non-Title V, Natural Minor facility in Lower Salford Township, **Montgomery County**. The company owns and operates a stone quarry, portable crusher with an electric generator and a batch asphalt plant at this location. The company produces a potential of 24.16 tons of NOx per year, 10.15 tons of SO₂

per year, 13.92 tons PM per year, 41.45 tons of CO per year and 14.55 tons of VOCs per year. Monitoring and recordkeeping requirements have been added to the permit to address applicable limitations.

09-00081: Thermco Products (1409 West Broad Street, Quakertown, PA 18951) for operation of a 300-horsepower, with rated heat input of 10.0 mmBtu/hr natural gas-fired boiler and a 350-horsepower, with rated heat input of 11.7 mmBtu/hr natural gas-fired boiler in Quakertown Borough, **Bucks County**. This action is a renewal of the State-only Operating Permit. The initial permit was issued on July 28, 2004. The permit is for a non-Title V Facility (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, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

09-00097: Lower Bucks Hospital (501 Bath Road, Bristol, PA 19007) for renewal of the original State-only Operating Permit (Synthetic Minor) in Bristol Township, **Bucks County**, which was issued on November 12, 2003, and expired on November 30, 2008. There have been no other changes made to the permit since it was issued. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

54-00019: Air Products and Chemicals, Inc. (357 Marian Avenue, Tamaqua, PA 18252) for operation of an industrial gas manufacturing facility in Rush Township, **Schuylkill County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

54-00070: H.M.M.K., LLC, d/b/a Foster Materials (2052 Lucon Road, Skippack, PA 19474) for operation of a rock crushing operation and associated air cleaning devices at their facility in Foster Township, **Schuylkill County**. This facility is currently operating under Operating Permits 54-310-020A, 54-310-034 and 54-310-031. All permit requirements shall be included in the new State-only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

40-00033: Gulf Oil, LP, DuPont Terminal (275 Washington Street, Newton, MA 02458-1646) for operation of Bulk Petroleum Stations and Terminals in Pittston Township, **Luzerne County**. This is a State-only Synthetic Minor operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

21-03055: Fry Communications, Inc. (101 Fry Drive, Mechanicsburg, PA 17055) for their Building No. 4 commercial printing operation in Silver Spring Township, **Cumberland County**. This is a renewal of the State-only operating permit issued in 2003.

28-05029: Fayetteville Contractors, Inc. (3185 Lincoln Way East, Fayetteville, PA 17222) for operation of a

batch asphalt plant in Antrim Township, **Franklin County**. The State-only operating permit will include emission limits along with work practice standards, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. The plant is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Asphalt Concrete Plants. This is a renewal of the previous permit issued in 2004.

28-05031: Borough of Chambersburg—Orchard Park Generating Station (100 South 2nd Street, Chambersburg, PA 17201) for renewal of the synthetic minor operating permit issued in October 2004 in Chambersburg Borough, **Franklin County**. The facility's major sources of emissions include four natural gas or diesel fired engine generators, which primarily emit NOx.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-00013: Cooley Tioga Point Crematory & Burial Options (802 North Main Street, Athens, PA 18810-1826) for operation of a crematory incinerator utilized to incinerate human cadavers for their facility in Athens Borough, **Bradford County**. This source has the potential to emit PM/PM10, NOx, SOx, CO, VOCs and VHAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and report conditions.

59-00019: Metalkraft Industries (P. O. Box 606, Wellsboro, PA 16901-0606) for manufacture of sintered metal parts at their facility in Charleston Township, **Tioga County**. The facility's main sources include six Sintering Furnaces and two parts washers. These sources have the potential to emit NOx, SOx, CO, PM/PM10, VOCs and HAPs below the major emission thresholds. The proposed operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

47-00005: Geisinger Medical Center (100 North Academy Avenue, Danville, PA 17822-1540) for their facility located in Mahoning Township, **Montour County**. The facility's main sources include nine commercial/industry boilers, various space/water heaters, waste oil burner, diesel and natural gas-fired engine-generators, two parts washers and laboratory chemical usage. The facility has the potential to emit CO, PM10, NOx, VOCs and combined and individual HAPs emissions below the major thresholds. The facility has taken a synthetic minor restriction to limit the SOx emissions below the major thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

63-00631: Columbia Gas Transmission Corp. (1700 MacCorkle Avenue SE, P. O. Box 1273, Charleston, WV 25314) for operation of Compressor Station in Donegal Township, **Washington County**. This is a State-only Operating Permit Renewal.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.

20-00264: Salt Painting, Inc. (17918 Highway 198, Saegertown, PA 16433-3640) to re-issue the referenced permit for this abrasive blasting and surface coating operation in Hayfield Township, **Crawford County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in

conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	Table 1		
	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

02851602 and NPDES Permit No. PA0214396, Mon Valley Transportation Center, Inc., (279 Shannon Road, Monongahela, PA 15063), to renew the permit for the Glassport Tipple in Glassport and Lincoln Boroughs, **Allegheny County** and related NPDES permit. No additional discharges. Application received January 20, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56090105 and NPDES No. PA0262757. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552 commencement, operation and restoration of a bituminous surface and auger mine in Brothersvalley Township, **Somerset County**, affecting 48.0 acres. Receiving streams: UNTs to and Millers Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 9, 2009.

32040101 and NPDES No. PA024958. Twin Brook Coal, Inc., P. O. Box 225, Clymer, PA 15728, permit renewal for reclamation only of a bituminous surface and auger mine in Green Township, **Indiana County**, affecting 41.0 acres. Receiving streams: UNT to Dixon Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2009.

56663094 and NPDES No. PA0606031. Croner, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 182.0 acres. Receiving streams: UNTs to and Blue Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 19, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

65090101 and NPDES Permit No. PA0251593. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for commencement, operation and reclamation of a bituminous surface mine, located in Rostraver Township, **Westmoreland County**, affecting 166.4 acres. Receiving streams: UNTs to Monongahela

River and Monongahela River, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge: West Penn Power, Mitchell Power Station. Application received March 16, 2009.

26080102 and NPDES Permit No. PA0251321. Patterson Coal Company (20 Elizabeth Drive, Smithfield, PA 15478). Revision application to add 9 acres and land use change for all affected unmanaged natural habitat to be reclaimed to pastureland and/or land occasionally cut for hay for the existing bituminous surface mine, located in German Township, **Fayette County**, affecting 50.3 acres. Receiving streams: UNTs to North Branch Browns Run, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge: Carmichaels Municipal Authority. Application received March 17, 2009.

02090101 and NPDES Permit No. PA0251585. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Application for commencement, operation and reclamation of a bituminous surface mine, located in Jefferson Hills Borough, **Allegheny County**, affecting 79.9 acres. Receiving streams: UNTs to Monongahela River, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received March 16, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33040101 and NPDES Permit No. PA0242497. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip operation in Perry Township, **Jefferson County** affecting 107.2 acres. Receiving streams: Perryville Run, Nicely Run and UNT to Mahoning Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received March 20, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

14090102 and NPDES No. PA0257117. AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15650). Commencement, operation and restoration of a bituminous surface mine in Rush Township, **Centre County**, affecting 234.4 acres. Receiving streams: Trout Run and UNT to Trout Run, UNT to Moshannon Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 6, 2009.

17820104 and NPDES No. PA0609218. Sky Haven Coal Company (5510 State Park Road, Penfield, PA 15849). Permit renewal for the continued operation and

restoration of a bituminous surface mine in Boggs and Bradford Townships, **Clearfield County**, affecting 479.5 acres. Receiving streams: Long Run to Clearfield Creek to West Branch Susquehanna, classified for the following uses: CWF, CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 23, 2009.

17970102 and NPDES No. PA0220558. EnerCorp, Inc. (1310 Allport Cutoff, Morrisdale, PA 16858). Revision of an existing bituminous surface mine for a Land Use Change in Graham Township, **Clearfield County**, affecting 58.9 acres. Receiving streams: Alder Run or Flat Run to West Branch Susquehanna, classified for the following uses: CWF, WWF. There are no potable water

supply intakes within 10 miles downstream. Application received February 3, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

35840203R5. CSY, Inc., (400 Mill Street, Dunmore, PA 18512), renewal of an existing anthracite coal refuse reprocessing operation in the City of Scranton, **Lackawanna County** affecting 61.5 acres, receiving stream: none. Application received March 16, 2009.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>Table 2</i> <i>30-day</i> <i>Average</i>	<i>Daily</i> <i>Maximum</i>	<i>Instantaneous</i> <i>Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

34090801. Deihl's Excavation, 250 Industrial Park Road, Mifflintown, PA 17059, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Milford Township, **Juniata County**, affecting 5 acres, receiving stream: Juniata River. Permit received March 11, 2009.

07090801. Curry Excavating, Inc., 3403 Mill Road, Duncansville, PA 16635, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Allegheny Township, **Blair County**, affecting 3 acres, receiving stream: Spencer Run. Permit received March 19, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

65930401 and NPDES Permit No. PA0200492. Hanson Aggregates BMC, Inc. (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal for an existing large noncoal surface mine, located in Ligonier and Derry Townships, **Westmoreland County**, affecting 172.6 acres. Receiving streams: UNTs to Loyalhanna Creek, classified for the following use: TSF. There is not potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received March 16, 2009.

03090801. Glenn Fleming Construction Company (P. O. Box 88, 112 Fleming Lane, Elderton, PA 15736). Application received for commencement, operation and reclamation of a small noncoal surface mining (sandstone quarry) permit located in Plumcreek Township, **Armstrong County**, affecting 1.7 acres. Receiving streams: UNT to Crooked Creek to Allegheny River,

classified for the following use: WWF. It is unknown whether there is a potable water supply intake within 10 miles downstream from the point of discharge. Application received March 9, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

61090302 and NPDES Permit No. PA0258717. Schiffer Excavating, Inc., d/b/a Cooperstown Sand and Gravel (P. O. Box 4, Cooperstown, PA 16317). Commencement, operation and restoration of a sandstone operation in Jackson Township, **Venango County** affecting 25.5 acres. Receiving streams: Two UNTs to Wolf Run and Wolf Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received March 11, 2009.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E15-795. Dewson Construction Company, 7 South Lincoln Street, Wilmington, DE 19805, Pennsbury Township, **Chester County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain the following activities associated with four Dewson Construction lot Residential Subdivision: 1.) Pile supported multispans timber bridge and retaining wall (45 feet total) across Grains Mill Run (WWF, MF) and the 100-year floodplain. 2.) To place fill in 0.05 acre of wetland (PEM/PFO) for the construction of a driveway. Work includes 0.03 acre of indirect wetland impact and 0.16 acre of temporary wetland impact.

The site is located approximately 2,500 linear feet west of the intersection of Fairville Chadds and Stabler Roads (Wilmington North, DE-PA, N: 19.6 inches; W: 16.4 inches).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E45-538. Mount Airy 1, LLC, 44 Woodland Road, Mount Pocono, PA 18344-9703, in Paradise Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain approximately 13,899 linear feet of new pedestrian walking/biking trails, 13,587 linear feet of improvements to existing walking/biking trails, the construction of five new trailhead access areas with gravel parking lots, and 13 wetland, stream, stormwater ditch and floodplain crossings (0.030 acre of total earth disturbance) along Forest Hills Run (HQ-CWF) for the purpose of expanding and improving the existing trails associated with Mount Airy Casino and Resort. The project is located 3.86 miles east of the intersection of I-380 and SR 0940 (Mount Pocono, PA Quadrangle Latitude: 41° 06' 43"; Longitude: 75° 19' 27").

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

E36-849. Manheim Borough Authority, William Kelso, 15 East High Street, Manheim, PA 17545, Penn Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain: (1) two oxidation ditches with a length of 147.3 feet and a combined width of 254.8 feet; (2) a 15-foot long by 22-foot wide utility building; (3) a 7.5-foot long by 14.5-foot wide valve control chamber; (4) a 15.3-foot long by 33.7-foot wide pump station; (5) a 41.5-foot diameter final clarifier; (6) minor grading and paving for site access all located in the floodplain of Chickies Creek (WWF). Also to remove an existing 150.0-foot long by 30.0-foot wide building and associated paved parking area with a combined area of 12,810 square feet, and a 10,340-square foot concrete sludge drying which will be excavated to 2.0 feet below existing grade both in the floodplain of Chickies Creek (WWF) for the purpose of upgrading an existing waste water treatment facility, located at a point just southeast of the intersection of Rettew Lane and High Street (SR 0722) (Manheim, PA Quadrangle 5.25 inches N; 4.00 inches W, Latitude: 40° 09' 13.2" N; Longitude: 76° 24' 13.3" W) Penn Township, Lancaster County.

E36-850. Columbia Economic Development Corporation, Jeff Seibert, 361 Locust Street, Columbia, PA 17512, Columbia Borough, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To remove 214.0 feet of 5-foot by 4.5-foot concrete box culvert and 278.0 feet of concrete lined channel, and to construct and maintain 492.0 feet of 5-foot diameter RCP in a UNT to the Susquehanna River (WWF) (Columbia West, PA Quadrangle 6.0-inches North; 0.4-inch West, Latitude: 40° 02' 16.2" N; Longitude: 76° 30' 24.9" W) for the purpose of relocating the stream to facilitate the development of the Turkey Hill Experience attraction at a point just east of the intersection of Linden and North Third Streets, Columbia Borough, Lancaster County.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-1607. Plum Borough Municipal Authority, 4555 New Texas Road, Pittsburgh, PA 15239-1197. To relocate and maintain to prevent further erosion in Plum Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Murrysville, PA Quadrangle N: 13.3 inches; W: 12.3 inches, Latitude: 40° 26' 54"; Longitude: 79° 42' 47"). The applicant proposes to relocate and maintain approximately 254.0 linear feet of Abers Creek (TSF) for the purpose of preventing further erosion to the stream bank and to protect the existing pet store and an electrical substation. The project is located on the east side of SR 286, approximately 1,000.0 feet north from the intersection of Old Frankstown Road and SR 286 and will impact approximately 254.0 linear feet of stream channel.

E26-352. Shallenberger Construction Company, 2611 Memorial Boulevard, Connellsville, PA 15425. To construct a water treatment facility in the floodway in Masontown Borough, **Fayette County**, United States Army Corps of Engineers, Pittsburgh District (Masontown, PA Quadrangle N: 18.9 inches; W: 6.9 inches, Latitude: 39° 51' 13"; Longitude: 79° 55' 29"). The applicant proposes to construct and maintain a water treatment facility in the floodway of the Monongahela River (WWF) for treating industrial waste water produced during gas well drilling and extraction and to construct

and maintain an outfall structure in said river. The project is located approximately 500 feet from the SR 21 Bridge.

E32-488. SFAM, LLC, 349 North Fourth Street, Indiana, PA 15701. To construct a culvert and fill in White Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Indiana, PA Quadrangle N: 22.0 inches; W: 9.8 inches, Latitude: 40° 37' 15"; Longitude: 79° 11' 45"). The applicant proposes to construct and maintain a steel grate bridge with a span of 20' a width of 66' and an underclearance of approximately 3.8' with precast concrete block abutments over a UNT to McCarthy Run (CWF), to construct and maintain a stormwater outfall structure, and to place and maintain fill in the floodway of and UNT to McCarthy Run, all for the purpose of expanding an existing automobile dealership. The project is approximately 570' west of the intersection of Ben Franklin Road and Philadelphia Street.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D15-218. Malvern Prep Lower Dam. Malvern Preparatory School, 418 South Warren Avenue, Malvern, PA 19355. To modify, operate and maintain Malvern Prep Lower Dam located across a tributary to Crum Creek (HQ-CWF), impacting 0.02 acre of wetlands PFO (Palustrine Forested) and 25.0 feet of stream and provid-

ing (de minimis) acres of wetland mitigation, for the purpose of spillway repairs and the raising of the earthen embankment by approximately one foot in order to pass the 100-year design storm in (Malvern, PA Quadrangle N: 4.7 inches; W: 1.15 inches) in Malvern Borough, **Chester County**.

D39-093A. Leaser Lake Dam, Fish and Boat Commission, c/o Gerald G. Woomer, P. E., 450 Robinson Lane, Bellefonte, PA 16826. To modify, operate and maintain the Leaser Lake Dam across the Jacksonville Branch of the Ontelaunee Creek (CWF), impacting 0.01 acre of wetlands (PEM) with no proposed impacts to the stream channel, for the purpose of rehabilitating the dam by constructing a new spillway, installing an internal embankment drain system and raising the elevation of the dam (Lehigh, PA Quadrangle N: 7.8 inches; W: 11.7 inches) in Lynn Township, **Lehigh County**.

D13-108A. Towamensing Trails Property Owners Association, Towamensing Trails Property Owners Association, c/o Patrick Anderson, P. O. Box 100, Albrightsville, PA 18210. To modify, operate and maintain the Towamensing Trails Dam across a tributary to Wolf Run (HQ-CWF), impacting 0.18 acre of wetlands (PEM) and 108 feet of stream channel, for the purpose of installing a blanket drain on the downstream face of the dam, raising the top of dam 1 foot in elevation to store and safely discharge the required spillway design flood and rehabilitate the existing spillway (Blakeslee, PA Quadrangle N: 0.1 inch; W: 13.8 inches) in Penn Forest Township, **Carbon County**.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VI	I 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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the

Pennsylvania Bulletin, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060747 (Industrial Waste)	AMETEK 42 Mountain Avenue Nesquehoning, PA 18240-2201	Nesquehoning Borough Carbon County	Nesquehoning Creek 02B	Y
PA0061212 (Minor Sewage)	Mik-Joan, Inc. 655 Route 61 Orwigsburg, PA 17961	North Manheim Township Schuylkill County	Mahannon Creek 03A	Y
PA0063282	Fairland Sewer Company, Inc. 5426 Route 873 Schecksville, PA 18078-2103	North Whitehall Township Lehigh County	Lehigh Watershed 2C UNT to Fells Creek CWF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAS803504 (IW)	UPS Freight 1000 Semmes Avenue Richmond, VA 23224	Cumberland County Hampden Township	UNT to Trindle Spring Run 7-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0035602 SN	Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Montour County Liberty Township	UNT of Beaver Run 10D	Y
PA0035599 SN	Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Montour County Liberty Township	UNT of Beaver Run 10D	Y
PA0021733	Borough of Watsontown 4th and Main Streets Watsontown, PA 17777	Northumberland County Watsontown Borough	West Branch Susquehanna River	Y
PA0209660 SP	Cooper Township Municipal Authority P. O. Box 446 Winburne, PA 16879	Clearfield County Cooper Township	Moshannon Creek 8D	Y
PA0209678 SP	Cooper Township Municipal Authority P. O. Box 446 Winburne, PA 16879	Clearfield County Cooper Township	UNT of Moshannon Creek 8D	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0092894 Sewage	Consol PA Coal Company, LLC P. O. Box J Claysville, PA 15323	Greene County Richhill Township	Enlow Fork	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0216381 Sewage	Holly Hill, Inc. P. O. Box 801 Warrendale, PA 15095	Beaver County New Sewickley Township	UNT of Crows Run	Y
PA0037044 Sewage	Ford City Borough Municipal Sewage Disposal Authority P. O. Box 66 Ford City, PA 16226	Armstrong County Ford City Borough	Allegheny River	N
PA0030856 Sewage	Western Beaver County School District 343 Ridgemoor Drive Midland, PA 15059	Beaver County Industry Borough	Swale to UNT to Wolf Run	Y
PA0095621 Sewage	Ashville Borough P. O. Box 165 Ashville, PA 16613	Cambria County Ashville Borough	Clearfield Creek	Y
PA0097667 Sewage	Imperial Business Parks, LP 101 International Drive Oakdale, PA 15071	Allegheny County North Fayette Township	UNT of North Branch Robinson Run	Y
<i>Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.</i>				
<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0239194	Cherrytree Land Development Route 8 and Black Road Titusville, PA 16354	Cherrytree Township Venango County	UNT to Oil Creek 16-E	Y

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

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

NPDES Permit No. PA0036447, Industrial Waste, **Naval Surface Warfare Center Carderock Division—SSES**, 5001 South Broad Street, Philadelphia, PA 19112-1403. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the amendment to allow monitoring of Total Residual Chlorine for the fire pump discharge from Building 485. The discharge will be from the Delaware Estuary Zone 4 in Watershed 3F.

NPDES Permit No. PA0057606, Sewage, **Upper Salford Township**, P. O. Box 100, Salfordville, PA 18958. This proposed facility is located in Upper Salford Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the Upper Salford Authority farmhouse STP into a UNT to Perkiomen Creek in Watershed 3E.

NPDES Permit No. PA0058025, Sewage, **Upper Salford Township**, P. O. Box 100, Salfordville, PA 18958. This proposed facility is located in Upper Salford Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from Upper Salford Township Park STP into a UNT to Perkiomen Creek in Watershed 3E.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Amplified Final Public Notice for NPDES Permit No. PA0253928, Sewage, **Thomas H. Meehan**, P. O. Box 3, New Brighton, PA 15066. This notice reflects changes from the notice published at 39 Pa.B. 598 (January 31, 2009).

The DRAFT Permit was issued under NPDES Permit Number PA0253925. This typographical error has been corrected for the issuance of the FINAL NPDES Permit.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. WQG018680, Sewerage, **Peter M. Thornton**, 1871 Abraham Hollow Road, Pittsfield, PA 16371. This proposed facility is located in Pittsfield Township, **Warren County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018681, Sewerage, **Stephen M. Bell**, 901 Main Street, Duke Center, PA 16749. This proposed facility is located in Eldred Township, **McKean County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018689, Sewerage, **Matthew L. Boozer**, 357 Champion Road, New Bethlehem, PA 16242. This proposed facility is located in Porter Township, **Clarion County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

WQM Permit No. WQG018688, Sewerage, **Heather E. Eckart**, 14212 Foster Road, Conneautville, PA 16406-1318. This proposed facility is located in Hayfield Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a Single-Residence Sewage Treatment Plant.

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

WQM Permit No. 1508415, Sewerage, **Chadds Ford Investment Company**, 514 McCue Road, Avondale, PA 19311. This proposed facility is located in New Garden Township, **Chester County**.

Description of Action/Activity: Installation of an equalization tank.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908020	Polaris Iron Run, LP 7562 Penn Drive Suite 100 Allentown, PA 18106	Lehigh	Upper Macungie Township	Iron Run HQ-CWF
PAI024808006	Wilson Borough Guy B. Tomaino Municipal Building 2040 Hay Terrace Easton, PA 18042	Northampton	Wilson Borough	Bushkill Creek HQ-CWF
PAI023908025	DB 3, LLC 2005 City Line Road Suite 106 Bethlehem, PA 18107	Lehigh	Bethlehem City	Monocacy Creek HQ-CWF
PAI024808018	Phillips & Phillips P. O. Box 160 Bath, PA 18014	Northampton	East Allen Township	Monocacy Creek HQ-CWF
PAS10Q003R(2)	Jaindl Land Company 3150 Coffeetown Road Orefield, PA 18069	Lehigh	Upper Macungie Township	Iron Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032208001	Joshua and Sarah Spicher 921 Red Hill Road Dauphin, PA 17018	Dauphin	Middle Paxton Township	Clark Creek HQ

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage

PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Hazleton Luzerne County	PAG2004009001	Commonwealth of PA Department of Military and Veteran Affairs Attn: Mark E. Austin Bureau of Facilities and Engr. Building 047 Fort Indiantown Gap Annville, PA 17003-5002	Tributary to Hazle Creek WWF	Luzerne County Conservation District (570) 674-7991
Middle Paxton Township Dauphin County	PAG2002208043	Kathleen Hagy 1001 Drayer Court Carlisle, PA 17013	Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Derry Township Dauphin County	PAG2002209004	Hershey Trust Milton Hershey School 100 Mansion Road East Hershey, PA 17033	Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Red Lion Borough Windsor Township York County	PAG2006709012	Glenn Rexroth Rexroth Equities, LP P. O. Box 98 Dallastown, PA 17313	Fishing Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Jackson Township York County	PAG2006708044-1	A. Richard Astheimer FR Independence Property Holding, LP 707 Eagleview Boulevard Suite 110 Exton, PA 19341	Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Conewago Township York County	PAG2006708079	Sophie Simon Dover Township Sewer Authority 2480 West Canal Road Dover, PA 17315	Fox Run—Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Logan Township Blair County	PAG2000709001	Durbin Companies, LP Brian Durbin 810 East Wopsonnock Avenue Altoona, PA 16601	Spring Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Windsor and York Townships York County	PAG2006706089	Robert Holweck Panorama Hills Interceptor Venture, LLC 2700 Philadelphia Road Edgewood, MD 21040	Kreutz Creek—Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

NOTICES

1709

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
York Township York County	PAG2006706122	Carl Dallmeyer 6 Stars, LP 4775 North Sherman Street Unit 1 Mt. Wolf, PA 17347	UNT to Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
South Lebanon Township Lebanon County	PAG2003807033	Department of Military and Veterans Affairs Attn: Mark Austin Building 0-47 Fort Indiantown Gap Annville, PA 17003	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788 (717) 272-5314
South Londonderry Township Lebanon County	PAG2003808032	Light's Welding, Inc. Earl W. Light 2628 Brandt Road Annville, PA 17003	Killinger Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788 (717) 272-5314
East Hanover Township Lebanon County	PAG2003808028	Department of Military and Veterans Affairs (PAARNG) Attn: David L. Edwards Building 0-48 Fort Indiantown Gap Annville, PA 17003-5002	UNT to Indiantown River CWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-9788 (717) 272-5314
South Heidelberg Township Berks County	PAG2000603076-R	Walter Greth Greth Development Group 253 Snyder Road Temple, PA 19560	Hospital Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Caernarvon Township Berks County	PAG2000606105-1	P. Marlin Mast Mast Homes, LLC 2612 Conestoga Road Morgantown, PA 19543	Conestoga River—East Branch Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Union Township Berks County	PAG2000608075	Timothy DiNoto 22 Memory Lane Birdsboro, PA 19508	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Bethel Township Berks County	PAG2000608079	Edward Albert Tulpehocken School District 27 Rehrersburg Road Bethel, PA 19507	UNT to Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Richmond Township Berks County	PAG2000608072	Fernando Folino Pennaco Excavating, Inc. 63 South Hampton Drive Wyomissing, PA 19610	Maiden Creek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bethel Township Berks County	PAG2000609012	Lamar Lehman 161 Manbeck Road Bernville, PA 19506	UNT to Meck Creek—Susquehanna River CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Allegheny Township Blair County	PAG2000709003	Altoona City Authority William Geis 20 Greenwood Road Altoona, PA 16602-7114	Beaverdam Branch Juniata River TSF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Clearfield County Sandy Township	PAG2001708019	Wal-Mart Stores, Inc. 2001 SE 10th Street Bentonville, AR 72716-0550	Beaver Run CWF McCracken Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Lycoming County Mifflin and Watson Townships City of Williamsport	PAG2004109001	Kevin Kilpatrick 1500 West Third Street Williamsport, PA 17701	Lycoming Creek WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Montour County Mahoning Township	PAG2004706012-1	Martin Mariano, d/b/a Mariano Rentals P. O. Box 127 Bloomsburg, PA 17815		Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Snyder County Jackson Township	PAG2005508006	Shade Mountain Homes Vincent L. Shrawder 14 Lester Lane Middleburg, PA 17842	Monongahela Creek CWF	Snyder County Conservation District 403 West Market Street Middleburg, PA 17842 (570) 837-0007, Ext. 5
Somerset County Jenner Township	PAG2005608013	Sulli's Welding & Pipe Fitting, LLC 1217 Glades Pike Somerset, PA 15501	UNT to Quemahoning Creek CWF	Somerset County Conservation District (814) 445-4652
Washington County Cecil Township	PAG2006309008	Hawthorne Partners, Inc. 102 West Pike Street Suite 200 Houston, PA 15342	UNT to Brush Run WWF	Washington County Conservation District (724) 228-6774
Crawford County Cochranton Borough	PAG2002008007	Cochranton Elementary School Michael Dolecki Crawford Central School District 11280 Mercer Pike Meadville, PA 16335	French Creek WWF	Crawford County Conservation District (814) 763-5269
Erie County Summit Township	PAR10K175R(2)	Scott Development Company 8040 Peach Street Erie, PA 16509	Walnut Creek CWF; MF	Erie County Conservation District (814) 825-6403

*General Permit Type—PAG-3**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Hazleton Borough Luzerne County	PAR232242	Graham Packaging Company, LP 2401 Pleasant Valley Road York, PA 17403	Black Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Hazle Township Luzerne County	PAR232241	Graham Packaging PET Technologies, LP 2401 Pleasant Valley Road York, PA 17403	Abandoned Surface Mining Pits	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Upper Mahantango Township Schuylkill County	PAR122214	Michael Foods/Papetti's Hygrade Egg Products, Inc. 68 Spain Road Klingerstown, PA 17941	Pine Creek TSF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Coopersburg Borough Lehigh County	PAR212204	HYK Construction Corporation, d/b/a Rahns Construction Material Co. 430 Bridge Road Rahns, PA 19426-4195	UNT to Saucon Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Adams County East Berlin Township	PAR123535	Zeigler Brothers, Inc. East Berlin Mill 400 Gardners Station Road Gardners, PA 17324-0095	Conewago Creek WWF 7F	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Adams County Tyrone Township	PAR123534	Zeigler Brothers, Inc. Gardners 400 Gardners Station Road Gardners, PA 17324-0095	UNT to Opossum Creek TSF 7F	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Wrightstown Township Bucks County	PAG040105	William and Joan Elsing 46 Mega Way Furlong	Neshaminy Creek Neshaminy 2F	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Bedford County Liberty Township	PAG043609	William D. Baker 2305 Pinchot Road Saxton, PA 16678	UNT of the Raystown Branch Juniata River	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Pittsfield Township Warren County	PAG049500	Peter M. Thornton 1871 Abraham Hollow Road Pittsfield, PA 16371	UNT to Brokenstraw Creek 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eldred Township McKean County	PAG049501	Stephen M. Bell 901 Main Street Duke Center, PA 16749	UNT to Moody Hollow Run 16-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Porter Township Clarion County	PAG049511	Matthew L. Boozer 357 Champion Road New Bethlehem, PA 16242	UNT to Leisure Run 17-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG049509	Heather E. Eckart 14212 Foster Road Conneautville, PA 16406-1318	UNT to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Dallas Borough Luzerne County	PAG052224	Pump n Pantry 100 Grow Avenue Montrose, PA 18801 Former Pump n Pantry #009	Toby Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Mechanicsburg Borough Cumberland County	PAG083528	Borough of Mechanicsburg 36 West Allen Street Mechanicsburg, PA 17055-6282		DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 4009506MA, Minor Amendment, Public Water Supply.

Applicant	Aqua PA, Inc. 50 East Woodhaven Drive White Haven, PA 18661 Exeter Township
County	Luzerne
Type of Facility	PWS
Consulting Engineer	William D. LaDieu, P. E. CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112
Permit to Construct Issued	March 12, 2009

Permit No. 5403501MA, Minor Amendment, Public Water Supply.

Applicant **United Water Pennsylvania, Inc.**
 4211 East Park Circle
 P. O. Box 4151
 Harrisburg, PA 17111
 North Union Township

County **Schuylkill**

Type of Facility PWS

Consulting Engineer Arthur C. Saunders, P. E.
 United Water Pennsylvania, Inc.
 4211 East Park Circle
 P. O. Box 4151
 Harrisburg, PA 17111

Permit to Construct Issued March 12, 2009

Permit No. 2646542, Operations Permit, Public Water Supply.

Applicant **Worobey Transport, Inc.**
 2047 Crosstown Highway
 P. O. Box 72
 Preston Park, PA 18455
 Salem Township

County **Wayne**

Type of Facility Bulk Water Hauling System

Consulting Engineer N/A

Permit to Operate Issued March 12, 2009

Permit No. 2450034, Operations Permit, Public Water Supply.

Applicant **Brodhead Creek Regional Authority**
 410 Stokes Avenue
 East Stroudsburg, PA 18301
 Stroud Township

County **Monroe**

Type of Facility PWS

Consulting Engineer Russell D. Scott, P. E.
 RKR Hess Associates
 112 North Courtland Street
 East Stroudsburg, PA 18301

Permit to Operate Issued March 16, 2009

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Operations Permit issued to Lazy K Campground, Inc., 3060105, Washington Township, Berks County on March 19, 2009, for the operation of facilities approved under Construction Permit No. 0608521 MA.

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

Permit No. 4909501, Construction and Operation, Public Water Supply.

Applicant **Cherokee Pharmaceuticals, LLC**

Township or Borough Riverside Borough

County **Northumberland**

Responsible Official Justin Noll, Plant Manager
 Cherokee Pharmaceuticals, LLC
 P. O. Box 367
 100 Avenue C
 Riverside, PA 17868

Type of Facility Public Water Supply—
 Construction and Operation

Consulting Engineer Dana Pizarro, P. E.
 O'Brien & Gere Engineers, Inc.
 512 East Township Line Road
 Two Valley Square
 Suite 120
 Blue Bell, PA 19422

Permit Issued Date March 23, 2009

Description of Action Construction and operation of TOC removal facilities, including a change in flocculant from Cat-Floc to Nalco 8140 and the addition of the polymer, Nalclear 7768.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 2690502A1, Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hersheypark Drive
 P. O. Box 888
 Hershey, PA 17033

Borough or Township Luzerne Township

County **Fayette**

Type of Facility Hiller Reservoir Cover

Consulting Engineer Bankson Engineers, Inc.
 267 Blue Run Road
 P. O. Box 200
 Indianola, PA 15051

Permit to Construct Issued March 20, 2009

Permit No. 6308501, Public Water Supply.

Applicant **Authority of the Borough of Charleroi**
 3 McKean Avenue
 P. O. Box 211
 Charleroi, PA 15022

Borough or Township Speers Borough

County **Washington**

Type of Facility Speers pump station

Consulting Engineer Chester Engineers
 One Twilight Hollow Road
 Charleroi, PA 15022

Permit to Construct Issued March 20, 2009

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

Operations Permit issued to Fryburg Water Company, PWSID No. 6160030, Washington Township,

Clarion County, March 18, 2009, to utilize a single tank truck to provide bulk water as an emergency source of finished water for customers of the Fryburg Water Company. Finished water will be hauled from the Venango Water Company (PWSID No. 6610014), Venango County. EMERGENCY Permit will expire June 15, 2009.

Operations Permit issued to Wilcox Water Company, PWSID No. 6240020, Jones Township, **Elk County**, March 18, 2009. Permit issued for operation of the Sodium Carbonate (Soda Ash) facility for pH adjustment under General Corrosion Control, as approved under construction permit 2408501, issued June 30, 2008.

Operations Permit issued to Aqua Pennsylvania, Inc., Shenango Valley Division, PWSID No. 6430054, Shenango Township, **Mercer County** and Wilmington Township, **Lawrence/Mercer Counties**, on March 18, 2009. Permit issued for operation of the 12-inch water main along Sharon-New Castle Road (SR 18) as approved under construction permit 4300503-T1-MA1, issued August 14, 2007.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the section 5 of the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Sugarloaf Township	P. O. Box 61 Sybertsville, PA 18251-0061	Luzerne

Plan Description: The Corrective Action Plan (CAP), submitted as a plan update revisions to the Township's Official Sewage Facilities Plan, proposes a systematic investigation that will identify and propose corrective measures for portions of the Sugarloaf Township wastewater collection system that may be subject to excessive amounts of infiltration/inflow. The CAP is also intended to reduce hydraulic overloading at the Greater Hazleton Joint Sewer Authority's Wastewater Treatment Facility. The CAP also contains an implementation schedule for its investigative activities. The CAP is now to be considered an integral part of Sugarloaf Township's Official Sewage Facilities Plan.

Should conditions be encountered during the implementation of the CAP, which require the alteration of the approved CAP, Sugarloaf Township shall contact the Department of Environmental Protection (Department), in writing, and discuss the need to alter the CAP at the earliest possible time. Any additional wastewater-related improvements, additions, deletions or changes outside of those explicitly described in the CAP must be in compliance with the Department's regulations and be submitted to and approved by the Department in writing.

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

Categorical Exclusion

Township of Hampden—230 South Sporting Hill Road, Mechanicsburg, PA 17050.

The Pennsylvania Infrastructure Investment Authority which administers the Commonwealth's State Revolving Fund is intended to be the funding source for this project.

The project is undertaken by the Township to eliminate overflow at the Pump Stations. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Plan Location: Union Township, Adams County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Union Township	255 Pine Grove Road Hanover, PA 17331	Adams

Plan Description: The approved plan provides for hydrogeologic studies on all subdivisions involving two or more dwelling units or any property underlain by carbonate geology. The name of the project is Union Township Act 537 Sewage Facilities Plan Update and the Department of Environmental Protection's code No. is B1-01931-ACT. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality, authority or owner as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
East Hanover Township	8848 Jonestown Road Grantville, PA 17028	Dauphin

Plan Description: The approved plan provides for two separate sewer extensions to serve 57 existing structures in the Partridge Hills area of the Township with gravity sewers and 56 existing structures in the Englewood area with a gravity and low pressure collection system tributary to a new municipal pump station and force main. This project expands the scope of previously approved planning in East Hanover Township. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

BIOSOLIDS INDIVIDUAL PERMITS (PABIG, SSN and PABIS)

The Department of Environmental Protection has taken the following actions on the previously received individual permit applications for the land application of treated sewage sludge (biosolids).

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the

Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information

TYPE 4A

Southcentral Regional Office, Department of Environmental Protection, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

PABIS 3501. Natali Brothers Farm, Bedford County, Colerain Township, Municipal Authority of the Borough of Bedford, 244 West Penn Street, Bedford, PA 15522, is approved to beneficially use their biosolids on the Natali Brothers Farm in Colerain Township, Bedford County.

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 con-

cerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Sun Malvern Tanker Spill Site, East Whiteland Township **Chester County.** Krista Snyder, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 on behalf of Tony Bamonte, Liberty Property Trust, LP, 500 Chesterfield Parkway, Malvern, PA 19355 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with unleaded gasoline, MTBE and BTEX. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Lustrik Corporation, City of Philadelphia, **Philadelphia County.** Craig Herr, Gary Brown, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Tom Vezzosi, Philadelphia Proof Rust Company, 2086 East Willard Street, Philadelphia, PA 19134, David Vezzosi, Lustrik Corporation, 4329 Paul Street, Philadelphia, PA 19124 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with No. 4 fuel oil. The report is intended to document remediation of the site to meet the Background and Statewide Health Standard.

Holland Shopping Center, Northampton Township, **Bucks County.** Keith T. D'Ambrosio, Whitestone Associates, Inc., 1600 Manor Drive, Chalfont, PA 18914 on behalf of Matthew Winters, Wawa, Inc., Red Roof Office, 260 Baltimore Pike, Wawa, PA 19063 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

165 Oak Street Property, Uwchlan Township, **Chester County.** James Mulry, Mulry and Cresswell Environmental Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA 19343 has submitted a 90 day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Kane Residence, Lower Merion Township, **Montgomery County.** Jeremy Bolyn, EMC., Inc., 1420 East Mermaid Lane, Glenside, PA 19066 on behalf of Ann Kane, 18 Merion Road, Merion Station, PA 19066 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

The Hake Building, Borough of Eddystone, **Delaware County.** Richard Werner, Environmental Consulting, Inc., 500 West Washington Street, Suite 375, Norristown, PA 19401 on behalf of Frank Hake, Hake Headquarters, LP, 1380 Wisteria Drive, Malvern, PA 19355 has submitted a Remedial Investigation/Cleanup Plan and Risk Assessment Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Kenneth Miller Residence, Straban Township, **Adams County**. Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Kenneth Miller, 24 Mountclair Road, Gettysburg, PA 17325, submitted a Final Report concerning remediation of site soils contaminated with kerosene. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard. The report was submitted within 90 days of the release, and the site will remain residential.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

International Paper—South Yard, City of Erie, **Erie County**. MACTEC Engineering and Consulting, Inc., 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106, on behalf of Greater Erie Industrial Development Corporation, 5240 Knowledge Parkway, Erie, PA 16510 has submitted a Final Report concerning remediation of site soils contaminated with trichloroethene, tetrachloroethene, 1,3,5-trimethylbenzene; site groundwater contaminated with trichloroethene, tetrachloroethene, cis-1,2-dichloroethene, vinyl chloride and surface water contaminated with iron, manganese and sulfate. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan,

is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania 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.

Schroder Residence, Lower Oxford Township, **Chester County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Charles Schroder, 109 Hill Lane, Oxford, PA 19363 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 12, 2009.

Sun Malvern Tanker Site, City of Philadelphia, **Philadelphia County**. Krista Snyder, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, Martin Liebhardt, Sunoco, Inc. (R&M), 350 Eagleview Boulevard, Suite 30, Exton, PA 19341, Gary Brown, on behalf of Tony Baonte, Liberty Property Trust, LP, 500 Clearfield Parkway, Malvern, PA 19355 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with unleaded gasoline, MTBE and BTEX. The Final Report did not demonstrate attainment of the Statewide Health Standard and was placed on hold by the Department of Environmental Protection on March 6, 2009.

Lustrik Corporation, City of Philadelphia, **Philadelphia County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Thomas Vezzosi, Philadelphia Rust-Proof Company, 2086 East Willard Street, Philadelphia, David Vezzosi, Lustrik Corporation, 4329 Paul Street, Philadelphia, PA 19124 has submitted a Remedial Investigation/Final Report concerning the remediation of site groundwater and soil contaminated with No. 4 fuel oil. The Remedial Investigation/Final Report was disapproved by the Department of Environmental Protection on March 6, 2009.

JD Byrider, Inc., City of Philadelphia, **Philadelphia County**. Mark Kuczynski, REPSG, Inc., P. O. Box 5377, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142, Brenda MacPhail, REPSG, Inc., P. O. Box 5377, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142, Karl Hartman, REPSG, Inc., P. O. Box 5377, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Brad Pogachefsky, Harbison Property, LLC, 2185—2187 Bridge Street, Philadelphia, PA 19124 has submitted a Baseline Environmental Report concerning the remediation of site groundwater and soil contaminated with gasoline. The Baseline Environmental Report

was placed on hold by the Department of Environmental Protection on March 3, 2009.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Cvejkus Paving & Excavating Accident, Riverside Borough, **Northumberland County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Cvejkus Paving & Excavating, R. R. 1, Box 112, Liverpool, PA 17045 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 17, 2009.

James Estate Farm, Turbot Township, **Northumberland County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Century 21 Mertz & Assoc. Real Estate, 1817 Market Street, Lewisburg, PA 17837 has submitted a Final Report concerning remediation of site soil contaminated with gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 17, 2009.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

Triumvirate Environmental, Inc., 61 Inner Belt Road, Somerville, MA 02143. License No. PA-AH 0477. Effective January 6, 2009.

Transwaste, Inc., 3 Barker Drive, Wallingford, CT 06492. License No. PA-AH 0674. Effective January 8, 2009.

Envirite Of Ohio, Inc., 2050 Central Avenue SE, Canton, OH 44707. License No. PA-AH 0548. Effective January 2, 2009.

The Pennohio Corporation, 4813 Woodman Avenue, Ashtabula, OH 44004. License No. PA-AH 0618. Effective January 26, 2009.

Monarch Transport, Inc., P. O. Box 330, Woodstown, NJ 08098. License No. PA-AH 0558. Effective January 26, 2009.

Cambridge Chemical Cleaning, Inc., P. O. Box 4220, 1250 West Elizabeth Avenue, Linden, NJ 07036. License No. PA-AH 0356. Effective January 29, 2009.

Select Transportation, Inc., 5055 Nike Drive, Hilliard, OH 43026. License No. PA-AH 0469. Effective January 29, 2009.

Lancaster Oil Company, 1076 Old Manheim Pike, Lancaster, PA 17601. License No. PA-AH 0679. Effective February 2, 2009.

Clean Harbors Environmental Services, 42 Longwater Drive, Norwell, MA 02061. License No. PA-AH 0312. Effective February 3, 2009.

Ecoflo, Inc., 2750 Patterson Street, Greensboro, NC 27407. License No. PA-AH 0225. Effective February 5, 2009.

Envirotran, Inc., 387 Gore Road, Conneaut, OH 44030. License No. PA-AH 0543. Effective February 13, 2009.

EQ Northeast, Inc., P. O. Box 617, Wrentham, MA 02093-0617. License No. PA-AH 0224. Effective February 18, 2009.

Reserve Environmental Services, Inc., P. O. Box 1038, Ashtabula, OH 44005-1038. License No. PA-AH 0678. Effective February 18, 2009.

Tier DE, Inc., 5745 Lincoln Highway, Gap, PA 17527. License No. PA-AH 0680. Effective February 18, 2009.

Laidlaw Carriers Bulk GP, Inc., 1179 Ridgeway Road, P. O. Box 1669, Woodstock, ON N4S 0A9. License No. PA-AH 0703. Effective February 20, 2009.

Laidlaw Carriers Tank GP, Inc., 1179 Ridgeway Road, P. O. Box 1669, Woodstock, ON N4S 0A9. License No. PA-AH 0704. Effective February 20, 2009.

Elliott Truck Line, Inc., P. O. Box 1, 532 South Wilson Street, Vinita, OK 74301. License No. PA-AH 0355. Effective February 23, 2009.

Hukill Chemical Corporation, 7013 Krick Road, Bedford, OH 44146. License No. PA-AH 0625. Effective March 2, 2009.

Ashland, Inc., 5200 Blazer Parkway, Dublin, OH 43017. License No. PA-AH 0121. Effective March 3, 2009.

MCF Systems Atlanta, Inc., 5353 Snapfinger Woods Drive, Decatur, GA 30035. License No. PA-AH S240. Effective March 13, 2009.

Triad Transport, Inc., P. O. Box 818, Mcalester, OK 74502. License No. PA-AH 0392. Effective March 17, 2009.

Allstate O.R.C., Inc., 473 Hamburg Turnpike, West Milford, NJ 07480-3746. License No. PA-AH 0564. Effective March 18, 2009.

Hazardous Waste Transporter License Issued

Environmental Coordination Services, 3237 US Highway 19, Cochran, PA 16314. License No. PA-AH 0757. Effective January 6, 2009.

Inland Waters of Ohio, Inc., 2195 Drydock Avenue, Cleveland, OH 44113. License No. PA-AH 0758. Effective January 7, 2009.

Jade Tank Lines, Inc., P. O. Box 1621, Wilmington, NC 28401. License No. PA-AH 0759. Effective January 23, 2009.

Hydrocarbon Recovery Services, Inc., 14950 Heathrow Forest Parkway, Suite 111, Houston, TX 77032. License No. PA-AH 0752. Effective March 13, 2009.

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Expired

Veolia ES Solid Waste of PA, Inc., 6330 Route 219, Brockway, PA 15824. License No. PA-AH 0699. Effective February 28, 2009.

Hazardous Waste Transporter License Voluntarily Terminated

Pollution Control Industries, Inc., 4343 Kennedy Avenue, East Chicago, IN 46312. License No. PA-AH 0537. Effective July 1, 2008.

Commercial Environmental Solutions, Inc., 5501 FM 637, Corsicana, TX 75109. License No. PA-AH 0731. Effective January 1, 2009.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Infectious And Chemotherapeutic Waste Transporter License Renewed

Bio-Team Mobile, LLC, 6 East Kendig Road, Willow Street, PA 17584. License No. PA-HC 0225. Effective February 5, 2009.

Medical Waste Recovery, Inc., 9 Broadway, Suite 30, Denville, NJ 07834. License No. PA-HC 0233. Effective February 17, 2009.

Alpha Bio/Med Services, LLC, 7 West Eby Road, Leola, PA 17540. License No. PA-HC 0234. Effective February 19, 2009.

Stericycle, Inc., 1525 Chestnut Hill Road, Morgantown, PA 19543-9508. License No. PA-HC 0196. Effective February 20, 2009.

S-J Transportation Co., Inc., P. O. Box 169, Woodstown, NJ 08098. License No. PA-HC 0031. Effective February 26, 2009.

RESIDUAL WASTE GENERAL PERMITS

Permits Renewed under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and 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 Number WMGR046. Hyponex Corporation, 311 Reedville Road, Oxford, PA 19363. General Permit Number WMGR046 authorizes processing and beneficial use of drinking water treatment sludge, yard waste, bark ash, coal ash, agricultural residues, waste cardboard and paper, sludge generated by paper or pulp mills (SIC Code 2621 and 2611), waste from vegetable food processing, unused sands, spent mushroom substrate and freshwater, brackish and marine dredged material to be used as manufactured soil or soil amendments. The approved processing is limited to separation, size reduction (grinding), mixing, windrow composting, static composting and screening. The permit was renewed by Central Office on March 20, 2009.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General

Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Number Number WMGR046D001. Summit Anthracite Inc., R. R. 1, Box 12a, Klingers-town, PA 17941-9704. General Permit Number WMGR 046D001 authorizes processing and beneficial use of drinking water treatment sludge, yard waste, bark ash, coal ash, agricultural residues, waste cardboard and paper, sludge generated by paper or pulp mills (SIC Code 2621 and 2611), waste from vegetable food processing, unused sands, spent mushroom substrate and freshwater, brackish and marine dredged material to be used as manufactured soil or soil amendments. The approved processing is limited to separation, size reduction (grinding), mixing, windrow composting, static composting and screening. The permit was renewed by Central Office on March 20, 2009.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

52-310-014GP3: E. R. Linde Construction (9 Collan Park, Honesdale, PA 18431) on March 17, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in Lackawaxen Township, **Pike County**.

45-310-052GP3: E. R. Linde Construction (9 Collan Park, Honesdale, PA 18431) on March 17, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in Barrett Township, **Monroe County**.

35-310-049GP3: E. R. Linde Construction (9 Collan Park, Honesdale, PA 18431) on March 17, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in Jessup Borough, **Lackawanna County**.

64-310-023GP3: E. R. Linde Construction (9 Collan Park, Honesdale, PA 18431) on March 17, 2009, to construct and operate a Portable Crushing Operation with watersprays at their site in Damascus Township, **Wayne County**.

64-310-022GP3: E. R. Linde Construction (9 Collan Park, Honesdale, PA 18431) on March 17, 2009, to construct and operate a Portable Crushing Operation with watersprays at the site in Palmyra Township, **Wayne County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

GP3-21-03088: Pennsy Supply, Inc. (Corporate Office, 1001 Paxton Street, Harrisburg, PA 17105) on March 18, 2009, for a Portable Nonmetallic Mineral Processing Plant under GP3 in Silver Spring Township, **Cumberland County**.

GP9-21-03088: Pennsy Supply, Inc. (Corporate Office, 1001 Paxton Street, Harrisburg, PA 17105) on March 18, 2009, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in Silver Spring Township, **Cumberland County**.

GP9-21-03089: Pennsy Supply, Inc. (Corporate Office, 1001 Paxton Street, Harrisburg, PA 17105) on March 18, 2009, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in Penn Township, **Cumberland County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

GP5-08-02C: Chesapeake Appalachia, LLC (P. O. Box 6070, Charleston, WV 25362) on March 23, 2009, to construct and operate a triethylene glycol dehydration unit, a 1.0 mmBtu/hr reboiler and a 3.5 mmBtu/hr line heater under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at their Evanchock Compressor Station in Asylum Township, **Bradford County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-30-00183: EQT Gathering, LP (225 North Shore Drive, Pittsburgh, PA 15212) on March 19, 2009, for authorization to install and operate a Caterpillar Model 3516 LE 1340-bhp compressor engine and an Exterran Dehydrator rated at .5 mmBtu/hr at their Jupiter Compressor Station located at Morgan Township, **Greene County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

GP-42-158A: TIN, Inc.—Temple-Inland Medium Density Fiberboard Plant (149 Temple Drive, Kane, PA 16735) on March 20, 2009, to operate a diesel or No. 2 fuel-fired internal combustion engine (BAQ-GPA/GP-9) in Sergeant Township, **McKean County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2531.

48-310-078: Haines & Kibblehouse, Inc.—A.B.E. Materials—Easton (P. O. Box 196, 2052 Lucon Road, Skipack, PA 19474) on March 23, 2009, to construct and operate a hopper, particle separation box, conveyor and wet paddle screen at their site in Lower Mt. Bethel Township, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

36-05002D: Armstrong World Industries, Inc. (1067 Dillerville Road, Lancaster, PA 17603-2613) on March 20, 2009, for renovation of the existing vinyl floor coating operations in the City of Lancaster, **Lancaster County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 08218: Growmark, Inc. (Pier 122 South, Philadelphia, PA 19148) on March 24, 2009, to install a 2 million tpy dry bulk materials handling process in the City of Philadelphia, **Philadelphia County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

09-0186A: Kinder Morgan Bulk Terminals, Inc. (1 Sinter Road, Fairless Hills, PA 19030) on March 19, 2009, to operate and handle fertilizer transfer and storage products in Falls Township, **Bucks County**.

46-0260: Durapax, LLC (400 Old Reading Pike, Suite 304, Pottstown, PA 19464) on March 19, 2009, to operate a coal tar roofing material process in West Pottsgrove Township, **Montgomery County**.

46-313-146: Penn Color, Inc. (2755 Bergey Road, Hatfield, PA 19440) on March 19, 2009, to operate a base pigment dispersion facility in Hatfield Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

08-00003C: CraftMaster Manufacturing, Inc. (P. O. Box 311, Shiner Road, Towanda, PA 18848) on March 18, 2009, to operate wood-fired boiler No. 3 and dry fuel handling equipment identified in the respective plan approval on a temporary basis until September 21, 2009, at their facility in Wysox Township, **Bradford County**. The Plan Approval has been extended.

08-313-038H: Global Tungsten & Powders, Corp. (Hawes Street, Towanda, PA 18848-0504) on March 19, 2009, for their multiple hearth roaster and material handling equipment (Source IDs P117 and P119) at their facility in North Towanda Township, **Bradford County**. This plan approval revision is for an insignificant increase to the total PM emission limitations and an increase in the opacity limitation for the multiple hearth roaster and handling equipment. The plan approval contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

25-124C: Mayer Brothers Construction Co. (1225 West 18th Street, Erie, PA 16502) on March 20, 2009, to modify an existing hot mix asphalt plant to burn No. 5 fuel oil as an alternate fuel in Erie City, **Erie County**.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-05029: Sunoco Partners Market & Terminal, LP (17351 Market Street, 29MBC, Philadelphia, PA 19103) on March 20, 2009, to operate a petroleum product bulk storage and loading facility at their Mechanicsburg Terminal in Hampden Township, **Cumberland County**. This is a renewal of the Title V operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

TV-16-00124: Peoples Natural Gas Co.—Truittsburg Station (5093 Truittsburg Road, Fairmont City, PA 16224) on March 20, 2009, the Department of Environmental Protection administratively amended the referenced permit to incorporate changes brought about by Plan Approval Number 16-124A. The plan approval authorized the installation of a 4th natural gas compressor engine. The facility is in Redbank Township, **Clarion County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00117: Heucotech, LTD (99 Newbold Road, Fairless Hills, PA 19030) on March 18, 2009, for issuance of a State-only Operating Permit to operate organic pigments production in Falls Township, **Bucks County**. The facility is natural minor. Plan Approval, PA-09-00117B is being incorporated into this new State-only Operating Permit. This Operating Permit shall include monitoring and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

46-00100: Saint Gobain Abrasives (200 Commerce Drive, Montgomeryville, PA 18936) on March 18, 2009, for a non-Title V Facility, State-only, Synthetic Minor Permit in Montgomery Township, **Montgomery County**. The sources of emissions are space heaters, surface coating operations and thermal oxidizer. The facility has a potential to emit VOCs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

09-00118: Associated Rubber, Inc. (115 South 6th Street, Quakertown, PA 18951) on March 18, 2009, for a natural minor operating permit in Quakertown Borough, **Bucks County**. The facility molds rubber for various industrial and commercial uses. The main source of emissions is the vapor degreaser, which is used for cleaning the rubber parts. The facility has a potential to emit less than 10 tons of VOCs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

09-00168: Fiberglass Technologies, Inc. (1610 Hanford Street, Levittown, PA 19057) on March 13, 2009, for operation of a gelcoat and a resin spray booth at their facility in Bristol Township, **Bucks County**. The permit is for a non-Title V (State-only) facility. The potential to

emit styrene from the facility exceeds 25 tpy; however, styrene emissions from the facility are restricted to less than 2.7 tpy. Therefore, the facility is categorized as Synthetic Minor. The permit will contain monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

15-00029: Dopaco, Inc. (100 Arrandale Boulevard, Exton, PA 19341) on March 18, 2009, for operation of their printing and paperboard assembly facility in Downingtown Borough, **Chester County**. The permit is for a non-Title V (State-only) facility, with the Site-wide VOC emissions limited to 24.9 tons per 12-consecutive month period. Major sources of air emissions include six flexographic presses and support equipment. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

23-00012: Sunoco Chemicals (Blueball Avenue Post Road, Marcus Hook, PA) on March 18, 2009, for renewal of the Title V Operating Permit in Marcus Hook Borough, **Delaware County**. The initial permit was issued on June 4, 2001. As a result of potential emissions of VOCs, the facility is a major stationary source as defined in Title I, Part D of The Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

15-00057: Coatesville Hospital Corporation—d/b/a Brandywine Hospital (201 Reeceville Road, Coatesville, PA 19320) on March 20, 2009, for operation of a medical and surgical hospital in Caln Township, **Chester County**. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued on February 2, 2004. Several typographical changes have been made to the permit. Three cold cleaning parts washers and two ethylene oxide sterilizers were added to the source inventory. The facility shall continue to remain a synthetic minor. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00078: Centocor, Inc. (200 Great Valley Parkway, Malvern, PA 19355) on March 24, 2009, for issuance of a State-only Operating Permit to operate four emergency generators, three boilers, water heaters and space heaters in East Whiteand Township, **Chester County**. The facility is synthetic minor for NOx. The following Plan Approvals and Operating Permits, PA-15-0078, PA-15-0078B, PA-15-0078C, OF-15-0078 are being incorporated into the facility permit, SMOP-15-00078. This Operating Permit shall include monitoring and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

48-00062: Haines and Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) on March 18, 2009, to reissue a State-only (Natural Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their ABE Materials—Easton Crushing Plant in Lower Mount Bethel Township, **Northampton County**.

48-00047: Highway Materials, Inc. (1750 Walton Road, P. O. Box 1667, Blue Bell, PA 19422) on March 16, 2009, to manufacture of Asphalt Paving Mixtures and Blocks in Upper Nazareth Township, **Northampton County**. This is a State-only Synthetic Minor operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

01-05020: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307-0807) on March 18, 2009, to operate their Biglerville fruit processing facility in Biglerville Borough, **Adams County**. This is a renewal of the State-only operating permit.

01-05033: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 176307-0807) on March 18, 2009, to operate their Peach Glen fruit processing facility in Tyrone Township, **Adams County**. This is a renewal of the State-only operating permit.

67-03045: ACCO Material Handling Solutions, Inc. (P. O. Box 792, York, PA 17405-0792) on March 9, 2009, to operate their hoist and crane component manufacturing facility in York Township, **York County**. This is a renewal of the State-only operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

10-00326: Oesterling Sandblasting and Painting, Inc. (686 Glennwood Way, Butler, PA 16001-8422) on March 19, 2009, to re-issue the Natural Minor Operating Permit to operate their facility's air contamination sources consisting of: 1.2 mmBtu/hr natural gas space heaters, Abrasive Blasting, two large Paint Booths and a 30-gallon parts washer in Center Township, **Butler County**. The facility is not permitted to emit more than 20 tpy of VOCs from the spray painting operation.

25-00066: Accuride Erie, LP (1015 East 12th Street, Erie, PA 16503-1520) on March 23, 2009, to re-issue the Synthetic Minor Permit to operate a nonferrous forging plant in City of Erie, **Erie County**. The significant sources included, 1995 quench tank, 8,000 ton forging press, three 7,000 ton forging presses, 2,000 heat treating furnaces, 1995 solution furnace, 1995 age furnace, cold cleaning machines, process heating, miscellaneous natural gas usage, three wheel washers, two carbottom furnaces, 2006 solution furnace, 2006 quench tank and 2006 age furnace. The facility has taken a restriction of CO emission, 95 tpy to qualify as synthetic minor. The permit also contains additional monitoring, recordkeeping and reporting requirements to assure compliance with the facility-wide CO emission limit.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00013: Wheelabrator Falls, Inc. (1201 New Ford Mill Road, Morrisville, PA, 19067) on March 19, 2009, the Title V Permit is amended to address an inconsistency between the State and Federal regulations concerning the testing requirements of PCDD and PCDF in Falls Township, **Bucks County**. Amendment of the Title V Operat-

ing Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

46-00010: Montenay Montgomery, LTD Partnership (1155 Conshohocken Road, Conshohocken, PA 19428) on March 19, 2009, the Title V Permit is amended to address an inconsistency between the State and Federal regulations concerning the testing requirements of PCDD and PCDF in Plymouth Township, **Montgomery County**. Administrative Amendment of the Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

23-00004: Covanta Delaware Valley, LP (10 Highland Avenue, Chester, PA 19013) on March 19, 2009, the Title V Permit is amended to address an inconsistency between the State and Federal regulations concerning the testing requirements of PCDD and PCDF, as well as an incorrect regulatory citation in the City of Chester, **Delaware County**. Administrative Amendment of the Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

31-05013: New Enterprise Stone & Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664-0077) on March 17, 2009, to operate an asphaltic concrete batch plant (controlled by a cyclone in series with a fabric collector) at their Tyrone Blacktop Plant in Warriors Mark Township, **Huntingdon County**. This State-only operating permit was administratively amended to incorporate plan approval 31-05013A. This is Revision No. 1.

38-03035: V & S Lebanon Galvanizing, LLC (1000 Buckeye Park Road, Columbus, OH 43207-2509) on March 10, 2009, to operate a hot dip galvanizing facility in Union Township, **Lebanon County**. This State-only operating permit was administratively amended to change the contact and responsible official. This is Revision No. 1.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

03921602 and NPDES Permit No. PA0214388, Glacial Sand and Gravel Company, (P. O. Box 1022,

Kittanning, PA 16201), to renew the permit for the Glacial Coal Tipple in East Franklin Township, **Armstrong County** and related NPDES permit. No additional discharges. Application received October 24, 2008. Permit issued March 17, 2009.

30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP, (P. O. Box 1020, 158 Portal Road, Waynesburg, PA 15370), to revise the permit for the Emerald Mine No. 1 in Center Township, **Greene County** to change the land use on 4.5 acres from pastureland to industrial/commercial at Emerald No. 5 Airshaft. No additional discharges. Application received July 1, 2008. Permit issued March 17, 2009.

32991301 and NPDES Permit No. PA0215228, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to revise the permit for the Nolo Deep Mine in Buffington Township, **Indiana County** and related NPDES permit to construct pipeline to transport mine water from Barrett Deep Mine to Nolo Mine for discharge to Laurel Run and injection into Nolo Mine. Surface Acres Proposed 5.5. Receiving Stream: UNT to Laurel Run, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Central Indiana Water Authority and intake Yellow Creek. Application received October 22, 2007. Permit issued March 17, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56890101 and NPDES No. PA0598364. Croner, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface and coal refuse disposal mine in Brothersvalley Township, **Somerset County**, affecting 226.6 acres. Receiving streams: UNTs to and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 16, 2009. Permit issued March 18, 2009.

32020108 and NPDES No. PA0249351. Amerikohl Mining, Inc., 202 Sunset Drive, Butler, PA 16001, permit renewal for reclamation only of a bituminous surface mine in Buffington Township, **Indiana County**, affecting 44.0 acres. Receiving streams: UNT to Mardis Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 20, 2009. Permit issued March 18, 2009.

32930105 and NPDES No. PA0212652. P & N Coal Company, Inc., P. O. Box 332, Punxsutawney, PA 15767, permit renewal for reclamation only of a bituminous surface auger and coal refuse disposal mine in Banks Township, **Indiana County**, affecting 86.7 acres. Receiving streams: UNTs to Cush Creek, UNT to South Branch Bear Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 20, 2009. Permit issued March 18, 2009.

11823011 and NPDES No. PA0607614, L & J Energy Company, Inc., P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface and auger mine in Susquehanna Township, **Cambria County**, affecting 75.0 acres. Receiving streams: UNT to Susquehanna River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 15, 2009. Permit issued March 18, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

02070105 and NPDES Permit No. PA0251275. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Permit revised to add 4.9 acres for mining on the land of Leon and Richard Rochez and to correct the exhibit maps regarding the location of the haul road at an existing bituminous surface mining site located in Jefferson Hills Borough, **Allegheny County**, now affecting 56.6 acres. Receiving streams: UNTs to Monongahela River. Application received October 24, 2008. Revised permit issued March 20, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

24030102 and NPDES Permit No. PA0242322. AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15650) Renewal of an existing bituminous strip operation in Fox Township, **Elk County** affecting 172.5 acres. Receiving streams: UNT No. 1 to Mill Run. Application received January 14, 2009. Permit issued March 17, 2009.

10080103 and NPDES Permit No. PA0258661. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip and auger operation in Concord Township, **Butler County** affecting 116.0 acres. Receiving streams: UNT No. 3 to Pine Run. Application received August 28, 2008. Permit issued March 16, 2009.

Noncoal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32082802. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Center Township, **Indiana County**, affecting 4.5 acres. Receiving streams: UNTs to Tearing Run, Two Lick Creek to Blacklick Creek to Conemaugh River. Application received May 15, 2008. Permit issued March 18, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

3072SM3. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201) Renewal of existing NPDES Permit No. PA0605336 in Mercer and Marion Townships, **Butler County**. Receiving streams: Two UNTs to McMurray Run, McMurray Run and UNT to North Branch Slippery Rock Creek. Application received January 29, 2009. Permit issued March 17, 2009.

20070302. W. L. Dunn Construction Company (180 North Franklin Street, Cochranon, PA 16314) Commencement, operation and restoration of a large sand and gravel operation in East Mead Township, **Crawford County** affecting 47.6 acres. Receiving streams: Little Sugar Creek. Application received September 25, 2008. Permit issued March 18, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08080810. Wendy West (R. R. 2, Box 248A1, Wysox, PA 18854). Commencement, operation and restoration of a quarry operation (flagstone) in Standing Stone Township, **Bradford County**, affecting 5.0 acres. Receiving stream: none. Application received September 4, 2008. Permit issued March 11, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58082804. Darwin R. Greene, (R. R. 3, Box 219 B, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Harmony Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received March 6, 2008. Permit issued March 17, 2009.

58080828. John Maloney, (R. R. 5, Box 5303, Towanda, PA 18848), commencement, operation and restoration of a quarry operation in Middletown Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received April 14, 2008. Permit issued March 17, 2009.

58082805. Rock Ridge Stone, Inc., (R. R. 2, Box 151 B, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in Forest Lake Township, **Susquehanna County** affecting 1.0 acre, receiving stream: none. Application received March 31, 2008. Permit issued March 18, 2009.

66080804. Derek Conroe, (11 Hearthstone Apartments, Factoryville, PA 18419), commencement, operation and restoration of a quarry operation in Nicholson Township, **Wyoming County** affecting 2.0 acres, receiving stream: none. Application received July 14, 2008. Permit issued March 19, 2009.

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

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

65094002. KESCO, Inc. (P. O. Box 95, Adrian, PA 16210). Blasting activity permit for construction of the Mills Point Shopping Mall, located in North Huntingdon Township, **Westmoreland County**. The expected duration of blasting is 1 year. Permit issued March 16, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

38094103. Dyno-Nobel, Inc., (1320 Galiffa Drive, Donora, PA 15033), construction blasting for Brickyard of Campbelltown UCC Cemetery in South Lebanon Township, **Lebanon County** with an expiration date of March 30, 2011. Permit issued March 16, 2009.

36094110. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Lansdale Development in Manheim Township, **Lancaster County** with an expiration date of December 30, 2010. Permit issued March 17, 2009.

40094105. Austin Powder Northeast, LLC, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Center Point West in Pittston Township, **Luzerne County** with an expiration date of March 8, 2010. Permit issued March 17, 2009.

45094107. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Leisure

Lands in Middle Smithfield Township, **Monroe County** with an expiration date of March 31, 2010. Permit issued March 17, 2009.

45094108. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Timber Hills in Price and Paradise Townships, **Monroe County** with an expiration date of March 31, 2010. Permit issued March 17, 2009.

45094109. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Blue Mountain Lake in Stroud Township, **Monroe County** with an expiration date of March 31, 2010. Permit issued March 17, 2009.

45094110. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Alpine Lake in Pocono Township, **Monroe County** with an expiration date of March 31, 2010. Permit issued March 17, 2009.

45094113. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Franklin Hill Estates in Smithfield Township, **Monroe County** with an expiration date of March 31, 2010. Permit issued March 17, 2009.

52094105. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Wild Acres in Delaware Township, **Pike County** with an expiration date of March 31, 2010. Permit issued March 17, 2009.

45094112. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Lake in the Clouds in Barrett Township, **Monroe County** and Greene Township, **Pike County** with an expiration date of March 31, 2010. Permit issued March 18, 2009.

58094008. Eugene C. Carpenter, Geokentics, Inc., (P. O. Box 158, Wysox, PA 18854), construction blasting for Geophysical Exploration for the Bradford 3D Operation in Rush Township, **Susquehanna County** with an expiration date of May 31, 2010. Permit issued March 19, 2009.

22094105. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for High Meadows SS Extension in Derry Township, **Dauphin County** with an expiration date of March 31, 2010. Permit issued March 19, 2009.

39094104. Orica USA, Inc., (5101 Beekmantown Road, Whitehall, PA 18052), construction blasting for core construction and remediation for a sump near Coplay Aggregates, Inc. in Whitehall Township, **Lehigh County** with an expiration date of April 30, 2009. Permit issued March 19, 2009.

40094107. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for Stryker Brigade Hazleton in the City of Hazleton, **Luzerne County** with an expiration date of March 31, 2010. Permit issued March 19, 2009.

67094104. J Roy's, Inc., (P. O. Box 125, Bowmansville, PA 17507), construction blasting at Donwood Phase 2 in Dover Township, **York County** with an expiration date of March 18, 2010. Permit issued March 19, 2009.

67094105. J Roy's, Inc., (P. O. Box 125, Bowmansville, PA 17507), construction blasting for Dallastown School in Springfield Township, **York County** with an expiration date of March 18, 2010. Permit issued March 19, 2009.

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 AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E28-349: Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676, Southampton Township, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

The project consists of realigning the Turnpike at the curve immediately east of the Blue Mountain Tunnel, to

the south of the existing roadway from milepost 199.5 to 200.4 involving the following regulated activities:

1. To construct and maintain a 280.0 linear foot by 24-inch RCP pipe road crossing of a UNT to Clippingers Run (WWF) at Station 195+20 R (Doyleburg, PA Quadrangle North: 2.4 inches; West: 3.4 inches, Latitude: 40° 08' 36" N; Latitude: 77° 38' 32" W) resulting in 280.0 feet of perennial stream impact;

2. To relocate approximately 765.0 linear feet of a UNT to Clippingers Run (WWF) from Station 209+35 to 210+60 R (Doyleburg, PA Quadrangle North: 2.0 inches; West: 3.9 inches, Latitude: 40° 08' 45" N; Latitude: 77° 38' 20" W) resulting in 765.0 linear feet of intermittent stream impact;

3. To construct and maintain a 531.0 linear foot by 60-inch RCP pipe road crossing in a UNT to Clippingers Run (WWF) at Station 211+45 R (Doyleburg, PA Quadrangle North: 1.8 inches; West: 3.8 inches, Latitude: 40° 08' 47" N; Latitude: 77° 38' 16" W) resulting in 669.0 feet of perennial stream impact;

4. To construct and maintain a 355.0 linear foot by 54-inch RCP pipe road crossing in Clippingers Run (WWF) at Station 222+30 R (Doyleburg, PA Quadrangle North: 0.8 inch; West: 4.0 inches, Latitude: 40° 08' 56" N; Latitude: 77° 37' 55" W) resulting in 516.0 feet of perennial stream impact; and

5. To construct and maintain a 297.0 linear foot extension of an existing 48-inch CMP pipe in a UNT to Laughlin Run (WWF) at Station 232+00 R (Doyleburg, PA Quadrangle North: 0.5 inch; West: 4.8 inches, Latitude: 40° 09' 04" N; Latitude: 77° 37' 41" W) resulting in 332.0 feet of perennial stream impact.

The project will permanently impact 1,797.0 linear feet of perennial stream channel and 765.0 linear feet of intermittent stream channel, totaling approximately 0.59 acre of impact to Waters of the Commonwealth. To compensate for unavoidable stream impacts, the applicant has proposed to remove a dam on Middle Spring Creek (CWF) along Middle Spring Road in Southampton Township, Cumberland County (Shippensburg, PA Quadrangle North: 14.7 inches; West: 6.0 inches; Latitude: 40° 4' 52"; Longitude: 77° 32' 36").

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E12-169. David M. Fees, P. O. Box 184, Bellefonte, PA 16823. David M. Fees dwelling addition in First Fork-Sinnemahoning Creek Floodway, Grove Township, **Cameron County**, United States Army Corps of Engineers, Baltimore District (Sinnemahoning, PA Quadrangle Latitude: 41° 22' 0.41"; Longitude: 78° 03' 11.04").

The applicant proposes to modify, operate and maintain an existing residential dwelling and appurtenances that are located in the 100-year floodway of First Fork, Sinnemahoning Creek. Modifications to the existing structure within the floodway shall be limited to constructing a southern addition of 8-feet by 26-feet and an eastern addition of 16-feet by 20-feet onto the existing dwelling. The project is located along the eastern right-of-way of SR 0872 (First Fork Road) 330-feet north of Garman Road and SR 0872 intersection. This permit was issued under Section 105.13(e) "Small Projects." By undertaking the work authorized by this permit, the permittee agrees no temporary or permanent stream and wetland impacts will result from the construction of the two dwelling additions.

E18-441. Justin B. Bryerton, 821 Woodward Avenue, Lock Haven, PA 17745. Water Obstruction and Encroachment Joint Permit, in Woodward Township, **Clinton County**, United States Army Corps of Engineers, Susquehanna River Basin District (Lock Haven, PA Quadrangle N: 41° 09' 17.6"; W: 77° 28' 03.1").

To construct and maintain a pavilion and concrete pad for shelter and recreation in the floodway of the West Branch of the Susquehanna River. The pavilion will have a width of 20-feet, a length of 30-feet and a height of 10-feet. The pavilion will be constructed of lumber with a metal roof. All sides of the pavilion are open. The pavilion will sit on a proposed 6" concrete slab at grade. Six, 6-inch by 6-inch pressure treated posts will support the truss roof. The posts will be anchored in the ground below the frost line. No fill will be placed in the floodway. This project is located along the West Branch of the Susquehanna River, 6,800-feet northwest of the intersection of T-359, West River Road and SR 1001, Far-randville Road (Lock Haven, PA Quadrangle N: 41° 09' 17.6"; W: 77° 28' 03.1") in Woodward Township, Clinton County. This project proposes to have a minimal impact on the West Branch of the Susquehanna River, which is designated a WWF and does not propose to impact any

jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects."

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E02-584-A7 Hanson Aggregates PMA, Inc., 2200 Springfield Pike, Connellsville, PA 15425, in the City of Aliquippa, Baden Borough and Hopewell Township, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 19.2 to 20.2 (Upstream beginning point: Baden, PA Quadrangle N: 0.4 inch; W: 15.0 inches, Latitude: 40° 37' 37.1"; Longitude: 80° 13' 59.8". Downstream end point: Baden, PA Quadrangle N: 2.9 inches; W: 15.3 inches, Latitude: 40° 38' 28.7"; Longitude: 80° 14' 9.12"), left descending bank in The City of Aliquippa, Baden Borough and Hopewell Township, Beaver County. Additionally, The Commonwealth of Fish Community Sampling Protocol has been revised.

**Permit No. E02-584
Attachment No. 2
Approved Dredging Areas by River Mile**

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Beaver	Ohio	Montgomery	19.2 to 20.2 L	City of Aliquippa Baden Borough Hopewell Township		10/01/13
			19.2 to 20.2 R	Baden Borough		04/12/11
			20.6 to 21.6 R	Conway Borough Economy Borough		03/21/10
			21.0 to 21.1 L	Hopewell Township	Minimum 250 ft. Setback from NP shoreline.	05/16/09
			21.1 to 21.3 L	Hopewell Township		05/16/09
			21.3 to 21.4 L	Hopewell Township Center Township	Minimum 250 ft. setback from NP shoreline.	05/16/09
			21.4 to 21.6 L	Center Township	Minimum 200 ft. setback from NP shoreline.	05/16/09
			21.6 to 21.7 L	Center Township		05/16/09
			26.2 to 27.2 L & R	Beaver Borough Center Township Potter Township Vanport Borough		04/12/11
			31.0 to 31.4 R	Industry Borough		07/26/10
Ohio	New Cumberland	New L & R	35.5 to 36.0 L & R	Greene Township Midland Borough Shippingport Borough		03/21/10

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank. "NP"—refers to normal pool.

APPENDIX B

**Commonwealth of Pennsylvania Fish Community
Sampling Protocol
June 29, 2006 (Revised March 2009)**

The Department of Environmental Protection shall require Pre Dredging Fish Sampling for the 2006 permit cycle. This sampling, protocol and criteria shall be used to satisfy the requirements of the Pennsylvania National Diversity Index process ("PNDI") search, survey and conflict resolution. The sampling study parameters, protocol and criteria are as follows:

PRE DREDGING

The industry shall conduct benthic trawling sampling of fish in areas proposed for dredging according to this Department protocol. Four (2 minute) un snagged benthic trawls per segment (including buffer segments) are required. All sampling detailed as follows must occur between May 1 and October 1. Outside of that 5-month sampling window, surveys must be conducted with a temperature criterion of greater than or equal to 10° C (50° F) which has been achieved for a minimum of 5 consecutive days prior to the survey and must be maintained during the survey. The temperature can be monitored at the following USGS web site:

- For the Allegheny River: http://waterdata.usgs.gov/nwis/uv?cb_00010=on&cb_00400=on&cb_00095=on&cb_00300=on&format=gif_default&period=7&site_no=03049640.
- For the Ohio River: <http://waterdata.usgs.gov/nwis/uv?03085734>

Presently there exists only one temperature gauge on the Allegheny River and one on the Ohio River in this Commonwealth. If in the future, additional gauges are added to the rivers then the closest gauge to the sampling site should be used for monitoring temperatures.

Notice must be provided to the Department a minimum of 7 days prior to initiation of a fish survey.

Sampling Methods and Procedures

Gear Type
Benthic Trawl

The trawl to be utilized is an extremely effective gear for sampling benthic lithophils (Herzog et al. 2005). The effectiveness of the benthic trawl shall vary based on the bottom substrate, river bed obstructions, boat speed (this shall determine the opening size of the net) and reaction of the fish. In the event that the trawl becomes snagged or turns over, this shall constitute a failed sampling event. The operators must retrieve the trawl, discard the contents of the failed trawl and reset the trawl for a new sampling event.

The Missouri-type 8 ft. wide trawl design described by Herzog et al. (2005) shall be the standard trawl employed during these surveys. The trawl's cod end is manufactured of 2.14 meters (7.02 ft) long 1.5 mm (1/17 in) diameter nylon twine with 19.05 mm (3/4 in) bar mesh and is lined with 3.18 mm (1/8 in) ace-style mesh. The body is manufactured with No. 7 (1-3/8 in. sq. mesh) netting and the bag is manufactured with No. 12 (1-1/4 in. sq. mesh) netting. The two trawl boards are 40.64 cm (16 in.) by 34.13 cm (9.5 in.) and equipped with 1.59 cm (5/8 in.) diameter twisted nylon tow lines 30.48 m (100 ft) in length. The footrope is 1.59 cm in diameter and 5.48 m (17.9 ft) long. The trawl chain is 44 mm (1 3/4") L by 25.4

mm (1") H by 6.4 mm (1/4") diameter. Ideally, the trawl shall be fished from a Jon boat 5.49-6.4 m (18-21 ft in length). The trawl shall be attached to two hard points on the boat with 9.5 mm (3/8 in) braided nylon rope. To effectively fish the trawl, ropes of various lengths should be used, depending on water depth. In water depths of 5 m (16.4 ft) or less, 15.24 m (50 ft) towlines should be used and at water depths between 5 m (16.4 ft) and 10 m (32.8 ft) towlines 30.48 m (100 feet) in length should be used. The length of rope utilized should be recorded on the data sheets provided in addition to river depth at the time of sampling. A small float should be attached to the end of the codpiece with a braided nylon rope. The rope should be longer than the maximum depth to be sampled. In the event the trawl has to be disconnected from the boat, the float shall mark the location of the trawl, facilitating recovery. The trawl shall be towed for 2-minutes un snagged moving backwards downstream just faster than the current.

General Sampling Design

Using a depth finder or other appropriate gear type, the 6-foot depth contour shall be located at a minimum of three contiguous points along the proposed standard 0.1-mi linear sampling zone. Perpendicular to these points, the 150-foot no dredge area (buffer) shall be determined using an appropriate method (that is, laser range finder). This distance shall be marked with additional buoys to demark the edge of the buffer zone and the beginning of the dredge zone. The location of each sampling event shall be indexed by river mile and marked with a global positioning system device.

Any permit request shall include a one-segment upriver and a one segment downriver station which must also be sampled. For example, if (5)-0.1 mile segments are requested then (7)-0.1 mile segments need to be sampled. All benthic trawling events must be completed within the time window between 2 hours after sunrise and 2 hours before sunset. Benthic trawl sampling shall occur within each 0.1 mi. reach as follows: three benthic trawls shall be performed within the proposed dredge zone and one benthic trawl shall be performed within the 45.72 m (150 ft) buffer. In addition, one benthic trawl shall be performed 0.1-mi upriver and 0.1-mi downriver from the proposed dredge zone (Figure 2). These 2 additional up- and downriver trawls shall be performed within the buffer area (2 trawls total) and in the adjacent up- and downriver dredge zones (6 trawls total). Therefore, a minimum total of 12 trawls shall be required to cover the 0.3-river mile sampling area. Data shall be recorded and reported for each individual trawl sample.

Criteria

If the benthic lithophils identified in Table 2 are collected during the surveys several outcomes are possible. If any Category 1 fishes are collected during benthic trawling sampling events, the permit area shall be restricted from dredging and a 0.3-mile upriver and 0.1-mile downriver no-dredge buffer shall be established; If any Category 2 species are collected during Phase I benthic trawling, then Phase 2 sampling shall be completed within 30 days (see Phase II sampling protocol). If three or more Category 3 species are collected during Phase I benthic trawling, then Phase II sampling shall be completed within 30 days (see Phase II sampling protocol). If no Category 1, 2 or 3 species are collected during Phase 1 trawl sampling events dredging for that river segment shall be authorized.

Phase II

If fish species listed in Category 2 (Table 2) are collected during Phase I sampling, then additional sam-

pling under Phase II shall be required. Phase II sampling shall consist of benthic trawl sampling only, 0.30-mi upriver and 0.20-mi downriver from the proposed dredged area (Figure 3). If permittees do not seek authorization to dredge on the opposite side of the river then that area may be sampled with benthic trawling in Phase II. The additional sampling shall occur in 0.1-mi increments and shall consist of a maximum of three trawls for each 0.1-mi increment. Data shall be recorded and reported for each individual trawl sample. Hence, the standard sampling unit is three benthic trawls for Phases I and II sampling. During Phase II sampling, a minimum of five trawls is required. If any Category 2 fishes are collected, the same species of Category 2 fish shall be documented within a 0.5-mi reach and they shall be in at least 50% of their abundance (rounded to the nearest whole fish) from Phase I sampling.

If three or more Category 3 (Table 2) fish species are collected during Phase I sampling, then additional sampling under Phase II shall be required. Phase II sampling shall consist of benthic trawl sampling only, 0.30-mi upriver and 0.20-mi downriver from the proposed dredged area (Figure 3). If permittees do not seek authorization to dredge on the opposite side of the river then that area may be sampled with benthic trawling in Phase II. The additional sampling shall occur in 0.1-mi increments and shall consist of a maximum of three trawls for each 0.1-mi increment. Data shall be recorded and reported for each individual trawl sample. Hence, the standard sampling unit is three benthic trawls for Phases I and II sampling. During Phase II sampling, a minimum of five trawls is required. Phase II sampling must document an equal or greater number of Category 3 species per sampling and at least 50% of the most abundant species collected during Phase I sampling must be found in the .5-mile Phase II area to permit dredging to occur in the proposed area. If additional sampling does not demonstrate that these benthic fishes occur in equivalent abundance or in nearby habitats, then dredging shall not be permitted in the proposed area.

Category 2 and 3 fish species are a resource that requires protection due to their rarity; however, the dredging industry applicant may complete a Phase II assessment of the proposed project area to document that impacts to these fishes shall not be significant. If the applicant provides this Phase II information to document the widespread distribution of these Category 2 and 3 fish species then dredging shall be approved in the designated area. If additional sampling does not demonstrate that these benthic fishes occur in equivalent abundance or in nearby habitats, then dredging shall not be permitted in the proposed area.

Fishes captured during each sampling event shall be retrieved, identified to enumerated species and returned (if not held for further analysis). Species composition (see attached data sheet as Table 1) shall be recorded for each transect with each gear type used. The consultant shall retain appropriate voucher and questionable species (stored in 10% formalin). At least one specimen of each fish species shall be photographed, documented and returned. Voucher specimens for T&E species shall be provided to the PFBC at the following address: Chief, Natural Diversity Section, Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823.

Fishes that do not survive a sampling procedure and that are not retained as vouchers shall be buried on shore or returned to deep water for nutrient recycling by puncturing the swim bladder. Fish community sampling protocols shall be conducted by qualified fisheries scientists. All surveyors shall obtain a valid PFBC scientific collectors permit and a special Chapter 75 permit for the collection of threatened and endangered fish species. The contact for these permits is Chris Urban at the PFBC (814) 359-5113.

References

Dryer, M. 1996. Protocol on collecting, tagging, holding, transporting and data recording for researchers and managers handling pallid sturgeon. United States Fish and Wildlife Service. Bismarck, ND.

Emery, E. B., Thomas P. Simon, Frank H. McCormick, Paul L. Angermeier, Jeffrey E. Deshon, Chris O. Yoder, Randall E. Sanders, Shalliam D. Pearson, Gary D. Hickman, Robin J. Reash and Jeffrey A. Thomas. 2003: Development of a Multimetric Index for Assessing the Biological Condition of the Ohio River. *Transactions of the American Fisheries Society* 132(4):791–808.

Grisak, G. G. 1994. Procedure for using a trawl to sample deep-water zones of the Missouri River in Montana. Unpublished Report. Montana Department Fish, Wildlife and Parks. (<http://infolink.cr.usgs.gov/Science/BenthicFish/index.htm>)

Herzog, D. P., V. A., Barko, J. S., Scheibe, R. A. Hrabik and D. E. Ostendorf. 2005. Efficacy of a benthic trawl for sampling small-bodied fishes in large river systems. *North America Journal of Fisheries Management* 25:594–603.

Murphy, B. R. and D. W. Shallis, eds. 1996. *Fisheries Techniques*, 2nd ed. American Fisheries Society Publication, Bethesda, MD.

Nielsen, L.A. and D.L. Johnson. 1983. *Fisheries Techniques*. American Fisheries Society Publication, Bethesda, MD.

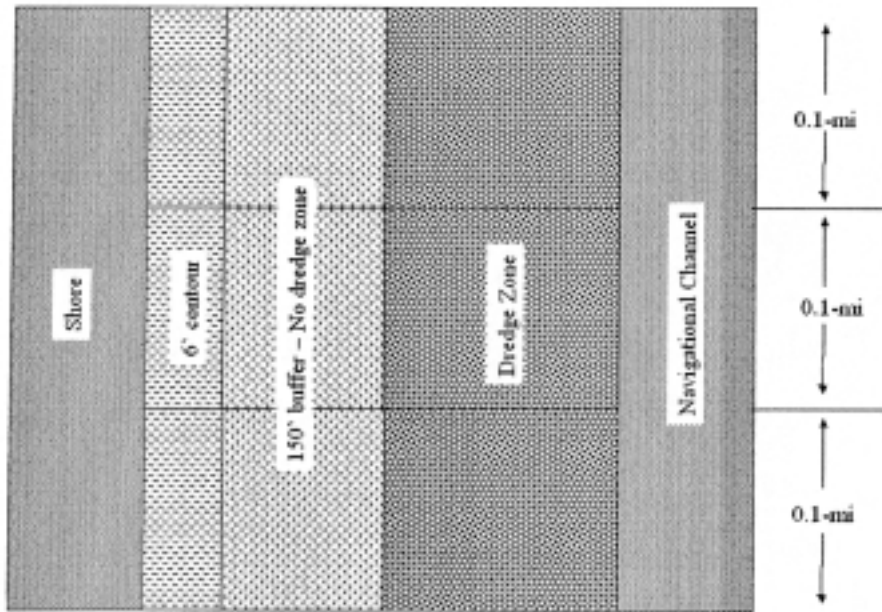


Figure 1 - River schematic diagram from shore to navigation channel denoting the area to be sampled with benthic trawls. Note the 6-foot contour is to be determined using an appropriate method (e.g., depth finder) and the 150-foot no-dredge area is to be determined from the 6-foot contour to establish the edge of a sampling zone

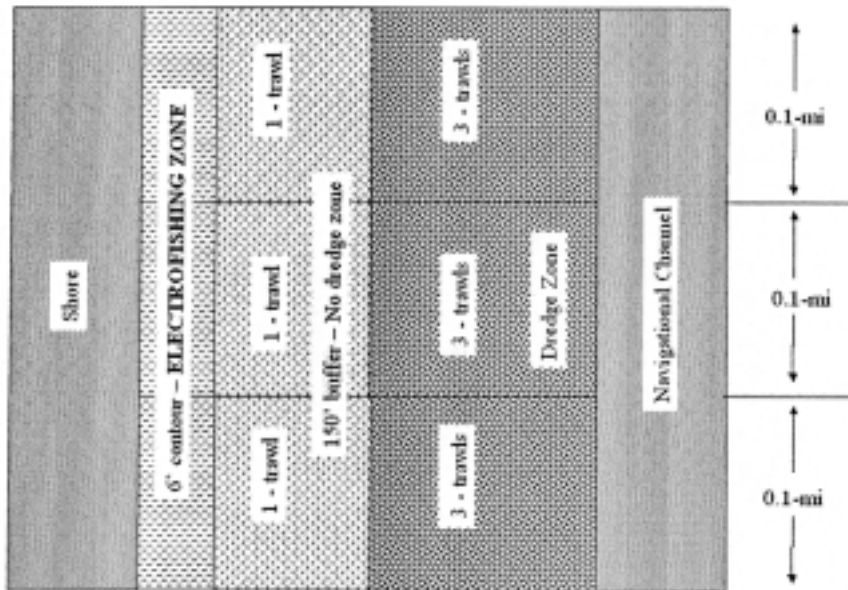


Figure 2 - Three trawls are to be conducted within the 150-ft buffer area, and a total of nine trawls are to be conducted within, above and below the proposed dredged area.

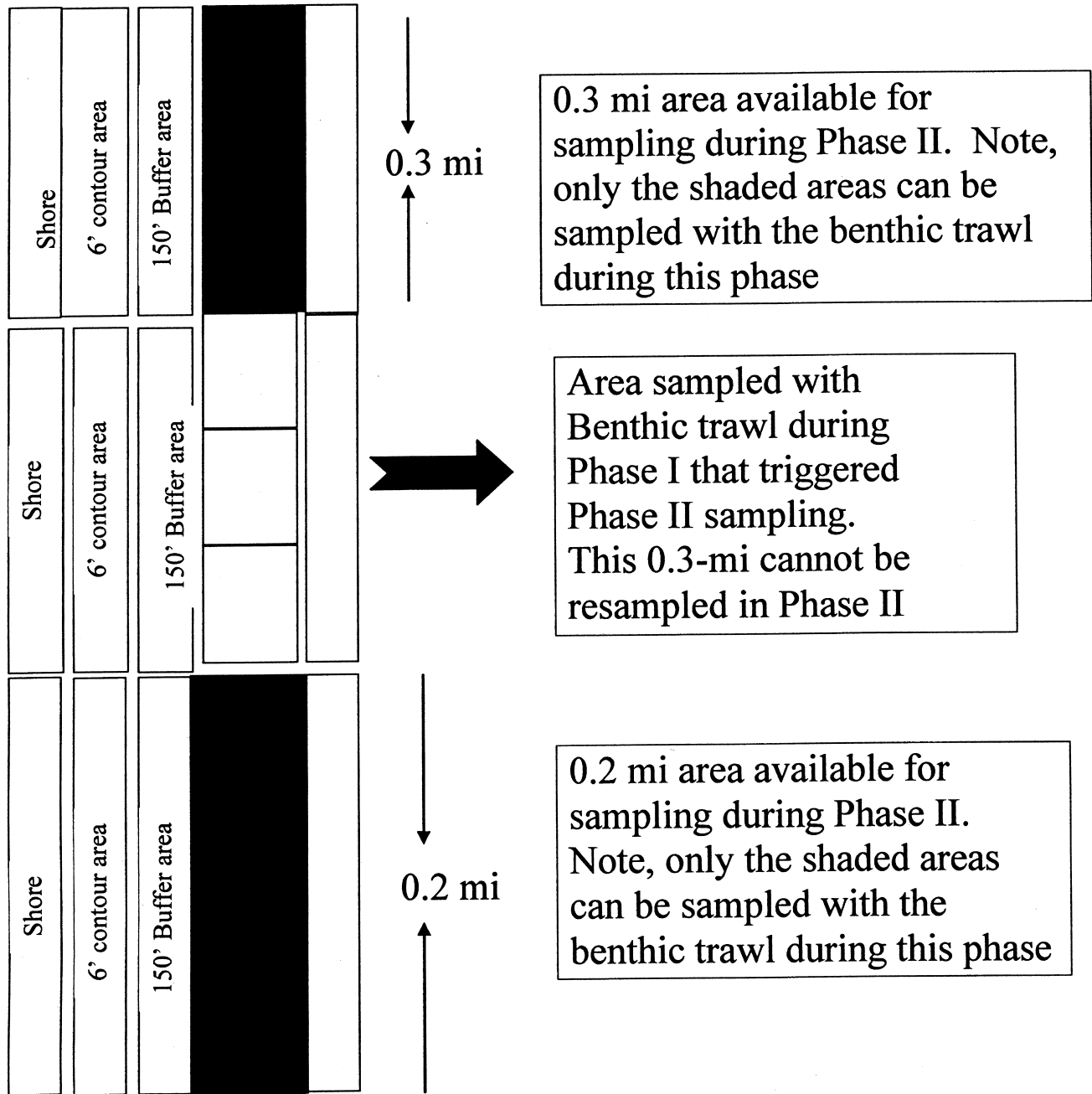


Figure 3— Area for Phase II sampling to document distribution and partial abundance of benthic species. Note the shaded areas are the only areas that can be sampled using the benthic trawl.

Table 2—Benthic lithophilic fishes that, if collected during Phase I sampling, could trigger Phase II sampling.

Category 1 species		<i>Outcome if fishes are collected and/or defined as a Hit</i>
Sturgeon sp.		
Gravel Chub		
Mountain Madtom		If Phase I Hit of One Species,
Tadpole Madtom		Then No dredging shall occur.
Northern Madtom		
Brindled Madtom		
Eastern Sand Darter		
Longnose Sucker		
Iowa Darter		
Category 2 species		
N. Brook Lamprey		
Mountain Brook Lamprey		If Phase I Trawling Hit of One Species or More, then Phase II
Spotted Darter		sampling shall be required.
Spotted Sucker		
Category 3 species		
Silver Chub		
River Shiner		If Phase I Trawling Hit of 3 or More Species, then Phase II
Bluebreast Darter		sampling will be required.
Tippecanoe Darter		
Gilt Darter		

E02-584-A8. Hanson Aggregates PMA, Inc., 2200 Springfield Pike, Connellsville, PA 15425, in East Franklin and Rayburn Townships, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 49.1 to 49.3 (Downstream beginning point: Kittanning, PA Quadrangle N: 20.5 inches; W: 0.1 inch, Latitude: 40° 51' 21.67"; Longitude: 79° 30' 1.41". Upstream end point: Mosgrove, PA Quadrangle N: 19.4 inches; W: 16.7 inches, Latitude: 40° 51' 26.11"; Longitude: 79° 29' 45.15"), left and right descending banks in East Franklin and Rayburn Townships, Armstrong County.

**Permit No. E02-584
Attachment No. 3
Approved Dredging Areas by River Mile**

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Armstrong	Allegheny	5	30.7 to 31.25 L & R	South Buffalo Township Gilpen Township		05/19/13
			31.65 to 31.7 L & R	South Buffalo Township Gilpen Township		05/19/13
		7	49.1 to 49.3 L & R	East Franklin Township Rayburn Township		08/12/13

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
		8	54.7 to 55.0 L & R	Pine Township Washington Township		05/31/12
			55.0 to 55.2 L & R	Pine Township Washington Township		10/08/11

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank.

E02-919-A7. Tri-State River Products, Inc., Box 218, 334 Insurance Street, Beaver PA 15009, in the City of Aliquippa, Baden Borough and Hopewell Township, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 19.2 to 20.2 (Upstream beginning point: Baden, PA Quadrangle N: 0.4 inch; W: 15.0 inches, Latitude: 40° 37' 37.1"; Longitude: 80° 13' 59.8". Downstream end point: Baden, PA Quadrangle N: 2.9 inches; W: 15.3 inches, Latitude: 40° 38' 28.7"; Longitude: 80° 14' 9.12"), left descending bank in The City of Aliquippa, Baden Borough and Hopewell Township, Beaver County. Additionally, the Commonwealth of Pennsylvania Fish Community Sampling Protocol has been revised.

**Permit No. E02-584
Attachment No. 2
Approved Dredging Areas by River Mile**

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Beaver	Ohio	Montgomery	19.2 to 20.2 L	City of Aliquippa Baden Borough Hopewell Township		10/01/13
			19.2 to 20.2 R	Baden Borough		04/12/11
			20.6 to 21.6 R	Conway Borough Economy Borough		03/21/10
			21.0 to 21.1 L	Hopewell Township	Minimum 250 ft. Setback from NP shoreline	05/16/09
			21.1 to 21.3 L	Hopewell Township		05/16/09
			21.3 to 21.4 L	Hopewell Township Center Township	Minimum 250 ft. setback from NP shoreline.	05/16/09
			21.4 to 21.6 L	Center Township	Minimum 200 ft. setback from NP shoreline.	05/16/09
			21.6 to 21.7 L	Center Township		05/16/09
			26.2 to 27.2 L & R	Beaver Borough Center Township Potter Township Vanport Borough		04/12/11
			31.0 to 31.4 R	Industry Borough		07/26/10
	Ohio	New Cumberland	35.5 to 36.0 L & R	Greene Township Midland Borough Shippingport Borough		03/21/10

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank. "NP"—refers to normal pool

APPENDIX B

**Commonwealth of Pennsylvania Fish Community
Sampling Protocol
June 29, 2006 (Revised March 2009)**

The Department of Environmental Protection shall require Pre Dredging Fish Sampling for the 2006 permit cycle. This sampling, protocol and criteria shall be used to satisfy the requirements of the Pennsylvania National Diversity Index process ("PNDI") search, survey and conflict resolution. The sampling study parameters, protocol and criteria are as follows:

PRE DREDGING

The industry shall conduct benthic trawling sampling of fish in areas proposed for dredging according to this Department protocol. Four (2 minute) un snagged benthic trawls per segment (including buffer segments) are required. All sampling detailed below must occur between May 1 and October 1. Outside of that 5-month sampling window, surveys must be conducted with a temperature criterion of greater than or equal to 10° C (50° F) which has been achieved for a minimum of 5- consecutive days prior to the survey and must be maintained during the survey. The temperature can be monitored at the following USGS web site:

• For the Allegheny River: http://waterdata.usgs.gov/nwis/uv?cb_00010=on&cb_00400=on&cb_00095=on&cb_00300=on&format=gif_default&period=7&site_no=03049640.

• For the Ohio River: <http://waterdata.usgs.gov/nwis/uv?03085734>

Presently there exists only one temperature gauge on the Allegheny River and one on the Ohio River in PA. If in the future, additional gauges are added to the rivers then the closest gauge to the sampling site should be used for monitoring temperatures.

Notice must be provided to the Department a minimum of 7 days prior to initiation of a fish survey.

Sampling Methods and Procedures

Gear Type

Benthic Trawl

The trawl to be utilized is an extremely effective gear for sampling benthic lithophils (Herzog et al. 2005). The effectiveness of the benthic trawl shall vary based on the bottom substrate, river bed obstructions, boat speed (this shall determine the opening size of the net) and reaction of the fish. In the event that the trawl becomes snagged or turns over, this shall constitute a failed sampling event. The operators must retrieve the trawl, discard the contents of the failed trawl and reset the trawl for a new sampling event.

The Missouri-type 8 ft. wide trawl design described by Herzog et al. (2005) shall be the standard trawl employed during these surveys. The trawl's cod end is manufactured of 2.14 meters (7.02 ft) long 1.5 mm (1/17 in) diameter nylon twine with 19.05 mm (3/4 in) bar mesh and is lined with 3.18 mm (1/8 in) ace-style mesh. The body is manufactured with No. 7 (1-3/8 in. sq. mesh) netting and the bag is manufactured with No. 12 (1-1/4 in. sq. mesh) netting. The two trawl boards are 40.64 cm (16 in.) by 34.13 cm (9.5 in.) and equipped with 1.59 cm (5/8 in.) diameter twisted nylon tow lines 30.48 m (100 ft) in length. The footrope is 1.59 cm in diameter and 5.48 m (17.9 ft) long. The trawl chain is 44 mm (1 3/4") L by 25.4 mm (1") H by 6.4mm (1/4") diameter. Ideally, the trawl shall be fished from a Jon boat 5.49-6.4 m (18-21 ft in length). The trawl shall be attached to two hard points on the boat with 9.5 mm (3/8 in) braided nylon rope. To effectively fish the trawl, ropes of various lengths should be used, depending on water depth. In water depths of 5 m (16.4 ft) or less, 15.24 m (50 ft) towlines should be used and at water depths between 5 m (16.4 ft) and 10 m (32.8 ft) towlines 30.48 m (100 feet) in length should be used. The length of rope utilized should be recorded on the data sheets provided in addition to river depth at the time of sampling. A small float should be attached to the end of the codpiece with a braided nylon rope. The rope should be longer than the maximum depth to be sampled. In the event the trawl has to be disconnected from the boat, the float shall mark the location of the trawl, facilitating recovery. The trawl shall be towed for 2-minutes un snagged moving backwards downstream just faster than the current.

General Sampling Design

Using a depth finder or other appropriate gear type, the 6-foot depth contour shall be located at a minimum of three contiguous points along the proposed standard 0.1-mi linear sampling zone. Perpendicular to these points, the 150-foot no dredge area (buffer) shall be determined using an appropriate method (that is, laser

range finder). This distance shall be marked with additional buoys to demark the edge of the buffer zone and the beginning of the dredge zone. The location of each sampling event shall be indexed by river mile and marked with a global positioning system device.

Any permit request shall include a one-segment upriver and a one segment downriver station which must also be sampled. For example, if (5)-0.1 mile segments are requested then (7)-0.1 mile segments need to be sampled. All benthic trawling events must be completed within the time window between 2 hours after sunrise and 2 hours before sunset. Benthic trawl sampling shall occur within each 0.1 mi. reach as follows: three benthic trawls shall be performed within the proposed dredge zone and one benthic trawl shall be performed within the 45.72 m (150 ft) buffer. In addition, one benthic trawl shall be performed 0.1-mi upriver and 0.1-mi downriver from the proposed dredge zone (Figure 2). These 2 additional up- and downriver trawls shall be performed within the buffer area (2 trawls total) and in the adjacent up- and downriver dredge zones (6 trawls total). Therefore, a minimum total of 12 trawls shall be required to cover the 0.3-river mile sampling area. Data shall be recorded and reported for each individual trawl sample.

Criteria

If the benthic lithophils identified in Table 2 are collected during the surveys several outcomes are possible. If any Category 1 fishes are collected during benthic trawling sampling events, the permit area shall be restricted from dredging and a 0.3-mile upriver and 0.1-mile downriver no-dredge buffer shall be established; If any Category 2 species are collected during Phase I benthic trawling, then Phase 2 sampling shall be completed within 30 days (see Phase II sampling protocol). If three or more Category 3 species are collected during Phase I benthic trawling, then Phase II sampling shall be completed within 30 days (see Phase II sampling protocol). If no Category 1, 2 or 3 species are collected during Phase 1 trawl sampling events dredging for that river segment shall be authorized.

Phase II

If fish species listed in Category 2 (Table 2) are collected during Phase I sampling, then additional sampling under Phase II shall be required. Phase II sampling shall consist of benthic trawl sampling only, 0.30-mi upriver and 0.20-mi downriver from the proposed dredged area (Figure 3). If permittees do not seek authorization to dredge on the opposite side of the river then that area may be sampled with benthic trawling in Phase II. The additional sampling shall occur in 0.1-mi increments and shall consist of a maximum of three trawls for each 0.1-mi increment. Data shall be recorded and reported for each individual trawl sample. Hence, the standard sampling unit is three benthic trawls for Phases I and II sampling. During Phase II sampling, a minimum of five trawls is required. If any Category 2 fishes are collected, the same species of Category 2 fish shall be documented within a 0.5-mi reach and they shall be in at least 50% of their abundance (rounded to the nearest whole fish) from Phase I sampling.

If three or more Category 3 (Table 2) fish species are collected during Phase I sampling, then additional sampling under Phase II shall be required. Phase II sampling shall consist of benthic trawl sampling only, 0.30-mi upriver and 0.20-mi downriver from the proposed dredged area (Figure 3). If permittees do not seek authorization to dredge on the opposite side of the river then that area

may be sampled with benthic trawling in Phase II. The additional sampling shall occur in 0.1-mi increments and shall consist of a maximum of three trawls for each 0.1-mi increment. Data shall be recorded and reported for each individual trawl sample. Hence, the standard sampling unit is three benthic trawls for Phases I and II sampling. During Phase II sampling, a minimum of 5 trawls is required. Phase II sampling must document an equal or greater number of Category 3 species per sampling and at least 50% of the most abundant species collected during Phase I sampling must be found in the .5-mile Phase II area to permit dredging to occur in the proposed area. If additional sampling does not demonstrate that these benthic fishes occur in equivalent abundance or in nearby habitats, then dredging shall not be permitted in the proposed area.

Category 2 and 3 fish species are a resource that requires protection due to their rarity; however, the dredging industry applicant may complete a Phase II assessment of the proposed project area to document that impacts to these fishes shall not be significant. If the applicant provides this Phase II information to document the widespread distribution of these Category 2 and 3 fish species then dredging shall be approved in the designated area. If additional sampling does not demonstrate that these benthic fishes occur in equivalent abundance or in nearby habitats, then dredging shall not be permitted in the proposed area.

Fishes captured during each sampling event shall be retrieved, identified to enumerated species and returned (if not held for further analysis). Species composition (see attached data sheet as Table 1) shall be recorded for each transect with each gear type used. The consultant shall retain appropriate voucher and questionable species (stored in 10% formalin). At least one specimen of each fish species shall be photographed, documented and returned. Voucher specimens for T&E species shall be provided to the PFBC at the following address: Chief, Natural Diversity Section, Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823.

Fishes that do not survive a sampling procedure and that are not retained as vouchers shall be buried on shore or returned to deep water for nutrient recycling by puncturing the swim bladder. Fish community sampling protocols shall be conducted by qualified fisheries scientists. All surveyors shall obtain a valid PFBC scientific collectors permit and a special Chapter 75 permit for the collection of threatened and endangered fish species. The contact for these permits is Chris Urban at the PFBC (814) 359-5113.

References

Dryer, M. 1996. Protocol on collecting, tagging, holding, transporting and data recording for researchers and managers handling pallid sturgeon. United States Fish and Wildlife Service. Bismarck, ND.

Emery, E. B., Thomas P. Simon, Frank H. McCormick, Paul L. Angermeier, Jeffrey E. Deshon, Chris O. Yoder, Randall E. Sanders, Shaliam D. Pearson, Gary D. Hickman, Robin J. Reash and Jeffrey A. Thomas. 2003: Development of a Multimetric Index for Assessing the Biological Condition of the Ohio River. *Transactions of the American Fisheries Society* 132(4):791—808.

Grisak, G. G. 1994. Procedure for using a trawl to sample deep-water zones of the Missouri River in Montana. Unpublished Report. Montana Department Fish, Wildlife and Parks. (<http://infolink.cr.usgs.gov/Science/BenthicFish/index.htm>)

Herzog, D. P., V. A., Barko, J. S., Scheibe, R. A. Hrabik and D. E. Ostendorf. 2005. Efficacy of a benthic trawl for sampling small-bodied fishes in large river systems. *North America Journal of Fisheries Management* 25:594—603.

Murphy, B. R. and D. W. Shallis, eds. 1996. *Fisheries Techniques*, 2nd ed. American Fisheries Society Publication, Bethesda, MD.

Nielsen, L.A. and D.L. Johnson. 1983. *Fisheries Techniques*. American Fisheries Society Publication, Bethesda, MD.

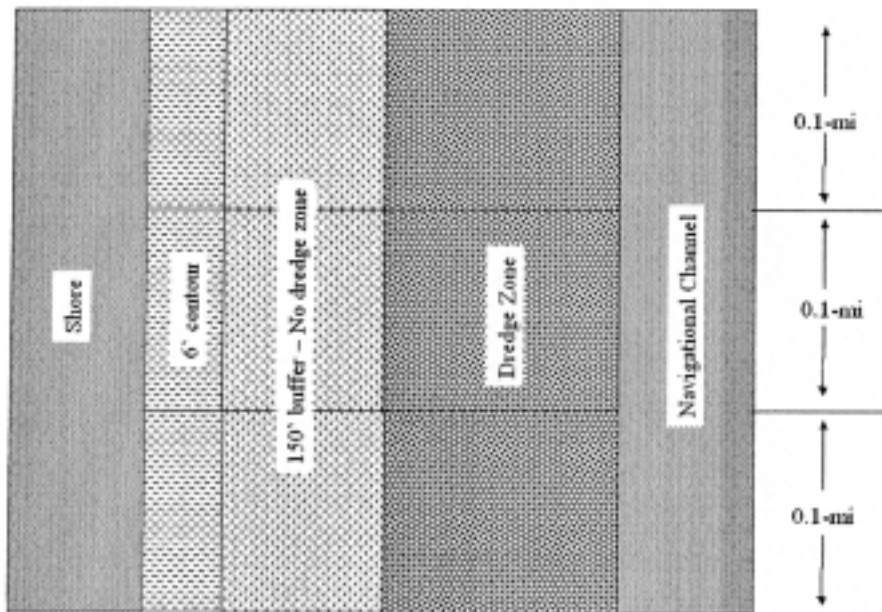


Figure 1 - River schematic diagram from shore to navigation channel denoting the area to be sampled with benthic trawls. Note the 6-foot contour is to be determined using an appropriate method (e.g., depth finder) and the 150-foot no-dredge area is to be determined from the 6-foot contour to establish the edge of a sampling zone

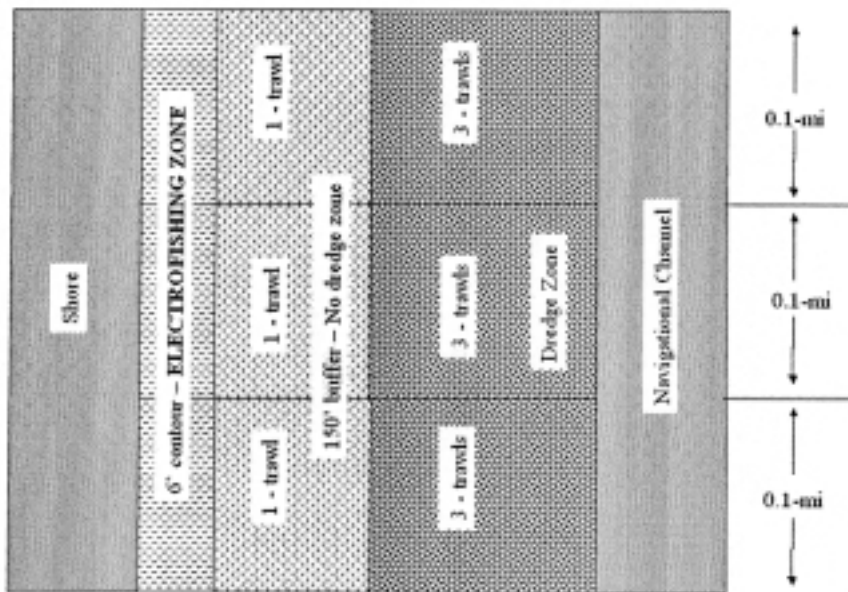


Figure 2 - Three trawls are to be conducted within the 150-ft buffer area, and a total of nine trawls are to be conducted within, above and below the proposed dredged area.

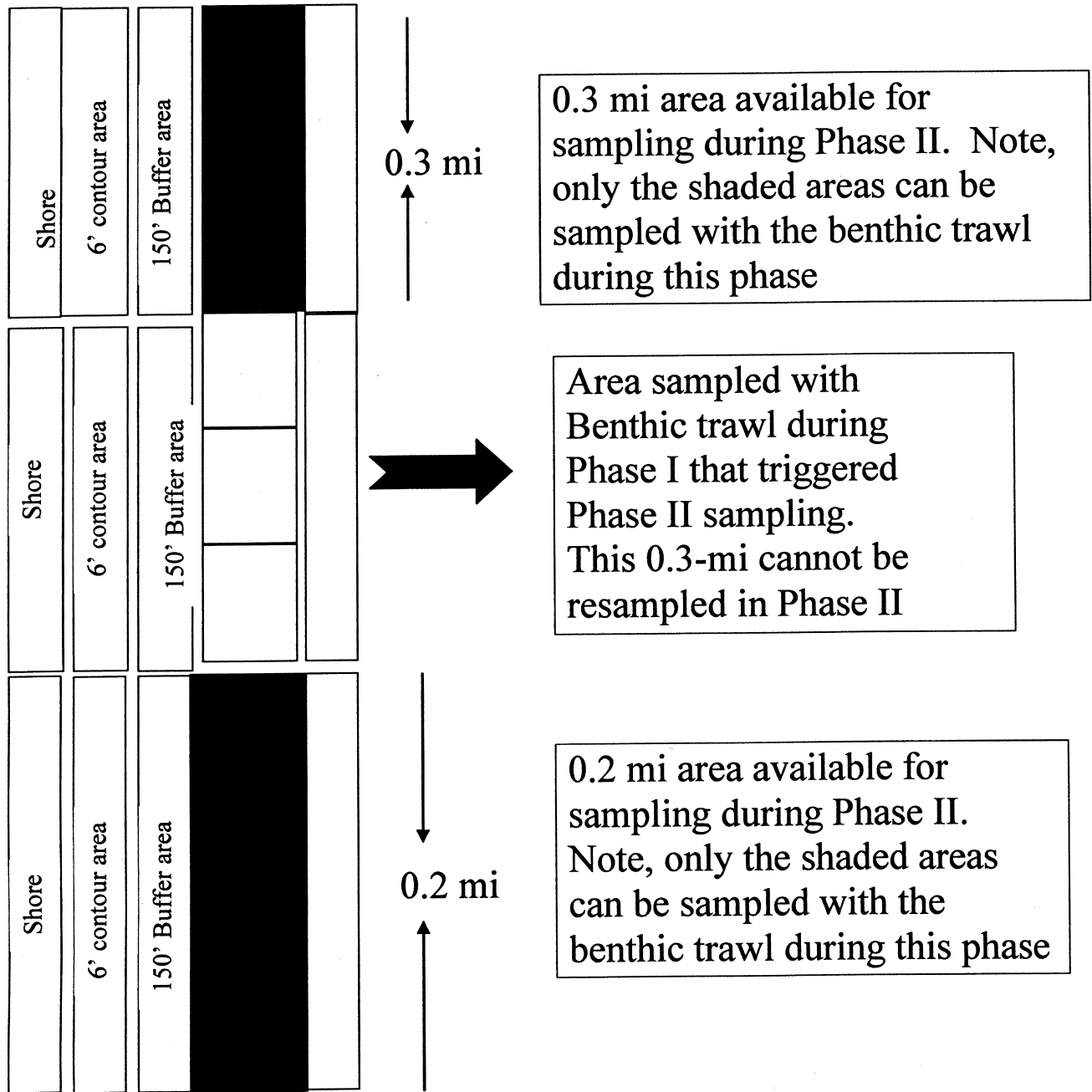


Figure 3— Area for Phase II sampling to document distribution and partial abundance of benthic species. Note the shaded areas are the only areas that can be sampled using the benthic trawl.

Table 2—Benthic lithophilic fishes that, if collected during Phase I sampling, could trigger Phase II sampling.

Category 1 species		<i>Outcome if fishes are collected and/or defined as a Hit</i>
Sturgeon sp.		
Gravel Chub		
Mountain Madtom		If Phase I Hit of One Species,
Tadpole Madtom		Then No dredging shall occur.
Northern Madtom		
Brindled Madtom		
Eastern Sand Darter		
Longnose Sucker		
Iowa Darter		
Category 2 species		
N. Brook Lamprey		
Mountain Brook Lamprey		If Phase I Trawling Hit of One Species or More, then Phase II
Spotted Darter		sampling shall be required.
Spotted Sucker		
Category 3 species		
Silver Chub		
River Shiner		If Phase I Trawling Hit of 3 or More Species, then Phase II
Bluebreast Darter		sampling will be required.
Tippecanoe Darter		
Gilt Darter		

E02-919-A8. Tri-State River Products, Inc., Box 218, 334 Insurance Street, Beaver, PA 15009, in East Franklin and Rayburn Townships, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 49.1 to 49.3 (Downstream beginning point: Kittanning, PA Quadrangle N: 20.5 inches; W: 0.1 inch, Latitude: 40° 51' 21.67"; Longitude: 79° 30' 1.41". Upstream end point: Mosgrove, PA Quadrangle N: 19.4 inches; W: 16.7 inches, Latitude: 40° 51' 26.11"; Longitude: 79° 29' 45.15"), left and right descending banks in East Franklin and Rayburn Townships, Armstrong County.

**Permit No. E02-919
Attachment No. 3
Approved Dredging Areas by River Mile**

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Armstrong	Allegheny	5	30.7 to 31.25 L & R	South Buffalo Township Gilpen Township		05/19/13
			31.65 to 31.7 L & R	South Buffalo Township Gilpen Township		05/19/13
		7	49.1 to 49.3 L & R	East Franklin Township Rayburn Township		08/12/13

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
		8	54.7 to 55.0 L & R	Pine Township Washington Township		05/31/12
			55.0 to 55.2 L & R	Pine Township Washington Township		10/08/11

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank.

E02-1326-A7 Glacial Sand and Gravel Company, P. O. Box 1022, Kittanning, PA 16201, in the City of Aliquippa, Baden Borough and Hopewell Township, **Beaver County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-1326, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 19.2 to 20.2 (Upstream beginning point: Baden, PA Quadrangle N: 0.4 inch; W: 15.0 inches, Latitude: 40° 37' 37.1"; Longitude: 80° 13' 59.8". Downstream end point: Baden, PA Quadrangle N: 2.9 inches; W: 15.3 inches, Latitude: 40° 38' 28.7"; Longitude: 80° 14' 9.12"), left descending bank in The City of Aliquippa, Baden Borough and Hopewell Township, Beaver County. Additionally, the Commonwealth of Pennsylvania Fish Community Sampling Protocol has been revised

**Permit No. E02-584
Attachment No. 2
Approved Dredging Areas by River Mile**

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Beaver	Ohio	Montgomery	19.2 to 20.2 L	City of Aliquippa Baden Borough Hopewell Township		10/01/13
			19.2 to 20.2 R	Baden Borough		04/12/11
			20.6 to 21.6 R	Conway Borough Economy Borough		03/21/10
			21.0 to 21.1 L	Hopewell Township	Minimum 250 ft. Setback from NP shoreline.	05/16/09
			21.1 to 21.3 L	Hopewell Township		05/16/09
			21.3 to 21.4 L	Hopewell Township Center Township	Minimum 250 ft. setback from NP shoreline.	05/16/09
			21.4 to 21.6 L	Center Township	Minimum 200 ft. setback from NP shoreline.	05/16/09
			21.6 to 21.7 L	Center Township		05/16/09
			26.2 to 27.2 L & R	Beaver Borough Center Township Potter Township Vanport Borough		04/12/11
			31.0 to 31.4 R	Industry Borough		07/26/10
	Ohio	New Cumberland	35.5 to 36.0 L & R	Greene Township Midland Borough Shippingport Borough		03/21/10

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank. "NP"—refers to normal pool.

APPENDIX B

**Commonwealth of Pennsylvania Fish Community
Sampling Protocol
June 29, 2006 (Revised March 2009)**

The (Department) Department of Environmental Protection shall require Pre Dredging Fish Sampling for the 2006 permit cycle. This sampling, protocol and criteria shall be used to satisfy the requirements of the Pennsylvania National Diversity Index process ("PNDI") search, survey and conflict resolution. The sampling study parameters, protocol and criteria are as follows:

PRE DREDGING

The industry shall conduct benthic trawling sampling of fish in areas proposed for dredging according to this Department protocol. Four (2 minute) un snagged benthic trawls per segment (including buffer segments) are required. All sampling detailed as follows must occur between May 1 and October 1. Outside of that 5-month sampling window, surveys must be conducted with a temperature criterion of greater than or equal to 10° C (50° F) which has been achieved for a minimum of 5 consecutive days prior to the survey and must be maintained during the survey. The temperature can be monitored at the following USGS website:

• For the Allegheny River: http://waterdata.usgs.gov/nwis/uv?cb_00010=on&cb_00400=on&cb_00095=on&cb_00300=on&format=gif_default&period=7&site_no=03049640.

• For the Ohio River: <http://waterdata.usgs.gov/nwis/uv?03085734>

Presently there exists only one temperature gauge on the Allegheny River and one on the Ohio River in PA. If in the future, additional gauges are added to the rivers then the closest gauge to the sampling site should be used for monitoring temperatures.

Notice must be provided to the Department a minimum of 7 days prior to initiation of a fish survey.

Sampling Methods and Procedures

Gear Type

Benthic Trawl

The trawl to be utilized is an extremely effective gear for sampling benthic lithophils (Herzog et al. 2005). The effectiveness of the benthic trawl shall vary based on the bottom substrate, river bed obstructions, boat speed (this shall determine the opening size of the net) and reaction of the fish. In the event that the trawl becomes snagged or turns over, this shall constitute a failed sampling event. The operators must retrieve the trawl, discard the contents of the failed trawl and reset the trawl for a new sampling event.

The Missouri-type 8 ft. wide trawl design described by Herzog et al. (2005) shall be the standard trawl employed during these surveys. The trawl's cod end is manufactured of 2.14 meters (7.02 ft) long 1.5 mm (1/17 in) diameter nylon twine with 19.05 mm (3/4 in) bar mesh and is lined with 3.18 mm (1/8 in) ace-style mesh. The body is manufactured with No. 7 (1-3/8 in. sq. mesh) netting and the bag is manufactured with No. 12 (1-1/4 in. sq. mesh) netting. The two trawl boards are 40.64 cm (16 in.) by 34.13 cm (9.5 in.) and equipped with 1.59 cm (5/8 in.) diameter twisted nylon tow lines 30.48 m (100 ft) in length. The footrope is 1.59 cm in diameter and 5.48 m (17.9 ft) long. The trawl chain is 44 mm (1 3/4") L by 25.4 mm (1") H by 6.4 mm (1/4") diameter. Ideally, the trawl shall be fished from a Jon boat 5.49-6.4 m (18-21 ft in length). The trawl shall be attached to two hard points on the boat with 9.5 mm (3/8 in) braided nylon rope. To effectively fish the trawl, ropes of various lengths should be used, depending on water depth. In water depths of 5 m (16.4 ft) or less, 15.24 m (50 ft) towlines should be used and at water depths between 5 m (16.4 ft) and 10 m (32.8 ft) towlines 30.48 m (100 feet) in length should be used. The length of rope utilized should be recorded on the data sheets provided in addition to river depth at the time of sampling. A small float should be attached to the end of the codpiece with a braided nylon rope. The rope should be longer than the maximum depth to be sampled. In the event the trawl has to be disconnected from the boat, the float shall mark the location of the trawl, facilitating recovery. The trawl shall be towed for 2-minutes un snagged moving backwards downstream just faster than the current.

General Sampling Design

Using a depth finder or other appropriate gear type, the 6-foot depth contour shall be located at a minimum of three contiguous points along the proposed standard 0.1-mi linear sampling zone. Perpendicular to these points, the 150-foot no dredge area (buffer) shall be determined using an appropriate method (e.g., laser

range finder). This distance shall be marked with additional buoys to demark the edge of the buffer zone and the beginning of the dredge zone. The location of each sampling event shall be indexed by river mile and marked with a global positioning system device.

Any permit request shall include a one-segment upriver and a one segment downriver station which must also be sampled. For example, if (5)-0.1 mile segments are requested then (7)-0.1 mile segments need to be sampled. All benthic trawling events must be completed within the time window between 2 hours after sunrise and 2 hours before sunset. Benthic trawl sampling shall occur within each 0.1 mi. reach as follows: three benthic trawls shall be performed within the proposed dredge zone and one benthic trawl shall be performed within the 45.72 m (150 ft) buffer. In addition, one benthic trawl shall be performed 0.1-mi upriver and 0.1-mi downriver from the proposed dredge zone (Figure 2). These 2 additional up- and downriver trawls shall be performed within the buffer area (2 trawls total) and in the adjacent up- and downriver dredge zones (6 trawls total). Therefore, a minimum total of 12 trawls shall be required to cover the 0.3-river mile sampling area. Data shall be recorded and reported for each individual trawl sample.

Criteria

If the benthic lithophils identified in Table 2 are collected during the surveys several outcomes are possible. If any Category 1 fishes are collected during benthic trawling sampling events, the permit area shall be restricted from dredging and a 0.3-mile upriver and 0.1-mile downriver no-dredge buffer shall be established; If any Category 2 species are collected during Phase I benthic trawling, then Phase 2 sampling shall be completed within 30 days (see Phase II sampling protocol). If three or more Category 3 species are collected during Phase I benthic trawling, then Phase II sampling shall be completed within 30 days (see Phase II sampling protocol). If no Category 1, 2 or 3 species are collected during Phase 1 trawl sampling events dredging for that river segment shall be authorized.

Phase II

If fish species listed in Category 2 (Table 2) are collected during Phase I sampling, then additional sampling under Phase II shall be required. Phase II sampling shall consist of benthic trawl sampling only, 0.30-mi upriver and 0.20-mi downriver from the proposed dredged area (Figure 3). If permittees do not seek authorization to dredge on the opposite side of the river then that area may be sampled with benthic trawling in Phase II. The additional sampling shall occur in 0.1-mi increments and shall consist of a maximum of three trawls for each 0.1-mi increment. Data shall be recorded and reported for each individual trawl sample. Hence, the standard sampling unit is three benthic trawls for Phases I and II sampling. During Phase II sampling, a minimum of five trawls is required. If any Category 2 fishes are collected, the same species of Category 2 fish shall be documented within a 0.5-mi reach and they shall be in at least 50% of their abundance (rounded to the nearest whole fish) from Phase I sampling.

If three or more Category 3 (Table 2) fish species are collected during Phase I sampling, then additional sampling under Phase II shall be required. Phase II sampling shall consist of benthic trawl sampling only, 0.30-mi upriver and 0.20-mi downriver from the proposed dredged area (Figure 3). If permittees do not seek authorization to dredge on the opposite side of the river then that area

may be sampled with benthic trawling in Phase II. The additional sampling shall occur in 0.1-mi increments and shall consist of a maximum of three trawls for each 0.1-mi increment. Data shall be recorded and reported for each individual trawl sample. Hence, the standard sampling unit is three benthic trawls for Phases I and II sampling. During Phase II sampling, a minimum of five trawls is required. Phase II sampling must document an equal or greater number of Category 3 species per sampling and at least 50% of the most abundant species collected during Phase I sampling must be found in the .5-mile Phase II area to permit dredging to occur in the proposed area. If additional sampling does not demonstrate that these benthic fishes occur in equivalent abundance or in nearby habitats, then dredging shall not be permitted in the proposed area.

Category 2 and 3 fish species are a resource that requires protection due to their rarity; however, the dredging industry applicant may complete a Phase II assessment of the proposed project area to document that impacts to these fishes shall not be significant. If the applicant provides this Phase II information to document the widespread distribution of these Category 2 and 3 fish species then dredging shall be approved in the designated area. If additional sampling does not demonstrate that these benthic fishes occur in equivalent abundance or in nearby habitats, then dredging shall not be permitted in the proposed area.

Fishes captured during each sampling event shall be retrieved, identified to enumerated species and returned (if not held for further analysis). Species composition (see attached data sheet as Table 1) shall be recorded for each transect with each gear type used. The consultant shall retain appropriate voucher and questionable species (stored in 10% formalin). At least one specimen of each fish species shall be photographed, documented and returned. Voucher specimens for T&E species shall be provided to the PFBC at the following address: Chief, Natural Diversity Section, Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823.

Fishes that do not survive a sampling procedure and that are not retained as vouchers shall be buried on shore or returned to deep water for nutrient recycling by puncturing the swim bladder. Fish community sampling protocols shall be conducted by qualified fisheries scientists. All surveyors shall obtain a valid PFBC scientific collectors permit and a special Chapter 75 permit for the collection of threatened and endangered fish species. The contact for these permits is Chris Urban at the PFBC (814) 359-5113.

References

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Grisak, G. G. 1994. Procedure for using a trawl to sample deep-water zones of the Missouri River in Montana. Unpublished Report. Montana Department Fish, Wildlife and Parks. (<http://infolink.cr.usgs.gov/Science/BenthicFish/index.htm>)

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Nielsen, L.A. and D.L. Johnson. 1983. *Fisheries Techniques*. American Fisheries Society Publication, Bethesda, MD.

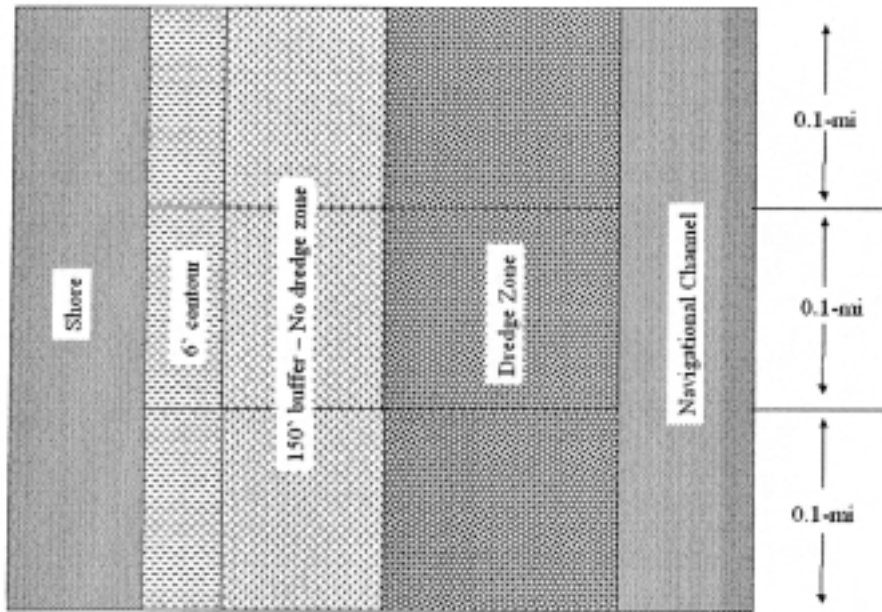


Figure 1. – River schematic diagram from shore to navigation channel denoting the area to be sampled with benthic trawls. Note the 6-foot contour is to be determined using an appropriate method (e.g., depth finder) and the 150-foot no-dredge area is to be determined from the 6-foot contour to establish the edge of a sampling zone

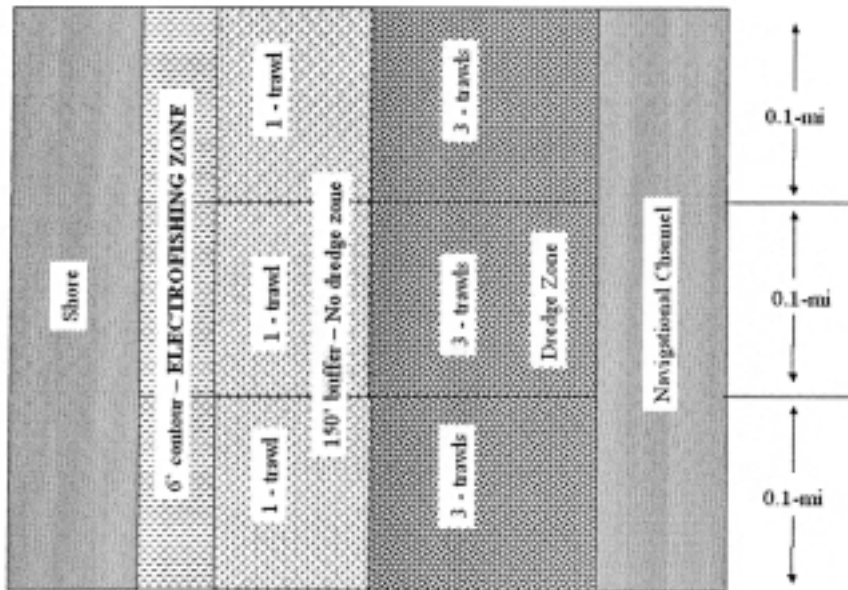


Figure 2 – Three trawls are to be conducted within the 150-ft buffer area, and a total of nine trawls are to be conducted within, above and below the proposed dredged area.

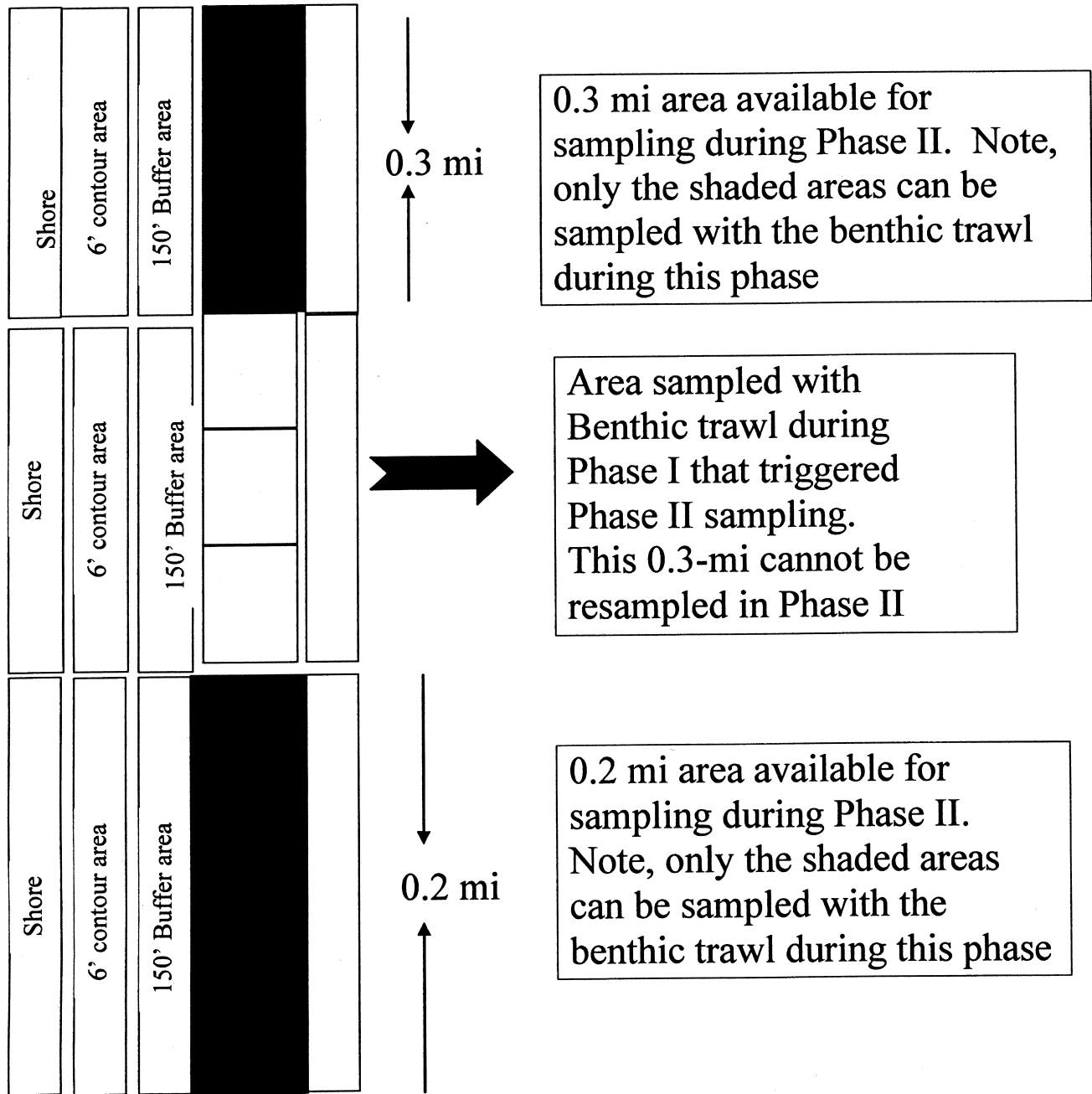


Figure 3— Area for Phase II sampling to document distribution and partial abundance of benthic species. Note the shaded areas are the only areas that can be sampled using the benthic trawl.

Table 2—Benthic lithophilic fishes that, if collected during Phase I sampling, could trigger Phase II sampling.

Category 1 species		<i>Outcome if fishes are collected and/or defined as a Hit</i>
Sturgeon sp.		
Gravel Chub		
Mountain Madtom		If Phase I Hit of One Species,
Tadpole Madtom		Then No dredging shall occur.
Northern Madtom		
Brindled Madtom		
Eastern Sand Darter		
Longnose Sucker		
Iowa Darter		
Category 2 species		
N. Brook Lamprey		
Mountain Brook Lamprey		If Phase I Trawling Hit of One Species or More, then Phase II
Spotted Darter		sampling shall be required.
Spotted Sucker		
Category 3 species		
Silver Chub		
River Shiner		If Phase I Trawling Hit of 3 or More Species, then Phase II
Bluebreast Darter		sampling will be required.
Tippecanoe Darter		
Gilt Darter		

E02-1326-A8, Glacial Sand and Gravel Company, P. O. Box 1022, Kittanning, PA 16201, in East Franklin and Rayburn Townships, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-1326, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Ohio River Mile Points 49.1 to 49.3 (Downstream beginning point: Kittanning, PA Quadrangle N: 20.5 inches; W: 0.1 inch, Latitude: 40° 51' 21.67"; Longitude: 79° 30' 1.41". Upstream end point: Mosgrove, PA Quadrangle N: 19.4 inches; W: 16.7 inches, Latitude: 40° 51' 26.11"; Longitude: 79° 29' 45.15"), left and right descending banks in East Franklin and Rayburn Townships, Armstrong County.

**Permit No. E02-1326
Attachment No. 3
Approved Dredging Areas by River Mile**

<i>County</i>	<i>River</i>	<i>Pool</i>	<i>River Miles</i>	<i>Municipalities</i>	<i>Comments/ Restrictions</i>	<i>Mussel Survey Expiration Date</i>
Armstrong	Allegheny	5	30.7 to 31.25 L & R	South Buffalo Township Gilpen Township		05/19/13
			31.65 to 31.7 L & R	South Buffalo Township Gilpen Township		05/19/13
		7	49.1 to 49.3 L & R	East Franklin Township Rayburn Township		08/12/13

County	River	Pool	River Miles	Municipalities	Comments/ Restrictions	Mussel Survey Expiration Date
		8	54.7 to 55.0 L & R	Pine Township Washington Township		05/31/12
			55.0 to 55.2 L & R	Pine Township Washington Township		10/08/11

NOTES: "R" refers to Right Descending Bank and "L" refers to Left Descending Bank.

E02-1600. Duquesne Light Company, 2645 New Beaver Avenue, Pittsburgh, PA 15233. To place and maintain fill on the bank of the Ohio River in the City of Pittsburgh, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh West, PA Quadrangle N: 16.4 inches; W: 6.5 inches, Latitude: 40° 27' 54"; Longitude: 80° 02' 50"). To place and maintain fill on the right bank of the Ohio River backchannel (WWF) for the purpose of upgrading the existing Brunot Island substation. The project is located on Brunot's Island near river mile 2.5, approximately 8,600.0 feet downstream from the West End Bridge.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

ESCGP-1 4109802	Chief Gathering, LLC Ted Wurfel 700 Fiarfield Road Montoursville, PA 17754	Lycoming	Mifflin and Watson Townships	North Fork Tombs Run HQ Tombs Run HQ Mud Run EV
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SPECIAL NOTICES

Notice of Planning Grant Awards under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) hereby announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (P. L. 556, Act 101) Section 901 and Section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

JOHN HANGER,
Acting Secretary

Act 101, Section 901 Planning Grant

Region	County	Applicant	Project Description	Grant Award
Southeast	Chester	Chester County	Plan Revision	\$156,000
Northeast				

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southcentral				
Northcentral				
Southwest				
Northwest				

**DRINKING WATER STATE REVOLVING FUND
SPECIAL NOTICE**

**Special Notice under the Federal Safe Drinking
Water Act (SDWA); 42 U.S.C. 300f, et. seq.**

Southwest Region: Water Standards and Facility Regulation Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Authority of the Borough of Charleroi	3 McKean Avenue P. O. Box 211 Charleroi, PA 15022	Washington

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Authority of the Borough of Charleroi proposes the following improvements: a 500,000 gallon elevated finished water storage tank near the Charleroi Area School District complex on Fecsen Drive, a finished water pump station at the Twin Reservoirs on Oakland Avenue, a 12" transmission line from the pump station to a connection at Wesley Avenue and Rodgers Lane and an interconnection with the North Charleroi Service District. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Baden Borough	149 State Street Baden, PA 15005	Beaver

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Baden Borough proposes waterline replacement of old lines which will improve water service and reduce the frequency of main breaks. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Beaver Falls Municipal Authority	1425 8th Avenue P. O. Box 400 Beaver Falls, PA 15010	Beaver

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Beaver Falls Municipal Authority Eastvale project consists of the following components: 1. Construction of an on bank river intake structure with an integrated raw water pumping station; 2. Associated construction of a Raw Water Transmission pipeline and communication facilities to connect the existing WTP SCADA to new intake facility; 3. Improvements to the chemical pretreatment capabilities of the WTP system; and 4. Revisions to the existing WTP electrical arrangement to facilitate the demolition of the existing intake structure. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Monaca Borough	928 Pennsylvania Avenue Monaca, PA 15061	Beaver

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Monaca Borough proposes construction of a 500,000 gallon elevated water storage tank and 11,000 linear feet of water line replacement. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Southwestern Pennsylvania Water Authority	P. O. Box 187 1442 Jefferson Road Jefferson, PA 15344	Greene

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Southwestern Pennsylvania Water Authority proposes the installation of approximately 6,700 linear feet of 12" water line, 8,900 linear feet of 8" water line, 1,700 linear feet of 6" water line, 250 service connections, a 500,000-gallon prestressed concrete water storage tank, associated fire hydrants, connections and restoration for the Village of Nemaocolin. The Department of Environmental Protection's (Department) review of the project and the information received

in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Jackson Township Water Authority	2949 William Penn Avenue Johnstown, PA 15909	Cambria

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Jackson Township Water Authority proposes pumping facilities upgrade, construction of a 278,000 gallon capacity water storage tank and 22,000 LF of 6" and/or 8" diameter water distribution main. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Buffalo Township Municipal Authority	707 South Pike Road Sarver, PA 16055-9201	Armstrong

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Buffalo Township Municipal Authority proposes the construction of a new water treatment plant to replace the existing plant which was built in 1919 and replacement of approximately 18,000 l.f. of waterline. The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Pittsburgh Water and Sewer Authority	1200 Penn Avenue 2nd Floor Pittsburgh, PA 15222-4204	Allegheny

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Pittsburgh Water and Sewer Authority proposes the removal of the existing longitudinal sludge collectors and cross collections in Clarifier Nos. 1—3 and their replacement with new equipment; the replacement of existing Motor Control Centers No. 6 and 7 in the electrical room at the clarifier tanks; the rehabilitation of 10,000 lineal feet of pipe main that is over 150 years old—the Fox Chapel 60" riveted steel pipe water main from the Aspinwall Water Treatment Plant to the Borough of Blawnox; and the cleaning

and rehabilitation of the Squirrel Hill above groundwater storage tank (3 million gallons capacity). The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 09-631. Filed for public inspection April 3, 2009, 9:00 a.m.]

Bid Opportunity

AMD 54(4124)202.1, Rauch Creek AMD treatment plant, roof repairs, Hegins Township, Schuylkill County. The principal items of work include supplying and installing EPDM roofing system on approximately 5,000 square feet of control building, performing maintenance including replacing membrane flashing around roof penetrations and damaged perimeter edge on the Carlisle conventional single-ply-loose laid ballast roof on the Belt Press Filter Building. This project issues on April 3, 2009, and bids will be opened on April 30, 2009, at 2 a.m. Bid documents cost \$10 per set. and bids will not be mailing until payment has been received. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-632. Filed for public inspection April 3, 2009, 9:00 a.m.]

Extension of Current Permits for the Beneficial Use of Sewage Sludge by Land Application; PAG-07, PAG-08 and PAG-09

Under the authority of The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Department of Environmental Protection (Department) is extending for an additional 3 months the availability of the General Permits for the Beneficial Use of Sewage Sludge by Land Application (PAG-07, PAG-08 and PAG-09). The current general permits are scheduled to expire at midnight April 2, 2009. The extension will be effective on April 3, 2009, and expires at midnight July 2, 2009, unless rescinded by the Department at an earlier date. The Department is extending the availability of this permit to adequately complete the preparation of the renewal of PAG-07, PAG-08 and PAG-09.

The existing permit documents will continue to be available from the Department's regional offices and local county conservation districts until they are replaced or updated. In addition, the permit documents are on file at the Department of Environmental Protection, Bureau of Watershed Management, 10th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. This package is also available on the Department's web site at www.depweb.state.pa.us (DEP Keyword: Biosolids). The permit documents can also be obtained by contacting Dennis Wilson at (717) 772-5929 or dwilson@state.pa.us.

Persons with a disability may use the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-633. Filed for public inspection April 3, 2009, 9:00 a.m.]

Proposed Revisions to General NPDES Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (PAG-13); Public Notice of Availability

The Department of Environmental Protection (Department) by this notice is proposing to revise the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) (PAG-13, 2003 issuance) for renewal for another 5 years. This General NPDES Permit is issued under the authority of the Clean Water Act (33 U.S.C. § 1251 et seq.) (Act) and Pennsylvania's Clean Streams Law (35 P.S. §§ 691.1—691.1001). The current PAG-13 permit was extended by a notice at 38 Pa.B. 4679 (August 23, 2008) and is scheduled to expire at midnight March 9, 2010. The PAG-13 permit will continue to be in force until formal revision of PAG-13 2009 amendment is published as final in the *Pennsylvania Bulletin*.

Revisions have been made to the draft PAG-13 permit to provide clarity and to reflect programmatic changes which include: changing the title of the protocol to the stormwater management program, modifying the field inspection of outfalls and changing the inspection rate of outfalls for renewal permittees to once within the term of the permit. Other changes include provisions to facilitate the compliance of stormwater ordinance requirements included in the 2003 MS4 permit and an additional requirement of a stormwater TMDL plan for impaired waters with an approved TMDL. The Department is also proposing to increase the PAG-13 permit filing fee from \$100 to \$250, payable to the Commonwealth of Pennsylvania Clean Water Fund.

The Department invites public comments on the proposed revisions to PAG-13. Comments must be submitted by May 4, 2009. If there is significant public interest or if requested, the comment period may be extended at the discretion of the Department for an additional 15-day period. Only comments received during the specified comment period will be considered in the final amendment. If more significant issues of public interest are raised, the Department may schedule a public meeting or hearing. Written comments should be submitted to Barry Newman, Chief of the Stormwater Planning and Management Section at the address as follows. Comments will be accepted by e-mail to ep-pag13comments@state.pa.us. Comments sent by facsimile or voice mail will not be accepted.

The proposed PAG-13 draft permit is available by contacting the Department of Environmental Protection, Bureau of Watershed Management, Rachel Carson State Office Building, P. O. Box 8775, 10th Floor, Harrisburg, PA 17105-8775, (717) 772-6827, ep-pag13comments@state.pa.us. The proposed PAG-13 draft permit is also available on the Department's web site at www.depweb.state.pa.us

(choose "Public Participation"; then scroll down to "Proposals Currently Open for Comment").

Persons with a disability may contact the Department by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Following the specified comment period, the Department will review all submitted comments and prepare a comment and response document and the final documents package for this General Permit.

Availability of the final permit documents will be announced in the *Pennsylvania Bulletin*.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-634. Filed for public inspection April 3, 2009, 9:00 a.m.]

State Board for Certification of Sewage Enforcement Officers; 2009 Examination Announcement

The State Board for Certification of Sewage Enforcement Officers (Board) and the Department of Environmental Protection (Department) have scheduled dates for the 2009 Sewage Enforcement Officers (SEO) Precertification Academy and examinations. To qualify to sit for the certification examination, all SEO candidates must complete the Precertification Academy, which consists of 6 days of training over 2 weeks. SEO Certification examinations will be administered the Friday following completion of the Precertification Academy. Examination applications must be received (not postmarked) by the Board, complete and correct by close of business on the deadlines indicated. Applications received after these dates will not be considered for examination. Applications that do not contain all the necessary required information will be returned and will not be considered eligible for the examination. The 2009 Precertification Academy and examination schedules are as follows:

May 5—7 and May 12—14, 2009 Enola	Examination Date: May 15, 2009 (8:30 a.m. to 12:30 p.m.) Examination Application Deadline: April 15, 2009
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July 7—9 and July 14—16, 2009 State College	Examination Date: July 17, 2009 (8:30 a.m. to 12:30 p.m.) Examination Application Deadline: June 17, 2009
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To qualify to sit for the certification exam, all SEO candidates must complete the SEO precertification academy, which consists of 6 days of training spread over 2 weeks.

For information on SEO training, contact the Pennsylvania State Association of Township Supervisors, 4855 Woodland Drive, Enola, PA 17025, (717) 763-0930.

The SEO written examination contains multiple-choice questions covering planning requirements, administration and enforcement of the permit program and technical criteria for soils and disposal systems with a 3.5-hour time limit. The passing grade is 50% correct responses in each subject area and an overall minimum of 70 correct answers on the entire examination. This is an open book

exam, however, you are not permitted to bring your own materials. All necessary reference materials will be provided at the test site.

Exam applications may be obtained by contacting the Department of Environmental Protection, Certification and Licensing Section, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-6045.

Approximately 2 weeks prior to an examination, applicants will receive an admittance letter from the Certification Board.

Persons who may anticipate the need for a testing accommodation due to a disability should contact the Board at (717) 787-6045 or through Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss their request. This request must be submitted with your application form.

JOHN HANGER, Acting Secretary

[Pa.B. Doc. No. 09-635. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of the building).

Forbes Road Nursing and Rehabilitation Center
6655 Frankstown Avenue
Pittsburgh, PA 15206

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.24(a), 205.27 and 205.38(b) (relating to dining room; lounge and recreation rooms; and toilet facilities).

Progressive Care Center
500 West Berkeley Street
Uniontown, PA 15401

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.24(a), 205.27 and 205.31 (relating to dining room; lounge and recreation rooms; and storage).

John Heinz Senior Rehab Care
150 Mundy Street
Wilkes-Barre, PA 18702
FAC ID 01370201

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES, Secretary

[Pa.B. Doc. No. 09-636. Filed for public inspection April 3, 2009, 9:00 a.m.]

Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices and Competitive Prices

Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) (relating to selection criteria for authorization and reauthorization; terms and conditions of participation) and 7 CFR 246.12 (relating to food delivery systems), the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in Regular Cost Counties.

Maximum Allowable Prices

Effective April 1, 2009, through June 30, 2009, the Maximum Allowable Prices the Department of Health (Department) will pay Type 1 Stores in Regular Cost Counties for WIC allowable foods are as follows:

Table with 2 columns: Description and Maximum Allowable Price. Lists various food items like Milk, Evaporated Milk, Dry Milk, Lactose Reduced Milk, etc. with their respective prices.

<i>Description</i>	<i>Maximum Allowable Price</i>
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$13.86
13 oz. Enfamil LIPIL Concentrate Formula	\$4.38
32 oz. Enfamil LIPIL Ready-to-Feed Formula	\$6.57
12.9 oz. Enfamil LIPIL Powder Formula	\$13.35
32 oz. Isomil DF Ready-to-Feed Formula	\$6.21
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula	\$4.13
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.23
24 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Yellow Formula	\$20.56
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$13.46
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$4.37
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.43
24 oz. Nestle Good Start 2 Soy DHA-ARA/Good Start Soy PLUS 2 Powder-Teal Formula	\$20.63
12 oz. Nestle Good Start Natural Cultures DHA-ARA/Good Start Protect PLUS Powder-Green Formula	\$14.02
24 oz. Nestle Good Start 2 Natural Cultures DHA-ARA/Good Start Protect PLUS 2 Powder-White Formula	\$24.91
12 oz. Nestle Good Start/Good Start Nourish PLUS Powder-Purple Formula	\$10.79
13 oz. Nutramigen Lipil Concentrate Formula	\$7.01
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$8.98
16 oz. Nutramigen Lipil Powder Formula	\$25.26
8 oz. Pediasure Ready-to-Feed Formula	\$1.80
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$1.84
13 oz. Similac Advance Concentrate Formula	\$4.32
32 oz. Similac Advance Ready-to-Feed Formula	\$6.25
12.9 oz. Similac Advance Powder Formula	\$13.20
12.8 oz. Similac Neosure with Iron Powder Formula	\$15.03
32 oz. Similac Neosure with Iron Ready-to-Feed Formula	\$7.40
13 oz. Store Brand Concentrate Formula	\$2.84
32 oz. Store Brand Ready-to-Feed Formula	\$3.79
25.75 oz. Store Brand Powder Formula	\$15.86

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at or below, the Competitive Prices listed for the store's peer group. Effective April 1, 2009, through June 30, 2009, the Competitive Prices for WIC Authorization for Type 1 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.01
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.10
12 oz. Evaporated Milk	\$1.14
16 oz. Dry Milk	\$5.89
1 doz. Grade A Eggs	\$1.51
1 lb. Fresh Carrots	\$1.06
14 to 16 oz. Canned Carrots	\$1.06
1 lb. Cheese	\$5.61
1 lb. Kosher Cheese	\$5.61
1 lb. Dry Beans or Peas	\$1.71
1 oz. Adult WIC Cereal	\$0.32
8 oz. Gerber Infant Cereal	\$1.90
15 to 18 oz. Peanut Butter	\$2.83
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.84
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.10
4 oz. Gerber Infant Juice	\$0.65
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula	\$4.13
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.23
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$13.46
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$4.37
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.43

Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in Regular Cost Counties.

Maximum Allowable Prices

Effective April 1, 2009, through June 30, 2009, the Maximum Allowable Prices the Department will pay Type 2 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.15
12 oz. Evaporated Milk	\$1.34
16 oz. Dry Milk	\$6.45
1 qt. Lactose Reduced Milk	\$2.34
1/2 gal. Kosher Milk	\$2.22
4 oz. Kosher Infant Juice	\$0.68
8 oz. Kosher Infant Cereal	\$1.98
1 doz. Grade A Eggs	\$1.59
1 lb. Fresh Carrots	\$1.19
14 to 16 oz. Canned Carrots	\$1.19
1 lb. Cheese	\$6.17
1 lb. Kosher Cheese	\$6.17
1 lb. Dry Beans or Peas	\$2.03
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$1.98
15 to 18 oz. Peanut Butter	\$3.13

<i>Description</i>	<i>Maximum Allowable Price</i>
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.37
6 oz. Cans Juice	\$1.70
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.20
4 oz. Gerber Infant Juice	\$0.68
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.43
16 oz. Alimentum Advance Powder Formula ...	\$26.86
8 oz. Boost Ready-to-Feed Formula	\$2.00
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$14.44
13 oz. Enfamil LIPIL Concentrate Formula ...	\$4.55
32 oz. Enfamil LIPIL Ready-to-Feed Formula .	\$6.70
12.9 oz. Enfamil LIPIL Powder Formula	\$13.88
32 oz. Isomil DF Ready-to-Feed Formula	\$6.34
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula .	\$4.64
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.44
24 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Yellow Formula	\$22.19
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$13.60
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula .	\$4.80
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.78
24 oz. Nestle Good Start 2 Soy DHA-ARA/Good Start Soy PLUS 2 Powder-Teal Formula	\$22.19
12 oz. Nestle Good Start Natural Cultures DHA-ARA/Good Start Protect PLUS Powder-Green Formula	\$14.76
24 oz. Nestle Good Start 2 Natural Cultures DHA-ARA/Good Start Protect PLUS 2 Powder-White Formula	\$25.99
12 oz. Nestle Good Start/Good Start Nourish PLUS Powder-Purple Formula	\$10.79
13 oz. Nutramigen Lipil Concentrate Formula .	\$7.30
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$9.20
16 oz. Nutramigen Lipil Powder Formula	\$26.93
8 oz. PediaSure Ready-to-Feed Formula	\$2.13
8 oz. PediaSure with Fiber Ready-to-Feed Formula	\$2.09
13 oz. Similac Advance Concentrate Formula ...	\$4.49
32 oz. Similac Advance Ready-to-Feed Formula	\$6.38
12.9 oz. Similac Advance Powder Formula	\$13.72
12.8 oz. Similac Neosure with Iron Powder Formula	\$15.89
32 oz. Similac Neosure with Iron Ready-to-Feed Formula	\$7.65
13 oz. Store Brand Concentrate Formula	\$2.89
32 oz. Store Brand Ready-to-Feed Formula	\$3.86
25.75 oz. Store Brand Powder Formula	\$16.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at or below, the Competitive Prices listed for the store's peer group. Effective April 1, 2009, through June 30, 2009, the Competitive Prices for WIC Authorization for Type 2 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.01
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.10
12 oz. Evaporated Milk	\$1.26
16 oz. Dry Milk	\$6.44
1 doz. Grade A Eggs	\$1.51
1 lb. Fresh Carrots	\$1.16
14 to 16 oz. Canned Carrots	\$1.16
1 lb. Cheese	\$5.61
1 lb. Kosher Cheese	\$5.61
1 lb. Dry Beans or Peas	\$1.80
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$1.98
15 to 18 oz. Peanut Butter	\$2.83
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.06
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.13
4 oz. Gerber Infant Juice	\$0.68
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula .	\$4.64
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.44
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$13.60
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula .	\$4.80
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.78

Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in Regular Cost Counties.

Maximum Allowable Prices

Effective April 1, 2009, through June 30, 2009, the Maximum Allowable Prices the Department will pay Type 3 Stores in Regular Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.15
12 oz. Evaporated Milk	\$1.40
16 oz. Dry Milk	\$7.44
1 qt. Lactose Reduced Milk	\$2.34
1/2 gal. Kosher Milk	\$2.95
4 oz. Kosher Infant Juice	\$0.74
8 oz. Kosher Infant Cereal	\$2.26
1 doz. Grade A Eggs	\$1.82
1 lb. Fresh Carrots	\$1.19

<i>Description</i>	<i>Maximum Allowable Price</i>
14 to 16 oz. Canned Carrots	\$1.19
1 lb. Cheese	\$6.17
1 lb. Kosher Cheese	\$7.02
1 lb. Dry Beans or Peas	\$2.03
1 oz. Adult WIC Cereal	\$0.36
8 oz. Gerber Infant Cereal	\$2.26
15 to 18 oz. Peanut Butter	\$3.13
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.37
6 oz. Cans Juice	\$1.70
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.20
4 oz. Gerber Infant Juice	\$0.74
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.48
16 oz. Alimentum Advance Powder Formula	\$26.99
8 oz. Boost Ready-to-Feed Formula	\$2.00
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$15.19
13 oz. Enfamil LIPIL Concentrate Formula	\$5.24
32 oz. Enfamil LIPIL Ready-to-Feed Formula	\$7.54
12.9 oz. Enfamil LIPIL Powder Formula	\$15.19
32 oz. Isomil DF Ready-to-Feed Formula	\$8.19
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula	\$4.76
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.80
24 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Yellow Formula	\$22.76
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$14.21
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$5.02
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$7.14
24 oz. Nestle Good Start 2 Soy DHA-ARA/Good Start Soy PLUS 2 Powder-Teal Formula	\$22.19
12 oz. Nestle Good Start Natural Cultures DHA-ARA/Good Start Protect PLUS Powder-Green Formula	\$14.77
24 oz. Nestle Good Start 2 Natural Cultures DHA-ARA/Good Start Protect PLUS 2 Powder-White Formula	\$25.99
12 oz. Nestle Good Start/Good Start Nourish PLUS Powder-Purple Formula	\$10.79
13 oz. Nutramigen Lipil Concentrate Formula	\$7.82
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$9.38
16 oz. Nutramigen Lipil Powder Formula	\$28.36
8 oz. PediaSure Ready-to-Feed Formula	\$2.58
8 oz. PediaSure with Fiber Ready-to-Feed Formula	\$2.63
13 oz. Similac Advance Concentrate Formula	\$5.17
32 oz. Similac Advance Ready-to-Feed Formula	\$7.18
12.9 oz. Similac Advance Powder Formula	\$15.02
12.8 oz. Similac Neosure with Iron Powder Formula	\$15.89
32 oz. Similac Neosure with Iron Ready-to-Feed Formula	\$9.23
13 oz. Store Brand Concentrate Formula	\$3.10
32 oz. Store Brand Ready-to-Feed Formula	\$4.32
25.75 oz. Store Brand Powder Formula	\$17.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at or below, the Competitive Prices listed for the store's peer group. Effective April 1, 2009, through June 30, 2009, the Competitive Prices for WIC Authorization for Type 3 Stores in Regular Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.01
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.95
12 oz. Evaporated Milk	\$1.33
16 oz. Dry Milk	\$7.44
1 doz. Grade A Eggs	\$1.76
1 lb. Fresh Carrots	\$1.16
14 to 16 oz. Canned Carrots	\$1.16
1 lb. Cheese	\$5.61
1 lb. Kosher Cheese	\$6.87
1 lb. Dry Beans or Peas	\$1.80
1 oz. Adult WIC Cereal	\$0.36
8 oz. Gerber Infant Cereal	\$2.26
15 to 18 oz. Peanut Butter	\$2.83
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.12
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.13
4 oz. Gerber Infant Juice	\$0.74
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula	\$4.76
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.80
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$14.21
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$5.02
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$7.14

Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 1 Stores in High Cost Counties.

Maximum Allowable Prices

Effective April 1, 2009, through June 30, 2009, the Maximum Allowable Prices the Department will pay Type 1 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	2.32
12 oz. Evaporated Milk	\$1.31
16 oz. Dry Milk	\$6.03
1 qt. Lactose Reduced Milk	\$2.23
1/2 gal. Kosher Milk	\$2.22
4 oz. Kosher Infant Juice	\$0.67
8 oz. Kosher Infant Cereal	\$1.96
1 doz. Grade A Eggs	\$1.74
1 lb. Fresh Carrots	\$1.11
14 to 16 oz. Canned Carrots	\$1.11
1 lb. Cheese	\$6.23
1 lb. Kosher Cheese	\$6.23
1 lb. Dry Beans or Peas	\$2.13
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$1.96
15 to 18 oz. Peanut Butter	\$3.35
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.36
6 oz. Cans Juice	\$1.70
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.28
4 oz. Gerber Infant Juice	\$0.67
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.18
16 oz. Alimentum Advance Powder Formula ..	\$26.21
8 oz. Boost Ready-to-Feed Formula	\$2.00
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$14.39
13 oz. Enfamil LIPIL Concentrate Formula ..	\$4.49
32 oz. Enfamil LIPIL Ready-to-Feed Formula ..	\$6.66
12.9 oz. Enfamil LIPIL Powder Formula	\$13.76
32 oz. Isomil DF Ready-to-Feed Formula	\$6.32
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula ..	\$4.39
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.36
24 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Yellow Formula	\$21.44
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$13.62
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula ..	\$4.55
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.51
24 oz. Nestle Good Start 2 Soy DHA-ARA/Good Start Soy PLUS 2 Powder-Teal Formula	\$21.65
12 oz. Nestle Good Start Natural Cultures DHA-ARA/Good Start Protect PLUS Powder-Green Formula	\$14.21
24 oz. Nestle Good Start 2 Natural Cultures DHA-ARA/Good Start Protect PLUS 2 Powder-White Formula	\$25.11
12 oz. Nestle Good Start/Good Start Nourish PLUS Powder-Purple Formula	\$10.79
13 oz. Nutramigen Lipil Concentrate Formula ..	\$7.17
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$9.02
16 oz. Nutramigen Lipil Powder Formula	\$26.02
8 oz. Pediasure Ready-to-Feed Formula	\$1.85
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$1.92
13 oz. Similac Advance Concentrate Formula ..	\$4.43

<i>Description</i>	<i>Maximum Allowable Price</i>
32 oz. Similac Advance Ready-to-Feed Formula	\$6.34
12.9 oz. Similac Advance Powder Formula	\$13.60
12.8 oz. Similac Neosure with Iron Powder Formula	\$15.60
32 oz. Similac Neosure with Iron Ready-to-Feed Formula	\$7.62
13 oz. Store Brand Concentrate Formula	\$2.87
32 oz. Store Brand Ready-to-Feed Formula	\$3.85
25.75 oz. Store Brand Powder Formula	\$16.19

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at or below, the Competitive Prices listed for the store's peer group. Effective April 1, 2009, through June 30, 2009, the Competitive Prices for WIC Authorization for Type 1 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.16
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.10
12 oz. Evaporated Milk	\$1.21
16 oz. Dry Milk	\$5.89
1 doz. Grade A Eggs	\$1.67
1 lb. Fresh Carrots	\$1.08
14 to 16 oz. Canned Carrots	\$1.08
1 lb. Cheese	\$5.68
1 lb. Kosher Cheese	\$5.68
1 lb. Dry Beans or Peas	\$1.87
1 oz. Adult WIC Cereal	\$0.33
8 oz. Gerber Infant Cereal	\$1.96
15 to 18 oz. Peanut Butter	\$3.00
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.00
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.18
4 oz. Gerber Infant Juice	\$0.67
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula ..	\$4.39
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.36
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$13.62
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula ..	\$4.55
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.51

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties.

Effective April 1, 2009, through June 30, 2009, the Maximum Allowable Prices the Department will pay Type 2 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.32
12 oz. Evaporated Milk	\$1.40
16 oz. Dry Milk	\$6.45
1 qt. Lactose Reduced Milk	\$2.34
1/2 gal. Kosher Milk	\$2.22
4 oz. Kosher Infant Juice	\$0.71
8 oz. Kosher Infant Cereal	\$2.12
1 doz. Grade A Eggs	\$1.75
1 lb. Fresh Carrots	\$1.19
14 to 16 oz. Canned Carrots	\$1.19
1 lb. Cheese	\$6.23
1 lb. Kosher Cheese	\$6.23
1 lb. Dry Beans or Peas	\$2.13
1 oz. Adult WIC Cereal	\$0.35
8 oz. Gerber Infant Cereal	\$2.12
15 to 18 oz. Peanut Butter	\$3.35
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.41
6 oz. Cans Juice	\$1.78
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.28
4 oz. Gerber Infant Juice	\$0.71
32 oz. Alimentum Advance Ready-to-Feed Formula	\$9.74
16 oz. Alimentum Advance Powder Formula	\$27.51
8 oz. Boost Ready-to-Feed Formula	\$2.00
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$15.30
13 oz. Enfamil LIPIL Concentrate Formula	\$4.76
32 oz. Enfamil LIPIL Ready-to-Feed Formula	\$7.05
12.9 oz. Enfamil LIPIL Powder Formula	\$14.61
32 oz. Isomil DF Ready-to-Feed Formula	\$6.34
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula	\$4.69
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.73
24 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Yellow Formula	\$22.19
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$14.19
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$4.85
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.78
24 oz. Nestle Good Start 2 Soy DHA-ARA/Good Start Soy PLUS 2 Powder-Teal Formula	\$22.34
12 oz. Nestle Good Start Natural Cultures DHA-ARA/Good Start Protect PLUS Powder-Green Formula	\$14.85
24 oz. Nestle Good Start 2 Natural Cultures DHA-ARA/Good Start Protect PLUS 2 Powder-White Formula	\$26.05
12 oz. Nestle Good Start/Good Start Nourish PLUS Powder-Purple Formula	\$10.79
13 oz. Nutramigen Lipil Concentrate Formula	\$7.51
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$9.20
16 oz. Nutramigen Lipil Powder Formula	\$27.39

<i>Description</i>	<i>Maximum Allowable Price</i>
8 oz. Pediasure Ready-to-Feed Formula	\$2.29
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$2.22
13 oz. Similac Advance Concentrate Formula	\$4.70
32 oz. Similac Advance Ready-to-Feed Formula	\$6.71
12.9 oz. Similac Advance Powder Formula	\$14.44
12.8 oz. Similac Neosure with Iron Powder Formula	\$16.68
32 oz. Similac Neosure with Iron Ready-to-Feed Formula	\$7.93
13 oz. Store Brand Concentrate Formula	\$2.95
32 oz. Store Brand Ready-to-Feed Formula	\$4.05
25.75 oz. Store Brand Powder Formula	\$16.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at or below, the Competitive Prices listed for the store's peer group. Effective April 1, 2009, through June 30, 2009, the Competitive Prices for WIC Authorization for Type 2 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.16
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.10
12 oz. Evaporated Milk	\$1.30
16 oz. Dry Milk	\$6.44
1 doz. Grade A Eggs	\$1.67
1 lb. Fresh Carrots	\$1.16
14 to 16 oz. Canned Carrots	\$1.16
1 lb. Cheese	\$5.68
1 lb. Kosher Cheese	\$5.68
1 lb. Dry Beans or Peas	\$1.87
1 oz. Adult WIC Cereal	\$0.35
8 oz. Gerber Infant Cereal	\$2.12
15 to 18 oz. Peanut Butter	\$3.00
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.15
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.18
4 oz. Gerber Infant Juice	\$0.71
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$12.91
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula	\$4.69
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$6.73
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$14.19
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$4.85
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$6.78

Maximum Allowable Prices and Competitive Prices for Type 2 Stores in High Cost Counties

Under 28 Pa. Code §§ 1103.4(5) and 1105.3(a)(1) and 7 CFR 246.12, the WIC Program hereby publishes notice of the Maximum Allowable Prices and Competitive Prices for Type 3 Stores in High Cost Counties.

Maximum Allowable Prices

Effective April 1, 2009, through June 30, 2009, the Maximum Allowable Prices the Department will pay Type 3 Stores in High Cost Counties for WIC allowable foods are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.54
12 oz. Evaporated Milk	\$1.40
16 oz. Dry Milk	\$7.44
1 qt. Lactose Reduced Milk	\$2.34
1/2 gal. Kosher Milk	\$2.95
4 oz. Kosher Infant Juice	\$0.81
8 oz. Kosher Infant Cereal	\$2.44
1 doz. Grade A Eggs	\$2.02
1 lb. Fresh Carrots	\$1.19
14 to 16 oz. Canned Carrots	\$1.19
1 lb. Cheese	\$6.23
1 lb. Kosher Cheese	\$7.09
1 lb. Dry Beans or Peas	\$2.13
1 oz. Adult WIC Cereal	\$0.37
8 oz. Gerber Infant Cereal	\$2.44
15 to 18 oz. Peanut Butter	\$3.35
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.41
6 oz. Cans Juice	\$1.78
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.28
4 oz. Gerber Infant Juice	\$0.81
32 oz. Alimentum Advance Ready-to-Feed Formula	\$10.33
16 oz. Alimentum Advance Powder Formula ...	\$30.11
8 oz. Boost Ready-to-Feed Formula	\$2.00
12.8 oz. EnfaCare LIPIL w/Iron Powder Formula	\$17.26
13 oz. Enfamil LIPIL Concentrate Formula ...	\$5.66
32 oz. Enfamil LIPIL Ready-to-Feed Formula .	\$8.45
12.9 oz. Enfamil LIPIL Powder Formula	\$16.70
32 oz. Isomil DF Ready-to-Feed Formula	\$8.22
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$14.98
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula .	\$5.63
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$7.98
24 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Yellow Formula	\$22.76
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$16.04
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula .	\$5.43
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$7.32
24 oz. Nestle Good Start 2 Soy DHA-ARA/Good Start Soy PLUS 2 Powder-Teal Formula	\$22.34
12 oz. Nestle Good Start Natural Cultures DHA-ARA/Good Start Protect PLUS Powder-Green Formula	\$15.89

Maximum Allowable Price

<i>Description</i>	<i>Maximum Allowable Price</i>
24 oz. Nestle Good Start 2 Natural Cultures DHA-ARA/Good Start Protect PLUS 2 Powder-White Formula	\$26.05
12 oz. Nestle Good Start/Good Start Nourish PLUS Powder-Purple Formula	\$12.83
13 oz. Nutramigen Lipil Concentrate Formula .	\$8.63
32 oz. Nutramigen Lipil Ready-to-Feed Formula	\$10.94
16 oz. Nutramigen Lipil Powder Formula	\$30.29
8 oz. Pediasure Ready-to-Feed Formula	\$2.64
8 oz. Pediasure with Fiber Ready-to-Feed Formula	\$2.63
13 oz. Similac Advance Concentrate Formula ..	\$5.59
32 oz. Similac Advance Ready-to-Feed Formula	\$8.04
12.9 oz. Similac Advance Powder Formula	\$16.51
12.8 oz. Similac Neosure with Iron Powder Formula	\$19.19
32 oz. Similac Neosure with Iron Ready-to-Feed Formula	\$9.99
13 oz. Store Brand Concentrate Formula	\$3.24
32 oz. Store Brand Ready-to-Feed Formula	\$4.82
25.75 oz. Store Brand Powder Formula	\$17.99

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check; however, the amounts that exceed the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2.

Competitive Prices

To remain WIC Authorized, each store must maintain the minimum inventory of the following WIC food items at or below, the Competitive Prices listed for the store's peer group. Effective April 1, 2009, through June 30, 2009, the Competitive Prices for WIC Authorization for Type 3 Stores in High Cost Counties are as follows:

<i>Description</i>	<i>Competitive Prices</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.52
1/2 gal. of Kosher Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.95
12 oz. Evaporated Milk	\$1.34
16 oz. Dry Milk	\$7.44
1 doz. Grade A Eggs	\$1.99
1 lb. Fresh Carrots	\$1.16
14 to 16 oz. Canned Carrots	\$1.16
1 lb. Cheese	\$6.11
1 lb. Kosher Cheese	\$6.96
1 lb. Dry Beans or Peas	\$1.87
1 oz. Adult WIC Cereal	\$0.37
8 oz. Gerber Infant Cereal	\$2.44
15 to 18 oz. Peanut Butter	\$3.05
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$3.15
5 to 6.5 oz. Chunk Light Tuna Packed in Water	\$1.19
4 oz. Gerber Infant Juice	\$0.81
12 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Powder-Orange Formula	\$14.98
13 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS Concentrate-Orange Formula .	\$5.63

<i>Description</i>	<i>Competitive Prices</i>
32 oz. Nestle Good Start DHA-ARA/Good Start Gentle PLUS RTF-Orange Formula	\$7.98
12.9 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Powder-Blue Formula	\$16.04
13 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Concentrate-Blue Formula	\$5.43
32 oz. Nestle Good Start Soy DHA-ARA/Good Start Soy PLUS Ready-to-Feed-Blue Formula	\$7.32

Persons with a disability who require an alternative format of this listing (for example, large print, audiotope, Braille), should contact Chris Harr, Department of Health, Division of WIC, 2150 Herr Street, 1st Floor, Harrisburg, PA 17105, (717) 783-1289 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-637. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania 10X The Money '09 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 10X The Money '09.

2. *Price:* The price of a Pennsylvania 10X The Money '09 instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania 10X The Money '09 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), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT) and a 10X (10TIMES) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$4⁰⁰ (FOR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO) and \$10,000 (TEN THO).

5. *Prizes:* The prizes that can be won in this game are: \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$1,000 and \$10,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 12,000,000 tickets will be printed for the Pennsylvania 10X The Money '09 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either 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.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$100 (ONE HUN) appears under the 10X symbol (10TIMES), on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either 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.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$40⁰⁰ (FORTY) appears under the 10X symbol (10TIMES), 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 matches either 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.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the 10X symbol (10TIMES), 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 matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the 10X symbol (10TIMES), on a single ticket, shall be entitled to a prize of \$50.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$4⁰⁰ (FOR DOL)

appears under the 10X symbol (10TIMES), on a single ticket, shall be entitled to a prize of \$40.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$20.⁰⁰ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the 10X symbol (10TIMES), on a single ticket, shall be entitled to a prize of \$20.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 10X symbol (10TIMES), and a prize symbol of \$1.⁰⁰ (ONE DOL) appears under the 10X symbol (10TIMES), on a single ticket, shall be entitled to a prize of \$10.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the

"WINNING NUMBERS" play symbols and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$4.⁰⁰ (FOR DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "WINNING NUMBERS" play symbols and a prize symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

When Any Of Your Numbers Match Either Winning Number; Win With Prize(s) Of:

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 12,000,000 Tickets</i>
\$1 × 2	\$2	640,000
\$2	\$2	560,000
\$1 × 4	\$4	240,000
\$2 × 2	\$4	240,000
\$4	\$4	240,000
\$1 × 5	\$5	160,000
\$5	\$5	160,000
\$1 × 10	\$10	32,000
\$1 w/10X	\$10	80,000
\$5 × 2	\$10	24,000
\$10	\$10	24,000
\$2 × 10	\$20	16,000
\$2 w/10X	\$20	32,000
\$10 × 2	\$20	16,000
\$20	\$20	32,000
\$4 × 10	\$40	5,000
\$4 w/10X	\$40	5,000
\$10 × 4	\$40	5,000
\$20 × 2	\$40	5,000
\$40	\$40	5,000
\$5 × 10	\$50	5,000
\$5 w/10X	\$50	5,000
\$10 × 5	\$50	5,000
\$50	\$50	5,000
\$10 × 10	\$100	2,500
\$10 w/10X	\$100	2,500
\$50 × 2	\$100	2,500
\$100	\$100	2,500
\$40 × 10	\$400	300
\$40 w/10X	\$400	400
\$400	\$400	300
\$100 w/10X	\$1,000	400
\$1,000	\$1,000	400
\$10,000	\$10,000	100

10X (10TIMES) = Win 10 times the prize shown under that symbol.

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 10X The Money '09 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania 10X The Money '09, prize money from winning Pennsylvania 10X The Money '09 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 10X The Money '09 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 10X The Money '09 or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-638. Filed for public inspection April 3, 2009, 9:00 a.m.]

Pennsylvania \$50,000 Birthday Cash 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 \$50,000 Birthday Cash.

2. *Price:* The price of a Pennsylvania \$50,000 Birthday Cash instant lottery game ticket is \$5.

3. *Play and Prize Play Symbols:*

(a) Each Pennsylvania \$50,000 Birthday Cash instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania \$50,000 Birthday Cash instant lottery game ticket will also contain a "Birthday Bonus" area.

(b) The prize play symbols and their captions located in the play area for "Game 1" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$50,000 (FTY THO).

(c) The play symbols and their captions located in the play area for "Game 2" are: Balloon symbol (BALLOON) and an X symbol (XXX).

(d) The play area for "Game 3" will contain a "YOUR SYMBOLS" area and a "LUCKY SYMBOLS" area. The play symbols and their captions located in the "YOUR SYMBOLS" area and the "LUCKY SYMBOLS" area are: Rocket symbol (RCKT), Ice Cream Cone symbol (ICEC), Noisemaker symbol (NOISE), Money Bag symbol (\$BAG), Bills symbol (BILLS), Stack Of Coins symbol (STACK), Bow symbol (BOW), Hat symbol (HAT), Candle symbol (CANDL), Party Favor symbol (FAVOR), Cake symbol (CAKE), Gift symbol (GIFT), Horn symbol (HORN), Cupcake symbol (CUPC), Music symbol (MUSIC), Dance symbol (DANCE) and a Confetti symbol (CNFTI).

(e) The prize play symbols and the play symbols and their captions located in the "Birthday Bonus" area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), NO BONUS (TRY AGAIN) and TRY AGAIN (NO BONUS).

4. *Prize Symbols:*

(a) The play area for "Game 2" will contain a "PRIZE" area. The prize symbols and their captions located in the "PRIZE" area for "Game 2" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$50,000 (FTY THO).

(b) The play area for "Game 3" will contain six "Prize" areas. The prize symbols and their captions located in the six "Prize" areas for "Game 3" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in "Game 1" are: \$5, \$10, \$20, \$40, \$50, \$100, \$500 and \$50,000. The prizes that can be won in "Game 2" and "Game 3" are: \$5, \$10, \$20, \$40, \$50, \$100, \$500, \$1,000 and \$50,000. The prizes that can be won in the "Birthday Bonus" area are: \$5, \$10, \$20, \$40, \$50, \$100 and \$500. The player can win up to 8 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania \$50,000 Birthday Cash instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching prize play symbols of \$50,000 (FTY THO) in the play area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching prize play symbols of \$500 (FIV HUN) in the play area, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with three matching prize play symbols of \$50⁰⁰ (FIFTY) in the play area, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets with three matching prize play symbols of \$40⁰⁰ (FORTY) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(6) Holders of tickets with three matching prize play symbols of \$20⁰⁰ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(7) Holders of tickets with three matching prize play symbols of \$10^{.00} (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets with three matching prize play symbols of \$5^{.00} (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$50,000 (FTY THO) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$1,000 (ONE THO) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$500 (FIV HUN) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$500.

(4) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$100 (ONE HUN) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$50^{.00} (FIFTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50.

(6) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$40^{.00} (FORTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$40.

(7) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$20^{.00} (TWENTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$10^{.00} (TEN DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$5^{.00} (FIV DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(4) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$50^{.00} (FIFTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(6) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$40^{.00} (FORTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(7) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$20^{.00} (TWENTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$10^{.00} (TEN DOL) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$5^{.00} (FIV DOL) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for the "Birthday Bonus" area are:

(1) Holders of tickets with a prize play symbol of \$500 (FIV HUN) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$500.

(2) Holders of tickets with a prize play symbol of \$100 (ONE HUN) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$100.

(3) Holders of tickets with a prize play symbol of \$50^{.00} (FIFTY) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with a prize play symbol of \$40^{.00} (FORTY) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$40.

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(5) Holders of tickets with a prize play symbol of \$20⁰⁰ (TWENTY) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with a prize play symbol of \$10⁰⁰ (TEN DOL) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets with a prize play symbol of \$5⁰⁰ (FIV DOL) in the "Birthday Bonus" area, on a single ticket, shall be entitled to a prize of \$5.

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>Birthday Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 4,800,000 Tickets</i>
\$5				\$5	30	160,000
	\$5			\$5	30	160,000
		\$5		\$5	37.50	128,000
			\$5	\$5	37.50	128,000
\$10				\$10	85.71	56,000
	\$10			\$10	85.71	56,000
		\$10		\$10	85.71	56,000
			\$10	\$10	100	48,000
\$5			\$5	\$10	100	48,000
			\$5 × 2	\$10	85.71	56,000
\$20				\$20	200	24,000
	\$20			\$20	200	24,000
		\$20		\$20	200	24,000
			\$20	\$20	300	16,000
\$10	\$5	\$5		\$20	200	24,000
\$10			\$5 × 2	\$20	200	24,000
			\$5 × 4	\$20	200	24,000
\$40				\$40	600	8,000
	\$40			\$40	600	8,000
		\$40		\$40	600	8,000
			\$40	\$40	600	8,000
\$20		\$20		\$40	600	8,000
			\$10 × 4	\$40	600	8,000
\$50				\$50	1,200	4,000
	\$50			\$50	1,200	4,000
		\$50		\$50	1,200	4,000
			\$50	\$50	1,200	4,000
\$5	\$20	\$20	\$5	\$50	1,200	4,000
\$10	\$10	\$10	\$10 × 2	\$50	1,200	4,000
\$20			\$5 × 6	\$50	1,200	4,000
			\$10 × 5	\$50	1,200	4,000
\$100				\$100	2,182	2,200
	\$100			\$100	2,182	2,200
		\$100		\$100	2,182	2,200
			\$100	\$100	2,182	2,200
\$10	\$20	\$20	\$10 × 5	\$100	2,182	2,200
\$20	\$20	\$20	\$20 × 2	\$100	2,182	2,200
\$50	\$50			\$100	2,182	2,200
			\$20 × 5	\$100	2,400	2,000
\$500				\$500	12,000	400
	\$500			\$500	12,000	400
		\$500		\$500	12,000	400
			\$500	\$500	12,000	400
			\$100 × 5	\$500	12,000	400
		\$1,000		\$1,000	30,000	160
			\$1,000	\$1,000	40,000	120
			\$500 × 2	\$1,000	40,000	120
	\$50,000			\$50,000	1,200,000	4
		\$50,000		\$50,000	1,200,000	4
			\$50,000	\$50,000	2,400,000	2

Game 1—Get 3 like amounts, win that amount.

Game 2—Get three "BALLOON" (BALLOON) symbols in a row, column or diagonal, win prize shown.

Game 3—When any of YOUR SYMBOLS match either LUCKY SYMBOL, win prize shown below the matching symbol.

Birthday Bonus—Reveal prize amount from \$5 to \$500 and win that prize.

Prizes, including the 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 \$50,000 Birthday Cash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$50,000 Birthday Cash, prize money from winning Pennsylvania \$50,000 Birthday Cash 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 \$50,000 Birthday Cash 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 \$50,000 Birthday Cash or through normal communications methods.

STEPHEN H. STETLER
Acting Secretary

[Pa.B. Doc. No. 09-639. Filed for public inspection April 3, 2009, 9:00 a.m.]

Pennsylvania Cash Fever 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 Cash Fever.

2. *Price:* The price of a Pennsylvania Cash Fever instant lottery game ticket is \$5.

3. *Play and Prize Play Symbols:*

(a) Each Pennsylvania Cash Fever instant lottery game ticket will contain three play areas known as “Game 1,” “Game 2” and “Game 3” respectively. Each game has a different game play method and is played separately. Each Pennsylvania Cash Fever instant lottery game ticket will also contain a “RED HOT BONUS” area.

(b) The play area for “Game 1” will contain a “YOUR NUMBERS” area and a “RED HOT NUMBERS” area. 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 (ELEVEN), 12 (TWELVE) and \$\$ (DBLS). The play symbols and their captions located in the “RED HOT NUMBERS” area are: 1 (ONE),

2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN) and 12 (TWELVE).

(c) The play symbols and their captions located in the play area for “Game 2” are: Bill symbol (BILL), Chest symbol (CHEST), Coin symbol (COIN), Diamond symbol (DMND), Gold symbol (GOLD), Horse Shoe symbol (HSHOE), Moneybag symbol (MBAG) and a Roll symbol (ROLL).

(d) The prize play symbols and their captions located in the play area for “Game 3” are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$50,000 (FTY THO), \$100,000 (ONEHUNTHO) and a \$\$ symbol (DBLS).

(e) The prize play symbols and the play symbols and their captions located in the “RED HOT BONUS” area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), NO BONUS (TRY AGAIN) and TRY AGAIN (NO BONUS).

4. *Prize Symbols:*

(a) The play area for “Game 1” will contain six “Prize” areas. The prize symbols and their captions located in the six “Prize” areas for “Game 1” are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

(b) The prize symbols and their captions located in the “Prize” area of each “ROW” for “Game 2” are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in “Game 1” are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000, \$50,000 and \$100,000. The prizes that can be won in “Game 2” are: \$5, \$10, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000, \$50,000 and \$100,000. The prizes that can be won in “Game 3” are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000, \$50,000 and \$100,000. The prizes that can be won in the “RED HOT BONUS” area are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400 and \$500. The player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Cash Fever instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for “Game 1” are:

(1) Holders of tickets where any one of the “YOUR NUMBERS” play symbols matches either of the “RED HOT NUMBERS” play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(2) Holders of tickets where any one of the “YOUR NUMBERS” play symbols matches either of the “RED HOT NUMBERS” play symbols and a prize symbol of \$50,000 (FTY THO) appears in the “Prize” area under the

matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(3) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(4) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(5) Holders of tickets where any one of the "YOUR NUMBERS" play symbols is a \$\$ symbol (DBL\$), and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the \$\$ symbol (DBL\$), on a single ticket, shall be entitled to a prize of \$1,000.

(6) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(7) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(8) Holders of tickets where any one of the "YOUR NUMBERS" play symbols is a \$\$ symbol (DBL\$), and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the \$\$ symbol (DBL\$), on a single ticket, shall be entitled to a prize of \$200.

(9) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(10) Holders of tickets where any one of the "YOUR NUMBERS" play symbols is a \$\$ symbol (DBL\$), and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the \$\$ symbol (DBL\$), on a single ticket, shall be entitled to a prize of \$100.

(11) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(12) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(13) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$25⁰⁰ (TWY FIV) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(14) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(15) Holders of tickets where any one of the "YOUR NUMBERS" play symbols is a \$\$ symbol (DBL\$), and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the \$\$ symbol (DBL\$), on a single ticket, shall be entitled to a prize of \$20.

(16) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(17) Holders of tickets where any one of the "YOUR NUMBERS" play symbols is a \$\$ symbol (DBL\$), and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the \$\$ symbol (DBL\$), on a single ticket, shall be entitled to a prize of \$10.

(18) Holders of tickets where any one of the "YOUR NUMBERS" play symbols matches either of the "RED HOT NUMBERS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$100,000.

(2) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$50,000 (FTY THO) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$50,000.

(3) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$10,000 (TEN THO) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$10,000.

(4) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$1,000 (ONE THO) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$1,000.

(5) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$500 (FIV HUN) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$500.

(6) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$400 (FOR HUN) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$400.

(7) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$100 (ONE HUN) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$100.

(8) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$50.

(9) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$40⁰⁰ (FORTY) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$40.

(10) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$25⁰⁰ (TWY FIV) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$25.

(11) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$10.

(12) Holders of tickets with three matching play symbols in the same "ROW," and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets with three matching prize play symbols of \$100,000 (ONEHUNTHO) in the play area, on a single ticket, shall be entitled to a prize of \$100,000.

(2) Holders of tickets with three matching prize play symbols of \$50,000 (FTY THO) in the play area, on a single ticket, shall be entitled to a prize of \$50,000.

(3) Holders of tickets with three matching prize play symbols of \$10,000 (TEN THO) in the play area, on a single ticket, shall be entitled to a prize of \$10,000.

(4) Holders of tickets with three matching prize play symbols of \$1,000 (ONE THO) in the play area, on a single ticket, shall be entitled to a prize of \$1,000.

(5) Holders of tickets with two matching prize play symbols of \$500⁰⁰ (FIV HUN) and a \$\$ (DBL\$) symbol in the play area, on a single ticket, shall be entitled to a prize of \$1,000.

(6) Holders of tickets with three matching prize play symbols of \$500 (FIV HUN) in the play area, on a single ticket, shall be entitled to a prize of \$500.

(7) Holders of tickets with three matching prize play symbols of \$400 (FOR HUN) in the play area, on a single ticket, shall be entitled to a prize of \$400.

(8) Holders of tickets with two matching prize play symbols of \$100 (ONE HUN) and a \$\$ (DBL\$) symbol in the play area, on a single ticket, shall be entitled to a prize of \$200.

(9) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(10) Holders of tickets with two matching prize play symbols of \$50⁰⁰ (FIFTY) and a \$\$ (DBL\$) symbol in the play area, on a single ticket, shall be entitled to a prize of \$100.

(11) Holders of tickets with three matching prize play symbols of \$50⁰⁰ (FIFTY) in the play area, on a single ticket, shall be entitled to a prize of \$50.

(12) Holders of tickets with three matching prize play symbols of \$40⁰⁰ (FORTY) in the play area, on a single ticket, shall be entitled to a prize of \$40.

(13) Holders of tickets with three matching prize play symbols of \$25⁰⁰ (TWY FIV) in the play area, on a single ticket, shall be entitled to a prize of \$25.

(14) Holders of tickets with three matching prize play symbols of \$20⁰⁰ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(15) Holders of tickets with two matching prize play symbols of \$10⁰⁰ (TEN DOL) and a \$\$ (DBL\$) symbol in the play area, on a single ticket, shall be entitled to a prize of \$20.

(16) Holders of tickets with three matching prize play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(17) Holders of tickets with two matching prize play symbols of \$5⁰⁰ (FIV DOL) and a \$\$ (DBL\$) symbol in the play area, on a single ticket, shall be entitled to a prize of \$10.

(18) Holders of tickets with three matching prize play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for the "RED HOT BONUS" are:

(1) Holders of tickets with a prize play symbol of \$500 (FIV HUN) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$500.

(2) Holders of tickets with a prize play symbol of \$400 (FOR HUN) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$400.

(3) Holders of tickets with a prize play symbol of \$100 (ONE HUN) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with a prize play symbol of \$50⁰⁰ (FIFTY) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets with a prize play symbol of \$40⁰⁰ (FORTY) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$40.

(6) Holders of tickets with a prize play symbol of \$25⁰⁰ (TWY FIV) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$25.

(7) Holders of tickets with a prize play symbol of \$20⁰⁰ (TWENTY) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets with a prize play symbol of \$10⁰⁰ (TEN DOL) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with a prize play symbol of \$5⁰⁰ (FIV DOL) in the "RED HOT BONUS" area, on a single ticket, shall be entitled to a prize of \$5.

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:

NOTICES

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<i>Red Hot Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 7,200,000 Tickets</i>
\$5				\$5	30	240,000
	\$5			\$5	30	240,000
		\$5		\$5	37.5	192,000
			\$5	\$5	37.5	192,000
\$10				\$10	120	60,000
	\$5 w/\$\$			\$10	120	60,000
	\$10			\$10	120	60,000
		\$10		\$10	120	60,000
			\$10	\$10	120	60,000
			\$5 w/\$\$	\$10	60	120,000
\$20				\$20	300	24,000
	\$5 w/\$\$		\$5 w/\$\$	\$20	300	24,000
	\$10 w/\$\$			\$20	300	24,000
	\$20			\$20	300	24,000
			\$20	\$20	300	24,000
			\$10 w/\$\$	\$20	300	24,000
\$25				\$25	300	24,000
	\$25			\$25	300	24,000
		\$25		\$25	300	24,000
			\$25	\$25	300	24,000
\$40				\$40	600	12,000
	\$40			\$40	600	12,000
		\$40		\$40	600	12,000
			\$40	\$40	600	12,000
	\$10 w/\$\$		\$10 w/\$\$	\$40	600	12,000
\$50				\$50	600	12,000
	\$50			\$50	600	12,000
		\$50		\$50	600	12,000
			\$50	\$50	600	12,000
\$5	\$5 × 6	\$5 × 3		\$50	600	12,000
\$100				\$100	2,609	2,760
\$50	\$50			\$100	2,609	2,760
	\$50 w/\$\$			\$100	2,609	2,760
		\$50 × 2		\$100	2,667	2,700
		\$100		\$100	2,609	2,760
			\$50 w/\$\$	\$100	2,609	2,760
			\$100	\$100	2,609	2,760
\$10	\$10 × 5	\$10 × 3		\$100	2,609	2,760
\$400			\$10	\$100	2,609	2,760
	\$400			\$400	12,000	600
		\$400		\$400	12,000	600
			\$400	\$400	12,000	600
	\$100 w/\$\$		\$100 w/\$\$	\$400	12,000	600
\$500				\$500	24,000	300
	\$500			\$500	24,000	300
		\$500		\$500	24,000	300
			\$500	\$500	24,000	300
\$100	\$100	\$100	\$100 w/\$\$	\$500	24,000	300
	\$1,000			\$1,000	40,000	180
		\$1,000		\$1,000	40,000	180
			\$1,000	\$1,000	40,000	180
	\$500 w/\$\$			\$1,000	40,000	180
			\$500 w/\$\$	\$1,000	40,000	180
	\$10,000			\$10,000	720,000	10
		\$10,000		\$10,000	1,440,000	5
			\$10,000	\$10,000	1,440,000	5
	\$50,000			\$50,000	7,200,000	1
		\$50,000		\$50,000	3,600,000	2
			\$50,000	\$50,000	3,600,000	2
	\$100,000			\$100,000	7,200,000	1
		\$100,000		\$100,000	3,600,000	2
			\$100,000	\$100,000	3,600,000	2

<i>Red Hot Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 7,200,000 Tickets</i>
Game 1—When any of Your Numbers match either Red Hot Number, win prize shown below the matching number. Get a "\$\$" (DBLS) symbol, win double the prize shown under it automatically.						
Game 2—Get three like symbols in any row, win prize shown to the right of that row.						
Red Hot Bonus—Reveal prize amount from \$5 to \$500, win that prize.						
Game 3—Get three like amounts, win that prize. Get two like amounts and a "\$\$" (DLBS) symbol, win double that prize.						

Prizes, including the 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 Cash Fever instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cash Fever, prize money from winning Pennsylvania Cash Fever 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 Cash Fever 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 Cash Fever or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-640. Filed for public inspection April 3, 2009, 9:00 a.m.]

Pennsylvania Triple Platinum 777 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 Triple Platinum 777.

2. *Price:* The price of a Pennsylvania Triple Platinum 777 instant lottery game ticket is \$10.

3. *Play Symbols:* Each Pennsylvania Triple Platinum 777 instant lottery game ticket will contain one play area. The play symbols and their captions printed in black ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTEEN),

14 (FOURTEEN), 15 (FIFTEEN), 16 (SIXTEEN), 18 (EIGHTEEN), 19 (NINETEEN), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE), 24 (TWENTYFOUR), 25 (TWENTYFIVE), 26 (TWENTYSIX), 28 (TWENTYEIGHT), 29 (TWENTYNINE), 30 (THIRTY), 31 (THIRTYONE), 32 (THIRTYTWO), 33 (THIRTYTHREE), 34 (THIRTYFOUR), 35 (THIRTYFIVE), 36 (THIRTYSIX), 7 (BLK7) and 777 (BLK777). The play symbols and their captions printed in red ink, located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTEEN), 14 (FOURTEEN), 15 (FIFTEEN), 16 (SIXTEEN), 18 (EIGHTEEN), 19 (NINETEEN), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE), 24 (TWENTYFOUR), 25 (TWENTYFIVE), 26 (TWENTYSIX), 28 (TWENTYEIGHT), 29 (TWENTYNINE), 30 (THIRTY), 31 (THIRTYONE), 32 (THIRTYTWO), 33 (THIRTYTHREE), 34 (THIRTYFOUR), 35 (THIRTYFIVE), 36 (THIRTYSIX) and 777 (RED777).

4. *Prize Symbols:* The prize symbols and their captions are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$20,000 (TWY THO) and \$250,000 (TWHNFYTH).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000, \$20,000 and \$250,000. A player can win up to 15 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Triple Platinum 777 instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$250,000 (TWHNFYTH) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$250,000.

(b) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$20,000 (TWY THO) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(c) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$10,000 (TEN THO) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets with a play symbol of 777 (RED777), with the symbol and caption printed in red ink, and a prize symbol of \$1,000 (ONE THO) appearing in the "prize" area to the right of that 777 (RED777) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a

prize symbol of \$1,000 (ONE THO) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets with a play symbol of 777 (RED777), with the symbol and caption printed in red ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 777 (RED777) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$500 (FIV HUN) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets with a play symbol of 777 (RED777), with the symbol and caption printed in red ink, and a prize symbol of \$50⁰⁰ (FIFTY) appearing in the "prize" area to the right of that 777 (RED777) play symbol, on a single ticket, shall be entitled to a prize of \$500.

(i) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$400 (FOR HUN) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$400.

(j) Holders of tickets with a play symbol of 777 (RED777), with the symbol and caption printed in red ink, and a prize symbol of \$40⁰⁰ (FORTY) appearing in the "prize" area to the right of that 777 (RED777) play symbol, on a single ticket, shall be entitled to a prize of \$400.

(k) Holders of tickets with a play symbol of 777 (BLK777), with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 777 (BLK777) play symbol, on a single ticket, shall be entitled to a prize of \$300.

(l) Holders of tickets with a play symbol of 777 (BLK777), with the symbol and caption printed in black ink, and a prize symbol of \$50⁰⁰ (FIFTY) appearing in the "prize" area to the right of that 777 (BLK777) play symbol, on a single ticket, shall be entitled to a prize of \$150.

(m) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$100 (ONE HUN) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(n) Holders of tickets with a play symbol of 777 (RED777), with the symbol and caption printed in red

ink, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that 777 (RED777) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets with a play symbol of 777 (BLK777), with the symbol and caption printed in black ink, and a prize symbol of \$20⁰⁰ (TWENTY) appearing in the "prize" area to the right of that 777 (BLK777) play symbol, on a single ticket, shall be entitled to a prize of \$60.

(p) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$50⁰⁰ (FIFTY) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$50.

(q) Holders of tickets with a play symbol of 777 (RED777), with the symbol and caption printed in red ink, and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "prize" area to the right of that 777 (RED777) play symbol, on a single ticket, shall be entitled to a prize of \$50.

(r) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$40⁰⁰ (FORTY) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$40.

(s) Holders of tickets with a play symbol of 777 (BLK777), with the symbol and caption printed in black ink, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that 777 (BLK777) play symbol, on a single ticket, shall be entitled to a prize of \$30.

(t) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$20⁰⁰ (TWENTY) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$20.

(u) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(v) Holders of tickets with a play symbol of 7 (BLK7), with the symbol and caption printed in black ink, and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "prize" area to the right of that 7 (BLK7) play symbol, on a single ticket, shall be entitled to a prize of \$5.

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>Reveal A Black 7 Symbol Win Prize Shown To The Right Of It. Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 7,200,000 Tickets:</i>
\$5 × 2	\$10	13.33	540,000
\$10	\$10	13.33	540,000
\$5 × 4	\$20	60	120,000
\$10 × 2	\$20	40	180,000
\$20	\$20	30	240,000
\$10 × 4	\$40	300	24,000
\$10 w/BLACK 777 + \$10	\$40	200	36,000

Reveal A Black 7 Symbol Win
Prize Shown To The Right Of It.
Win With Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 7,200,000 Tickets:
\$20 × 2	\$40	300	24,000
\$40	\$40	200	36,000
\$10 × 5	\$50	600	12,000
\$5 w/RED 777	\$50	600	12,000
\$10 w/BLACK 777 + (\$10 × 2)	\$50	600	12,000
\$50	\$50	600	12,000
(\$5 × 10) + (\$10 × 5)	\$100	600	12,000
\$10 × 10	\$100	600	12,000
\$10 w/RED 777	\$100	300	24,000
\$20 w/BLACK 777 + (\$20 × 2)	\$100	300	24,000
\$100	\$100	300	24,000
\$40 × 10	\$400	2,400	3,000
\$40 w/RED 777	\$400	2,400	3,000
\$50 w/BLACK 777 + (\$50 × 5)	\$400	2,400	3,000
\$100 × 4	\$400	2,400	3,000
\$400	\$400	3,000	2,400
\$50 × 10	\$500	24,000	300
\$50 w/RED 777	\$500	12,000	600
\$10 w/RED 777 + (\$100 × 4)	\$500	24,000	300
\$500	\$500	24,000	300
(\$50 × 10) + (\$100 × 5)	\$1,000	24,000	300
\$100 × 10	\$1,000	24,000	300
\$100 w/BLACK 777 + (\$100 × 7)	\$1,000	24,000	300
\$100 w/RED 777	\$1,000	24,000	300
\$500 × 2	\$1,000	24,000	300
\$1,000	\$1,000	12,000	600
\$1,000 w/RED 777	\$10,000	480,000	15
\$10,000	\$10,000	480,000	15
\$20,000	\$20,000	240,000	30
\$250,000	\$250,000	720,000	10

"BLACK 777" (BLK777) = Win 3 times the prize shown to the right of it.

"RED 777" (RED777) = Win 10 times the prize shown to the right of it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Triple Platinum 777 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Triple Platinum 777, prize money from winning Pennsylvania Triple Platinum 777 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 Triple Platinum 777 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 Triple Platinum 777 or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-641. Filed for public inspection April 3, 2009, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P.S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by the Blair County Commissioners, 423 Allegheny Street, Hollidaysburg, PA 16648, seeking to lease right-of-way located in Logan Township, Blair County, PA, adjacent to the intersection of Park Avenue and Frankstown Road containing 2.17 acres and is to be used for a ballpark.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to

Thomas A. Prestash, P. E., District Executive, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080.

Questions regarding this application or the proposed use may be directed to Sherry Peck, District Property Manager, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080, (814) 696-7215.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 09-642. Filed for public inspection April 3, 2009, 9:00 a.m.]

Finding Lycoming County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 2002(b)), the Director of the Bureau of Design as delegated by the Secretary of Transportation makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation (Department) are planning to replace the existing structure carrying SR 2064, Arch Street Bridge over the West Branch of the Susquehanna River between the Borough of Duboistown and the City of Williamsport in Lycoming County. The project will require the use of land from the Susquehanna State Park, which is a public park, and, therefore, qualifies as a section 4(f)/section 2002 resource.

In accordance with section 2002 of Pennsylvania Act 120 establishing the Department of Transportation, a Level-2 Categorical Exclusion Evaluation (CEE) has been developed for the subject project along with a "Determination of Section 4(f) De minimis Use Section 2002 No Adverse Use" checklist to evaluate the potential environmental impacts caused by the subject project. The checklist also serves as the section 2002 Evaluation. The referenced documents are available in the CE/EA Expert System.

Based upon studies, there is no feasible and prudent alternative to the proposed action. Mitigation measures will be taken to minimize harm as stipulated in the Level-2 CEE, the "Determination of Section 4(f) De minimis Use Section 2002 No Adverse Use" and the associated Memorandum of Agreement.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effects.

BRIAN G. THOMPSON, P. E.,
Director
Bureau of Design

[Pa.B. Doc. No. 09-643. Filed for public inspection April 3, 2009, 9:00 a.m.]

Watercraft Trailer Forfeiture; Maximum Amount

Chapter 73, Subchapter B of 75 Pa.C.S. (relating to watercraft trailer forfeiture) applies only to a watercraft trailer with a resale value based upon established indus-

try standards equal to less than the amount set forth in 75 Pa.C.S. § 7321(c) (relating to scope of subchapter and legislative intent). Subsection (c) provides that for the year 2006, the maximum amount will be \$1,000 and for each year thereafter, the maximum amount will be fixed annually by the Department of Transportation (Department) based upon the maximum amount in the prior year as adjusted to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the United States for all items as published by the United States Department of Labor, Bureau of Labor Statistics, for the previous 12-month period. Subsection (c) further provides that the maximum amount as adjusted will be rounded to the nearest multiple of \$5 and that the Department will give notice of the new maximum amount by publication in the *Pennsylvania Bulletin*.

Under 75 Pa.C.S. § 7321(c), the Department has fixed the maximum amount for 2009 as \$1,100.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 09-644. Filed for public inspection April 3, 2009, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Environmental Integrity Project and Citizens Coal Council v. DEP and Allegheny Energy Supply Company, Permittee; EHB Doc. No. 2009-039-R

The Environmental Integrity Project and Citizens Coal Council have appealed the issuance by the Department of Environmental Protection of an NPDES permit to Allegheny Energy Supply Company for a facility in Monongahela Township, Greene County.

A date for the hearing 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 Pennsylvania AT&T Relay Service 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. 09-645. Filed for public inspection April 3, 2009, 9:00 a.m.]

Reliant Energy Northeast Management Company v. DEP; EHB Doc. No. 2008-089-R

The Department of Environmental Protection (Department) and Reliant Energy Northeast Management Company (Reliant) have agreed to a settlement of the this matter.

The parties have agreed to a settlement, the major provisions of which provide for the publication of a draft of Amendment No. 1 to National Pollutant Discharge Elimination System Permit PA 0002062 (NPDES Permit). As set forth in the settlement, Reliant has agreed not to appeal from the final issuance of Amendment No. 1 to the NPDES Permit.

Reliant operates a coal-fired steam electric generating plant located in Plumcreek Township, Armstrong County, commonly known as the "Keystone Power Station." On February 28, 2008, the Department issued an NPDES Permit to Reliant authorizing the company to discharge storm water and waste water from several outfalls into the Allegheny River, Crooked and Plum Creeks.

The draft of Amendment No. 1 to the NPDES Permit authorizes a discharge from a flue gas desulphurization plant by means of a 16-mile pipeline to the Allegheny River at river mile 38.2 through Outfall 101. Outfall 101 in the draft of Amendment No. 1 to the NPDES Permit was formerly designated as Outfall 001 in the NPDES Permit. Effluent limitations for certain parameters at Outfall 101 have been modified. Additional monitoring requirements will be imposed for the discharge from the flue gas desulphurization plant. Also, the sample types for mercury and 1, 2 dichloroethene were changed at Outfall 003. In addition, the draft of Amendment No. 1 to the NPDES Permit regulates discharge of pigging wastewater from a newly designated Outfall 201. Finally, the draft of Amendment No. 1 to the NPDES Permit incorporates several minor modifications to the NPDES Permit such as pagination, descriptions of effluent limitations and wastewater sources.

Copies of the full agreement are in the hands of:

Bruce M. Herschlag
Assistant Regional Counsel
Commonwealth of Pennsylvania
Department of Environmental Protection
Office of Chief Counsel
400 Waterfront Drive
Pittsburgh, PA 15222-4745
(412) 442-42621

and

Donald C. Bluedorn, II, Esquire
Babst Calland Clements and Zomnir, PC
Two Gateway Center
603 Stanwix Street, Suite 8W
Pittsburgh, PA 15222
(412) 394-5400

and at the offices of the Environmental Hearing Board (Board), and may be reviewed by any interested person on request during normal business hours.

Any person interested in providing comment to the Board on the proposed Consent Order and Adjudication must do so within 30 days of the date this notice is published in the *Pennsylvania Bulletin*. Copies of all comments shall also be submitted to the attorney for each party listed previously.

Any person believing himself aggrieved by the previous settlement has a right to appeal to the Environmental

Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457. Appeals must be filed within 30 days of this publication.

If information concerning this notice is required in an alternative form contact the Secretary to the Board at (717) 783-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Board is empowered to approve this settlement if no objection is timely filed with the Board.

THOMAS W. RENWAND,
Acting Chairperson

[Pa.B. Doc. No. 09-646. Filed for public inspection April 3, 2009, 9:00 a.m.]

FISH AND BOAT COMMISSION

Boat and Marine Forfeiture; Maximum Amount

Chapter 53, Subchapter C of 30 Pa.C.S. (relating to boat and marine forfeiture) applies only to boats and related equipment with a resale value based upon established industry standards equal to or less than the maximum amount set forth in 30 Pa.C.S. § 5331(c) (relating to scope of subchapter). This subsection provides that for the year 2006, the maximum amount will be \$5,000 and for each year thereafter, the maximum amount will be fixed annually by the Fish and Boat Commission (Commission) based upon the maximum amount in the prior year as adjusted to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the United States for all items as published by the United States Department of Labor, Bureau of Labor Statistics, for the previous 12-month period. The subsection further provides that the maximum amount as adjusted will be rounded to the nearest multiple of \$5 and that the Commission will give notice of the new maximum amount by publication in the *Pennsylvania Bulletin*. The Commission previously fixed the maximum amount for 2008 at \$5,325.

Under 30 Pa.C.S. § 5331(c), the Commission has fixed the maximum amount for 2009 as \$5,340.

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

[Pa.B. Doc. No. 09-647. Filed for public inspection April 3, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, March 19, 2009, and announced the following:

Action Taken—Regulations Approved:

Environmental Quality Board #7-430: Marcellus Shale Well Permit Fees (amends 25 Pa. Code Chapter 78)

Environmental Quality Board #7-407: Safe Drinking Water; Public Notification Revisions (amends 25 Pa. Code §§ 109.407—109.413, 109.415, 109.701, 109.702 and 109.707)

State Board of Nursing #16A-5123: Nursing Education Programs Examination Pass Rates (amends 49 Pa. Code Chapter 21)

State Board of Veterinary Medicine #16A-5721: Professional Conduct (amends 49 Pa. Code §§ 31.1 and 31.21)

Action Taken—Regulations Disapproved:

Pennsylvania Gaming Control Board #125-92: Smoking in Licensed Facilities (amends 58 Pa. Code Chapters 441a and 467a)

Pennsylvania Gaming Control Board #125-86: Slot Machine Licensing (amends 58 Pa. Code § 441a.7)

Pennsylvania Gaming Control Board #125-93: Rules of Practice and Procedures (amends 58 Pa. Code Chapters 401a, 403a, 405a, 491a, 493a, 494a, 495a, 497a, 499a and 511a)

Approval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick; Nancy Sabol Frantz, Esq., by Phone, Abstained; Karen A. Miller; John F. Mizner, Esq., by Phone

*Environmental Quality Board—
Marcellus Shale Gas Well Fees Amendments;
Regulation No. 7-430 (#2741)*

On February 4, 2009, the Independent Regulatory Review Commission (Commission) received this regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code Chapter 78. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation adds permit fees relative to the development of Marcellus Shale gas wells in Pennsylvania. The fees will include a base permit fee of \$900 with an additional \$100 fee per 500 feet of well bore drilled past 1,500 feet.

We have determined this regulation is consistent with the statutory authority of the Board (58 P. S. §§ 601.201(d) and 601.604) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick; Nancy Sabol Frantz, Esq., by Phone; Karen A. Miller; John F. Mizner, Esq., by Phone

*Environmental Quality Board—
Safe Drinking Water; Public Notification
Revisions; Regulation No. 7-407 (#2637)*

On September 11, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code §§ 109.407—109.413, 109.415, 109.701, 109.702 and 109.707. The proposed regulation was published in the September 22, 2007 *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on February 10, 2009.

This regulation updates and enhances public notification procedures for public water systems for emergency situations that may adversely affect public health.

We have determined this regulation is consistent with the statutory authority of the Board (35 P. S. § 721.4) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick; Nancy Sabol Frantz, Esq., by Phone; Karen A. Miller; John F. Mizner, Esq., by Phone

*State Board of Nursing—Nursing
Education Programs Examination Pass
Rates; Regulation No. 16A-5123 (#2664)*

On January 9, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Nursing (Board). This rulemaking amends 49 Pa. Code Chapter 21. The proposed regulation was published in the January 19, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 6, 2009.

This regulation increases the required examination pass rate for nursing education programs (programs) for both registered nurses and practical nurses. It requires programs to raise this minimum pass rate to 70 percent in the first full academic year after publication of this regulation, and to 80 percent in the next academic year.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 212.1(k), 216.1, 659 and 667.6) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson;
George D. Bedwick; Nancy Sabol Frantz, Esq., by
Phone; Karen A. Miller; John F. Mizner, Esq., by Phone

*State Board of Veterinary Medicine—
Professional Conduct;
Regulation No. 16A-5721 (#2594)*

On February 21, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Veterinary Medicine. This rulemaking amends 49 Pa. Code §§ 31.1 and 31.21. The proposed regulation was published in the March 3, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 6, 2009.

This regulation revises and updates standards of conduct including the reporting of unprofessional conduct and medical incompetence, and adds prohibitions for “unprofessional conduct” such as verbal abuse and harassment of clients and employees. Even though this regulation is an improvement over the existing regulations, there is one remaining concern. The Board continues to use the term “should” because it asserts that rules of conduct can be both “aspirational goals and mandates.” However, the implementation and enforceability of “aspirational goals” remains both unclear and problematic. A regulation is an agency’s exercise of delegated authority to create a mandatory standard of conduct or behavior. Rules must establish binding legal requirements. See *Chimenti v. Dept. of Corrections*, 720 A.2d 205 (Pa. Cmwlth. 1998), *aff’d* 740 A.2d 1139 (Pa. 1998). In contrast, the word “should” implies that compliance with a rule or standard may be optional. We urge the Board to revisit this issue in future rulemakings, eliminate the word “should” and promulgate binding and enforceable standards in its regulations.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 485.5(1) and (2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Disapproval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson;
George Bedwick; Nancy Sabol Frantz, Esq.; Karen A.
Miller

*Pennsylvania Gaming Control Board—
Smoking in Licensed Facilities;
Regulation No. 125-92 (#2731)*

On October 28, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 441a and 467a. The proposed regulation was published in the November 8, 2008 *Pennsylvania Bulletin* with a

30-day public comment period. The final-form regulation was submitted to the Commission on February 11, 2009.

This final-form regulation is the Board’s attempt to implement the Clean Indoor Air Act of 2008, 35 P. S. § 637.1 *et seq.* (Act) as it relates to smoking in licensed facilities. The Board has cited Sections 3, 4 and 6 of the Act (35 P. S. §§ 637.3, 637.4 and 637.6) and § 1202(b)(30) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. § 1202(b)(30)) (Gaming Act) as its statutory authority for the regulation.

Section 5.2 of the Regulatory Review Act requires the following of this Commission:

“In determining whether a proposed, final-form, final-omitted or existing regulation is in the public interest, the commission shall, first and foremost, determine whether the agency has the statutory authority to promulgate the regulation and whether the regulation conforms to the intention of the General Assembly in the enactment of the statute upon which the regulation is based.” (71 P. S. § 745.5(b)(a))

We find that the Board does not have the statutory authority to promulgate this regulation and that the regulation is not consistent with the intention of the General Assembly for the following reasons.

First, Section 2 of the Act (35 P. S. § 637.2) defines “Department” as the “The Department of Health of the Commonwealth” and Section 10 (a) of the Act (35 P. S. § 637.10(a)) states the following: “The department shall promulgate regulations to implement this act.” We believe that this language is clear and the intent of the General Assembly was for the Department of Health (Department) to write the rules to implement the Act. We note that where the legislature intends to authorize the promulgation of regulations, it has done so explicitly. *Main Line Health, Inc. v. CAT Fund*, 738 A.2d 66 (Pa. Cmwlth. 1999), *affirmed* 77 A.2d 1048 (Pa. 2001).

In the Preamble to the final-form regulation, the Board contends that if the General Assembly had intended to make the Department the only agency that could promulgate regulations to implement the Act, it would have written Section 10(a) differently. The Board notes that nowhere in Section 10(a) does it state that the Department has “sole” or “exclusive” authority to promulgate regulations to implement the Act. We find this rationale to be flawed. Under Section 1921(b) of Pennsylvania’s Statutory Construction Act (SCA), “[w]hen the words of a statute are clear and free from ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” (1 Pa.C.S.A. § 1921(b)) We believe a plain reading of Section 10(a) is perfectly clear. The intent of the General Assembly was for the Department to promulgate regulations to implement the Act. The fact that the Department has not promulgated regulations does not transfer that authority to another agency.

If a piece of legislation is not explicit, the SCA provides guidance on how the intent of the General Assembly could be ascertained. Section 1921(c) of the SCA states that the intention of the General Assembly could be ascertained by examining, among other things, contemporaneous legislative histories. As noted above, we do not believe Section 10(a) of the Act is ambiguous. However, a review of the legislative history surrounding the passage of the Act sheds light on what the intent of the General Assembly was, as it pertains to promulgating regulations, when the Act was debated. The following legislative journals from the 2007 Regular Session of the Pennsylvania General Assembly indicate that the members recognized that

licensed facilities, taverns and various other facilities would be affected, but that the Department of Health would be charged with promulgating regulations to implement the Act:

- Senate Journal—June 26, 2007 (page 790)
- House Journal—July 13, 2007 (pages 1910 and 1918)
- House Journal—July 15, 2007 (page 1989)
- House Journal—July 16, 2007 (pages 2060, 2075 and 2077).

When the Commission was considering this regulation at its public meeting on March 19th, staff from the Board indicated that a letter submitted by the Department of Health supporting the rulemaking was further indication that the Board has the authority to promulgate the regulation. In that letter, the Department cited *Prudential Property and Casualty Insurance Company v. Muir*, 513 A.2d 1129 (Pa. Cmwlth. 1986), *appeal denied*, 522 A.2d 1106 (1987) as evidence that the Board has implied power to adopt regulations with respect to matters within its province. We note that this case was overturned by the Pennsylvania Supreme Court in *Insurance Federation of Pennsylvania, Inc. v. Commonwealth, Department of Insurance*, 585 Pa. 630, 889 A.2d 550 (Pa. 2005).

Second, as noted above, the Board has cited Sections 3, 4 and 6 of the Act as part of its statutory authority to promulgate this regulation. Section 3(b)(11) provides an exception to the smoking ban for licensed facilities. It requires the Board to verify data provided by the Department of Revenue to licensed facilities. Section 4 pertains to signage requirements related to the smoking ban. Section 6 pertains to violations of the Act. While we acknowledge that Sections 3 and 6 would require the Board to take certain actions, they do not provide the authority to promulgate regulations pertaining to the Act. Indeed, various state licensing agencies are required to perform certain duties under the Act. Allowing each of those agencies to promulgate regulations to implement the Act would create a confusing regulatory environment for the regulated community. In regard to Section 4, we find that the Board has failed to explain why this section provides the authority to promulgate regulations.

We are also concerned with §§ 441a.25(d) and (e) of the regulation. These subsections attempt to implement Section (b)(11) of the Act and require licensed entities to obtain approval of the Board's executive director before an expansion of the smoking area of a gaming floor can occur. Section (b)(11) only gives the Board the authority to verify certain data provided by the Department of Revenue to a licensed entity. It does not provide the Board the authority to require licensed entities to obtain any approval before an expansion of the smoking area can occur.

Finally, the Board has cited its general rulemaking authority in the Gaming Act as part of its statutory authority for this regulation. Again, we disagree. Section 1202(b)(30) of the Gaming Act provides the Board with the authority to "promulgate rules and regulations necessary for the administration of this part." The "part" being referred to is Part II, pertaining to "Gaming" of Title 4 of Pennsylvania Consolidated Statutes, which refers to "Amusements." The authority to promulgate regulations to administer gaming does not extend to the authority to promulgate regulations to implement the Act.

We have determined this regulation is not consistent with the statutory authority of the Pennsylvania Gaming

Control Board and the intention of the General Assembly. Therefore, based upon the information presented to us and after considering the criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

Disapproval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson;
George D. Bedwick; Nancy Sabol Frantz, Esq.; Karen A. Miller

*Pennsylvania Gaming Control Board—
Slot Machine Licensing;
Regulation No. 125-86 (#2695)*

On May 1, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code § 441a.7. The proposed regulation was published in the May 17, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 11, 2009.

This final-form regulation expands the provisions related to licensing hearings for potential slot machine licensees. The Board may request, on the record at the licensing hearing, that a license applicant respond to questions that relate to confidential information. The applicant will have the option of waiving the right to confidentiality and answering the questions at the public hearing or requesting that the matter be heard in executive session.

In order to determine whether a regulation is in the public interest, the Regulatory Review Act requires this Commission to consider, among other things, the "reasonableness of requirements, implementation procedures . . ." 71 P. S. § 745.5b (b)(3)(iv). This regulation does not preserve a license applicant's right under the Pennsylvania Racehorse Development and Gaming Act (Act) to protect certain information as confidential. By allowing questions to be raised at the public hearing relating to confidential information, the information itself may be inadvertently disclosed. In addition, by allowing an applicant to simply "request" that confidential information be heard in executive session, the Board can potentially deny the request, therefore further running the risk that protected information is revealed. Finally, without understanding the content of the questions before the licensing hearing, an applicant may not have the ability to make an informed decision regarding the waiver of his/her right to confidentiality imposed by the Act.

For these reasons, we question the reasonableness of the rulemaking, as well as the clarity of implementation procedures relating to both the applicant's waiver of his/her right to confidentiality, as well as the process for requesting an executive session. Therefore, based upon the information presented to us and after considering the criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

Disapproval Order

Public Meeting held
March 19, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson;
George D. Bedwick; Nancy Sabol Frantz, Esq.; Karen A. Miller

*Pennsylvania Gaming Control Board—
Rules of Practice and Procedures;
Regulation No. 125-93 (#2723)*

On September 24, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 401a, 403a, 405a, 491a, 493a, 494a, 495a, 497a, 499a and 511a. The proposed regulation was published in the October 4, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 11, 2009.

This final-form regulation amends existing regulations relating to practice and procedure before the Board. In the Regulatory Analysis Form accompanying the regulation, the Board explained it intended this rulemaking to improve clarity, conform to current practice and simplify some existing requirements. A primary change to existing regulations is the Board's proposal to shift the trigger date for responsive filings from the date of service to the date of filing.

The Regulatory Review Act requires this Commission to determine whether a final-form regulation is in the public interest. 71 P. S. § 745.5b(a). To make that determination, we must weigh, among other factors, "[t]he clarity, feasibility and reasonableness of the regulation . . . by considering the following: (i) Possible conflict with or duplication of statutes or existing regulations. (ii) Clarity and lack of ambiguity. (iii) Need for the regulation." 71 P. S. § 745.5b(b)(3). We question the reasonableness of and need for this regulation for two reasons.

First, the regulation appears to serve the interests of the Board at the expense of the regulated community. Under existing Board regulations, timelines are calculated from the time of service. 58 Pa. Code §§ 493a.5 (Answers to complaints, petitions, motions and other filings requiring a response); 493a.10 (Motions for summary judgment and judgment on the pleadings); 493a.12 (Intervention); and 494a.6 (Reopening of record). When service is accomplished by post, service occurs at the time of mailing. 1 Pa. Code 33.34. According to the Board, calculating timelines from the time of filing will protect the most frequent responding party, the Board's own Office of Enforcement Counsel, from diminished response periods due to postal delays. However, the Board agrees that the regulation fails to protect responding parties other than the Office of Enforcement Counsel from the consequences of the similar delays. Therefore, we conclude this regulation unreasonably disadvantages the regulated community.

Second, we believe the regulation is likely to create confusion amongst the regulated community. Section 491a.1(c) states, "[p]leadings or other documents that require a filing fee will not be deemed filed until the Board receives the required fee." A scheme that calculates timelines from the time of filing, which is not deemed to have occurred until the Board is paid, strips responding parties (other than the Board's Office of Enforcement Counsel) of the consistency and predictability of process

necessary for fair and transparent administrative proceedings. Additionally, by the Board's own admission, no other court or administrative forum in this Commonwealth calculates timelines from the time of filing, rather than the time of service. Therefore, we conclude that portions of this regulation are both unnecessary and unduly confusing.

Therefore, based upon the information presented to us and after considering the criteria of the Regulatory Review Act discussed above, we find that promulgation of this regulation is not in the public interest.

By Order of the Commission:

This regulation is disapproved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-648. Filed for public inspection April 3, 2009, 9:00 a.m.]

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. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
125-96	Pennsylvania Gaming Control Board Revised Procedures	2/23/09	3/25/09
	39 Pa.B. 418 (January 24, 2009)		

**Pennsylvania Gaming Control Board
Regulation #125-96 (IRRC #2739)**

Revised Procedures

March 25, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the January 24, 2009 *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 Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. General.—Statutory Authority.

Paragraph 11 of the Regulatory Analysis Form requires promulgating agencies to state the statutory authority for the regulation. In this case, the Board has cited seven sections of the Pennsylvania Race Horse Development

and Gaming Act (Act), only one of which specifically addresses the regulatory authority of the Board. In the final-form regulation, the Board must explicitly explain how these provisions relate to its exercise of rulemaking authority.

2. Section 403a.6.—Delegation of powers.—Need.

The proposed rulemaking adds “orders” to subsections (b), (c) and (d) as one of the Board’s methods to delegate its authority. The Preamble indicates that the Board has used orders “in a few cases.” However, the regulation does not explain why this addition is necessary, when the regulation already includes “regulations” and “resolutions” as existing forms of delegation. The final-form regulation should clarify what circumstances would prompt this use.

3. Section 465a.2.—Internal control systems and audit protocols.—Statutory authority; Need; Implementation procedures; Clarity.

This section explains various procedures for internal control systems and audit protocols. We have three concerns related to proposed revisions to subsection (f).

First, does the Act provide the Executive Director with the authority to approve and disapprove changes to internal control systems and audit protocols? The final-form regulation should explain the Board’s statutory authority for requiring such duties be imposed on this position. The same concern applies to the proposed changes to subsection (i), which would grant the Executive Director the authority to approve tolled changes or amendments to systems and protocols.

Second, the proposed subsection deletes the requirement that requests for changes or amendments also be submitted to the Department of Revenue (Revenue). Why is the Board removing Revenue from this process?

Finally, what is the difference between an Amendment and Waiver Request Form, as the existing regulation states, versus the change in the proposed regulation to what is now called the Internal Controls Amendment Request Form? The Preamble to the final-form regulation should explain this revision.

4. Section 465a.6.—Retention, storage and destruction of books, records and documents.—Economic impact; Implementation procedures; Clarity.

Subsections (b)(2) and (d)(1)—(2) have been revised to require that the location of documents must be secured and that the location must contain a fire suppression system. A commentator is concerned about the economic impact of these provisions since the commentator has both a temporary facility and a permanent facility currently under construction. Would the proposed regulation require installation of such systems in both facilities? Has the Board considered the economic impact such installations will have on compliance costs? Would the Board permit the waiver of such requirements in any circumstances?

5. Section 465a.12.—Access badges.—Economic impact; Reasonableness; Need; Implementation procedures; Clarity.

This section discusses the use of access badges by the employees of a licensed facility. We raise three issues.

First, two public commentators expressed concern about Subsections (b), (c) and (d). These subsections grant certain duties and responsibilities specifically to the licensee’s human resources and security departments. These commentators suggest that the licensee should be

permitted to decide what department within their organizations should assume these responsibilities. What is the Board’s intent behind making these particular departments solely responsible? Also, why does subsection (b) grant authority to the human resources *department*, while subsections (c) and (d) grant authority to the *director* of security or a *designee*? (Emphasis added.) Why is authority granted to a department in one case and an individual person in another? To maximize flexibility to licensees, the final-form regulation could be revised to grant the appropriate authority to the director or other individual designated in the slot machine licensee’s internal controls.

Second, in subsection (c), what would be the “functional equivalent” for an “electronic database system”?

Finally, subsection (e) requires licensees to have “read-only access” on their electronic database systems. A commentator is concerned about costs, since this requirement will necessitate installing such a tool in their temporary facility’s system. Has the Board considered these types of compliance costs?

6. Section 465a.28.—Merchandise jackpots.—Statutory authority.

In subsection (a)(2), are there provisions in the Act that provide the Executive Director with the authority to approve the specific offer of the merchandise jackpot? The final-form regulation should explain the Board’s statutory authority for requiring such duties be imposed on this position.

7. Section 465a.30.—Waiver of requirements.—Fiscal impact; Reasonableness; Need.

The proposed regulation revises this section and Section 465a.2 to eliminate the Amendment and Waiver Request Form. Under the proposed regulation, all regulatory waivers require a formal petition be filed with the Board. According to a commentator, this formal petition would: “[c]ause an unjustified negative fiscal impact by increasing (i) the licensees’ costs associated with filing internal control revisions and (ii) the Board’s internal costs associated with administering and reviewing various regulatory waiver petitions.” What is the Board’s reason for eliminating the Amendment and Waiver Request Form, and in so doing, has the Board considered these types of concerns? Has the Board considered providing a list of examples where the Board would agree to a waiver?

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-649. Filed for public inspection April 3, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws; Joseph S. Schwalm; Doc. No. 08-576-00119

Notice is hereby given of the Order to Show Cause issued on March 23, 2009, by the Deputy Insurance Commissioner in the previously referenced matter. Violation of the following is alleged: sections 611-A(8) and (20) of The Insurance Department Act of 1921 (40 P. S. § 310.11).

The respondent was ordered to file a written answer to the Order to Show Cause within 20 days. If the respon-

dent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508, (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the previous-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing contact Donna Fleischauer, Disability Services Coordinator at (717) 787-4298.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-650. Filed for public inspection April 3, 2009, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board Lease will expire:

Bucks County, Wine & Spirits Store #0926 (Relocation), Doylestown, PA

Lease expiration date: October 31, 2010

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 12,000 net useable square feet of new or existing retail commercial space in a 2 mile radius of the Doylestown Shopping Center, Doylestown, PA.

Proposals due: April 17, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

The Liquor Control Board seeks the following new site:

Bucks County, Wine & Spirits Store #0934 (New Store), Washington Crossing, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 to 4,000 net useable square feet of new or existing retail commercial space in a 3 mile radius of the intersection of Washington Crossing and Stoopville Road, Washington Crossing, PA.

Proposals due: April 17, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

Philadelphia County, Wine & Spirits Store #5150, (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 to 15,000 net useable square

feet of new or existing retail commercial space in a 1/4 mile radius of 4th and Race Streets, Philadelphia, PA.

Proposals due: April 17, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, (215) 482-9670

PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 09-651. Filed for public inspection April 3, 2009, 9:00 a.m.]

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

Guidelines and Technology Standards for the Collection and Transmission of Booking Center Captured Offenders' Identification Information

Introduction

The Pennsylvania Commission on Crime and Delinquency (PCCD) and its partners have developed this set of guidelines and technology standards to facilitate achieving the goals of Act 81 of 2008 and the Federal Walsh Act requirements. It has always been the desire of PCCD and its partners that, over time, ultimately, every Pennsylvania criminal arrest is digitally recorded with fingerprints, hand impressions, photographs, images of scars, marks, and tattoos, arrest demographics, and offenses charged; and then successfully submitted to the computerized central repositories at the Pennsylvania State Police. It is also desired that any other submissions (applicant, Megan's Law registrations, etc.) to those repositories also meet standards for data quality. Further implementation of these guidelines and technology standards will help the Commonwealth to move towards achieving these goals and desires.

DEFINITIONS

Booking Center: A facility utilized for the processing and identification of individuals arrested, charged or accused of a crime (part of the Booking process).

Booking Center Operating Agency: A criminal justice agency operating or with management control authority over the Booking Center System.

Booking Center System: The collection of devices (Live Scan Finger and Palm Print Capture Device, CPIN Digital Photo Image Capture Device and CLEAN Response Device) and shared components organized to accomplish the criminal booking process for an individual arrested, charged or accused of a crime.

CCHRI: Computerized Criminal History Record Information, Computerized information collected by criminal justice agencies concerning individuals, and arising from the initiation of a criminal proceeding, consisting of identifiable descriptions, dates and notations of arrests, indictments, information or other formal criminal charges and any dispositions arising there from.

CLEAN: Commonwealth Law Enforcement Assistance Network, is provided and administered by the Pennsylvania

nia State Police, is used by the Commonwealth's criminal justice agencies to access driver license and motor vehicle information, state criminal history record information maintained in the Pennsylvania State Police Central Repository, the Commonwealth's central registry for Protection from Abuse orders, "hot" (stolen and wanted) files, law enforcement messaging capabilities, and a host of other services.

CPIN: Commonwealth Photo Imaging Network, a digital photo technology network throughout the state that captures photographs and allows the images to be searched and viewed for investigative and other purposes.

Criminal Justice Agency: As defined by FBI CJIS and by the PSP, the CSA in Pennsylvania.

CSA: CJIS Systems Agency, a criminal justice agency that has overall responsibility for the administration and usage of the FBI CJIS Division programs within a state, district, territory, or foreign country

FBI: Federal Bureau of Investigation.

FBI CJIS: Criminal Justice Information Services Division (CJIS), serves as the focal point and central repository for criminal justice information services in the FBI.

Live Scan: Both the technique and the technology used by law enforcement agencies and private facilities to capture fingerprints and palm prints electronically, without the need for the more traditional method of ink and paper.

Local Booking Center System Administrator: A person designated by the Booking Center Operating Agency to be the primary contact between the Booking Center Operating Agency and the Vendor.

LTW: Local Technology Workgroup, a PCCD sanctioned workgroup that has provided oversight and guidance to previous PCCD funded offender identification and central booking projects. This workgroup includes membership from all Booking Center stakeholders.

NIST: National Institute of Standards and Technology.

ORI: Originating Agency Identifier is a code assigned to designate the administration or organization originating a transaction was developed by the FBI CJIS National Crime Information Center (NCIC).

PSP: Pennsylvania State Police.

State Law Enforcement Agency: The state law enforcement agency to whom the Booking Center Operating Agency will be transmitting finger and palm print records, the PSP in Pennsylvania.

Vendor: The private company that installs and/or supports the Booking Center System which has been properly vetted through the personnel requirements of PSP CLEAN Administrative Regulations.

Live Scan Finger and Palm Print Capture Device Standard Specification

PURPOSE

The purpose of this technology standard specification is to effect implementation, within all Booking Centers, a standard Live Scan fingerprint and palm print capture and transmission device (Live Scan Device) that will improve the efficiency and speed for finger and palm printing arrestees and lower rejection rates by the AFIS authority, the Pennsylvania State Police (PSP). This specification is for all Live Scan equipment capable of scanning, capturing and electronically transmitting fingerprints and palms in the current NIST/FBI standard

format to the state Automated Fingerprint Identification System (AFIS) located at the PSP.

1.0 LIVE SCAN DEVICE PERFORMANCE SPECIFICATION

1. The Live Scan Devices must submit records to the State Law Enforcement Agency that adhere to both PSP technical and procedural specifications (see item #4 below) along with meeting current NIST/FBI standard format.

2. All Live Scan Device captured data must be formatted for transmission to the specifications of PSP's AFIS and CCHRI Systems (40+ card printout formats) specifications (see item #4 below)

3. The fingerprint/palm scanner must be certified under NIST Image Quality Standards (IQS) Appendix F, available at: <http://www.fbi.gov/hq/cjisd/iafis/efts70/appendixf.htm>

4. Relevant PSP Live Scan Device specifications includes, but is not limited to:

a. Electronic Fingerprint Submissions for Criminal Processing Technical Specifications Version 1.0—available here:

Director, Bureau of Information Technology
Pennsylvania State Police
1st Floor, Department Headquarters
1800 Elmerton Avenue
Harrisburg, PA 17110

b. Guidelines for Mandatory Fingerprinting and Preparation of Pennsylvania State Police Fingerprint Cards, available here:

Director, Criminal Records and Identification Division
Pennsylvania State Police
Central Repository—2nd Floor
Department Headquarters
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110-9758

5. The Live Scan Device must be tested and approved by the State Law Enforcement Agency and be reviewed and approved by the Pennsylvania Commission on Crime and Delinquency Local Technology Workgroup (LTW).

6. The Live Scan Device must offer an eXtensible Markup Language (XML) interface to the Booking Center Operating Agency's existing demographic software.

7. The Live Scan Device must have an open standard data exchange inbound interface for offender identification information from the booking center located CPIN device.

8. The Live Scan Device must have quality control software capable of alerting the operator through the use of displayed warnings of image problems; i.e. finger out of sequence, images too dark or too light, etc. All prints captured must pass a minimum pass/fail rejection level established by the State Law Enforcement Agency and the LTW.

9. In order to eliminate lost records, the Live Scan Device must provide guaranteed delivery of the completed record to any and all destinations and provide two-way communications with records management systems and AFIS.

10. The Live Scan Device must support a local printer for output of hard copy cards in the various existing card formats without the requirement of a separate print server. The operator must have the option of selecting the appropriate card type for local printing.

11. The Live Scan Device's palm capture must occur in a continuous roll from the carpal tunnel to the tips of the fingers, without the stitching/patching of images segments along with capture of the writers' edge of both hands must also be accomplished.

12. The Live Scan Device must be able to store all Pennsylvania Statutes, criminal offenses and an ORI table.

13. The Live Scan Device must provide images free from residue left from a previous capture of impressions.

2.0 TECHNICAL SPECIFICATION

The Live Scan Device will include the fingerprint and palm capture equipment components along with the necessary fingerprint and palm acquisition software. The control computer, display, keyboard/mouse, printer and cabinet components (found in Booking Center System Shared Components section) may be shared with the Booking Center System or be dedicated to the Live Scan Device.

Equipment

a. Fingerprint Capture Scanner Component

1. The scanner must capture prints with a minimum of 500 dots per inch with capability to capture up to 1000 dots per inch.

2. The fingerprint capture component and software must be self-calibrating.

b. Palmprint Capture Scanner Component

1. The scanner must capture prints with a minimum of 500 dots per inch with capability to capture up to 1000 dots per inch.

2. The palmprint capture component and software must be self-calibrating.

Software

a. The user interface must be a graphical style interface.

b. The user interface must have live image preview during the capture of roll and slap impressions, displaying the finger/palm as it is being rolled.

c. A slap to roll fingerprint/palm comparison, or sequence check, of images must be done, ensuring that the proper sequence of the rolled impressions has been accomplished

d. The software must have the capability to search for existing records in local storage using demographic fields that are configured by the Local Booking Center System Administrator.

e. The software must alert the operator through the use of displayed warnings of image problems, i.e. finger/palm out of sequence, finger/palm quality control, etc.

f. The software must be capable of providing individual print cards.

g. The software must have built-in security procedures for user logon assuring that only certain users have specified capabilities.

h. The software must maintain a transaction queue of, at a minimum, the last 1000 fingerprint transactions and the last 500 palmprint transactions.

i. The software must analyze fingerprint/palm image quality so that poorly scanned fingers/palms can be rescanned immediately.

j. The software must be capable of receiving updates electronically as defined by the PSP.

CPIN Photo Image Capture Device Standard Specification

PURPOSE

The purpose of this specification is to effect implementation of a standard CPIN photo image capture and transmission device (CPIN Device) that will improve the efficiency and speed for photographing arrestees. This specification is for all CPIN Photo Image Capture devices capable of capturing and electronically transmitting mugshots and other digital media, in the current NIST/FBI standard format, to the CPIN central repository located at the PSP.

1.0 CPIN DEVICE PERFORMANCE SPECIFICATION

1. The CPIN Device must have an open standard data exchange inbound and outbound interface from a RMS and other services for offender identification information.

2. The CPIN Device must have an open standard data exchange outbound interface for offender identification information to a central or regional booking center located Live Scan Device.

3. The CPIN Device must be able to store all Pennsylvania Statutes, criminal offenses and an ORI table.

4. The CPIN Device must be compliant with ANSI/NIST BEST Practices for Mugshots, (http://www.itl.nist.gov/iaui/894.03/face/bpr_mug3.html)

5. The CPIN Device must capture all data in a format that meets the specifications of the PSP AFIS, CCHRI and Megan's Law Systems along with the JNET Facial Recognition System (JFRS) Contact the JNET Office for more information on JFRS.

6. The CPIN Device must be tested and approved by the State Law Enforcement Agency and be reviewed and approved by the Pennsylvania Commission on Crime and Delinquency Local Technology Workgroup (LTW).

2.0 TECHNICAL SPECIFICATION

The CPIN Device will include the Digital Image Capture equipment component along with the necessary mugshot acquisition software, and the Lighting, Background and Signature Pad equipment components. The control computer, display, keyboard/mouse, printer and cabinet components (found in Booking Center System Shared Components section) may be shared with the Booking Center System or be dedicated to the CPIN Device

Equipment

1. Digital Image Capture Component

a. Digital Camera + AC Adapter—minimum NIST resolution

b. Power Panner (Keyboard Control) + AC Adapter

c. Lighting Component

a. RF Switch Controller for Light System

c. Background Component

a. 18% Gray Backdrop per ANSI/NIST BEST Practices for Mugshots

d. Signature Pad Component

a. Sensor Type—Touchpad

b. Pen Type—Passive stylus

- c. Dimensions—6" × 3.8" × 0.70"
- d. Signing Area—4.4" × 1.3"
- e. Data conversion rate—377 points per second
- f. Resolution—410 true points per inch
- g. Authentication capability Forensic—quality .SIG data capable of examination and authentication

Software

- 1. The user interface must be a graphical interface.
- 2. Photo mugshot Retrieval Software.
- 3. Photo mugshot Capture Software.
- 4. JNET JFRS "facial plate" capture and interface
 - a. An application that uses face finding and centering technology for framing of the subject's head within the image capture process and provides image quality control to include a feature of acceptance or rejection of image based on pre-determined values for image quality and notifies the operator of the parameters that do not meet the minimum acceptable standard (e.g. Brightness/Darkness, head size, head tilt, etc). The program should reject a poor image three times before allowing an override of the process.
- 5. Local Arrest DB with CPIN Server Consolidation
- 6. Camera Keyboard Control Software
- 7. Keyboard Panner Control Software
- 8. Quality Assurance Software
- 9. Watch List and Watch List Notification Software (JNET)
- 10. Signature Capture Software
- 11. Live Scan Interface
- 12. Megan's Law Interface (PSP)
- 13. Clone Process for Updates and Expungements
- 14. Megan's Law Registry Module Software
- 15. CPIN Export Templates

CLEAN Response Device Standard Specification PURPOSE

A Central Booking System is required to have a CLEAN Response Device designated in a secure location that is capable of receiving criminal history record and Hotfiles (RAP Sheet, etc.) responses associated with the individual being arrested.

The Booking Center System CLEAN Response Device must comply with PSP CLEAN Regulations, available here:

Contact:
CJIS System Officer
CLEAN Administrative Section
PSP
1st Floor, DHQ
1800 Elmerton Ave.
Harrisburg, PA 17110
(717) 783-5575

Booking Center System Shared Components

1. The Booking Center System will include at least one Control Computer component that may be shareable between the Live Scan and CPIN Devices.

- a. Windows XP "style" or later operating system
- b. Mouse/keyboard

2. The Booking Center System will include at least one Uninterruptible Power Supply (UPS) component that may be shareable between the Live Scan and CPIN Devices.

a. Must be able to back up all devices for a minimum of one hour.

3. The Booking Center System will include at least one display component that may be shareable between the Live Scan and CPIN Devices.

- a. Must have a 17" (or larger) color display.

4. The Booking Center System will include at least one printer component that may be shareable between the Live Scan and CPIN Devices.

a. The booking center system must include a local printer with duplexer for output of hard copy cards in the existing double-sided criminal ten-print card format without the requirement of a print server.

b. The printer must have at least dual paper trays (one for criminal ten-print cards and one for applicant cards).

c. This printer may also be network connected if the configuration is first approved by the PSP.

Booking Center System Security

1. All Booking Center System device network communications, outside of the Booking Center System, must be logically separated from the Booking Center System and the configuration must be first approved by the PSP.

2. All Booking Center System software must comply with commonwealth enterprise network protection requirements as defined in the appropriate OA/OIT ITBs located here—<http://www.portal.state.pa.us/portal/server.pt?open=512&objID=416&&PageID=210791&level=3&css=L3&mode=2>

3. The Booking Center System devices and components must be housed in a "ruggedized" (i.e. all steel or equivalent construction enclosure with a scanner deck that is encased in a hardened metallic protective housing and cover) cabinet that is appropriate for the hostile environment of the various types of Booking Center facilities.

MICHAEL J. KANE, Esq.,
Executive Director

[Pa.B. Doc. No. 09-652. Filed for public inspection April 3, 2009, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Clean Water and Drinking Water State Revolving Fund Programs; Solicitation for Applications for Funding Under the Green Project Reserve of Federal Pub. L. No. 111-5, the "American Recovery and Reinvestment Act of 2009"

The "American Recovery and Reinvestment Act of 2009" (ARRA) provides funding for a wide variety of potential applicants to accomplish work in support of water quality and drinking water quality efforts. The objective of this solicitation is to encourage the submittal of applications for projects that "address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities." Applications must be submitted by May 18, 2009.

Detailed information will be available at www.recovery.pa.gov to assist potential applicants, including a link to the electronic application process.

Some organizations currently have applications pending at the Department of Environmental Protection (DEP) and/or at the Pennsylvania Infrastructure Investment Authority (PennVest) for water quality and drinking water financial support. The applicants who believe their project may qualify for additional funding should revise their application as necessary and submit the information following the instructions in www.recovery.pa.gov.

Applicants are advised that because a major purpose of the ARRA is to promote rapid economic recovery, the work must be ready to proceed upon award of the funding.

A. Eligible Projects (see Attachment A for additional detail):

As defined by United States Environmental Protection Agency (EPA) Guidance and in ARRA, the following categories of water quality work may be funded under *Clean Water and Drinking Water State Revolving Fund* authority:

1. Water Efficiency
2. Energy Efficiency
3. Green Infrastructure
4. Environmentally Innovative Projects

B. Eligible Applicants

Applicants for *Clean Water State Revolving Fund* projects must meet one of the following criteria or obtain a sponsor that meets one of the criteria:

- Watershed organizations recognized by DEP who promote local watershed conservation efforts (organization must be incorporated). For more information on incorporating, contact the Department of State, Corporation Bureau at (888) 659-9962.
- Counties and Municipalities (boroughs, townships, and the like);

- County Conservation Districts;
- Council of Governments; or
- Other authorized organizations involved in research, restoration, rehabilitation, planning, acquisition, development, education or other activities which further the protection, enhancement, conservation, preservation or enjoyment of the Commonwealth's environmental, conservation, recreation or similar resources.

The organization must be:

- A tax exempt corporation under section 501(c)(3) of the Internal Revenue Code and registered with the Pennsylvania Bureau of Charitable Organizations. For information on becoming 501(C)(3) and tax/other requirements associated with it, contact the Internal Revenue Service at (800) 829-3676 or go to their web site at <http://www.irs.gov/charities/nonprofits/index.html>. For information on registering with the Bureau of Charitable Organizations contact the Department of State, Bureau of Charitable Organizations, 124 Pine Street, 3rd Floor, Harrisburg, PA 17101, (800) 732-0999.

- An educational institution involved in these authorized activities; or

- A municipal authority.

- Applicants must own or operate the facility to be constructed. Operations may be contracted to others.

Applicants for *Drinking Water State Revolving Fund* projects must be publicly or privately-owned Public Water Systems.

- Applicants must own or operate the facility to be constructed. Operations may be contracted to others.

Questions on the above can be directed to Lee Murphy at (717) 772-4055 or c-lemurphy@state.pa.us.

A meeting will be held to assist potential applicants on April 14, 2009 at 1 p.m. in the Second Floor Auditorium of the Rachael Carson State Office Building, 400 Market Street, Harrisburg, PA. Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Lee Murphy as noted previously, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Vice Chair

Attachment A

As defined by U. S. Environmental Protection Agency (EPA) Guidance and in ARRA, the following categories of water quality work may be funded under *Clean Water State Revolving Fund* authority:

1. *Water Efficiency*: Water efficiency is defined as the use of improved technologies and practices to deliver equal or better services with less water.

Examples of projects include, but are not limited to:

- a. Installation of water meters.
- b. Retrofit or replacement of water using fixtures, fittings, equipment or appliances.
- c. Efficient landscape or irrigation equipment.
- d. Systems to recycle gray water.
- e. Reclamation, recycling, and reuse of existing rainwater, condensate, degraded water, stormwater and/or wastewater streams.
- f. Collection system leak detection equipment.

2. *Energy Efficiency*: Energy efficiency is defined as the use of improved technologies and practices to reduce the energy consumption of water quality projects, including projects to reduce energy consumption or produce clean energy used by a treatment works defined in section 212 of the Clean Water Act.

Examples of projects include, but are not limited to:

- a. Energy efficient retrofits and upgrades to pumps and treatment processes.
- b. Leak detection equipment for treatment works.
- c. Production of clean power for use onsite (wind, solar, hydroelectric, geothermal, biogas powered combined heat and power).

3. *Green Infrastructure*: Green infrastructure is defined as a wide array of practices at multiple scales that manage and treat stormwater and that maintain and restore natural hydrology by infiltrating, evapotranspiring and capturing and using stormwater. On a regional scale, green infrastructure is the preservation and restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall perviousness in a watershed. On the local scale green infrastructure consists of site -and neighborhood-specific practices, such as bioretention, trees, green roofs, porous pavements and cisterns.

Examples of projects include, but are not limited to:

- a. Implementation of green street designs (combinations of green infrastructure practices in transportation rights-of-ways) for either new development, redevelopment or retrofits.
- b. Implementation of water harvesting and reuse programs or projects.
- c. Comprehensive retrofit programs designed to keep wet weather out of all types of sewer systems using green infrastructure technologies and approaches such as implementation of wet weather management systems for parking areas which include but are not limited to: porous pavement, bioretention, sustainable landscape, green roofs and other practices that mimic natural hydrology and reduce effective imperviousness at one or more scales, including constructed wetlands.

d. Hydromodification to establish or restore riparian buffers, floodplains, wetlands and other natural features.

e. Downspout disconnection to remove stormwater from combined sewers and storm sewers.

f. Implementation of comprehensive urban canopy or urban forestry programs, including expansion of vegetation box sizes to manage additional stormwater and enhance vegetation health.

4. *Environmentally Innovative Projects*: Environmentally innovative projects are projects that demonstrate new and/or innovative approaches to managing water resources in a more sustainable way, including projects that achieve pollution prevention or pollutant removal with reduced costs and projects that foster adaptation of water protection programs and practices to mitigate climate change.

Examples of projects include, but are not limited to:

- a. Implementation of green infrastructure and/or Low Impact Development projects.
- b. Wetland restoration and constructed wetlands.

c. Decentralized wastewater treatment solutions to existing deficient or failing on site systems.

d. Water reuse projects that reduce energy consumption, recharge aquifers or reduce water withdrawals and treatment costs.

e. The water quality portion of projects that employ development and redevelopment practices that preserve or restore site hydrologic processes through sustainable landscaping and site design.

f. Projects that use water balance approaches (water budgets) at the project, local or State level that preserve site, local or regional hydrology. Such an effort could showcase the ability to plan and manage in a concerted manner, surface and groundwater withdrawals, stream flow (aquatic species protection), wetland and floodplain storage, groundwater recharge and regional or local reuse and harvesting strategies using a quantified methodology.

g. Projects that facilitate adaptation of clean water programs and practices that address climate change.

h. The water quality portion of projects that demonstrate the energy savings and greenhouse gas reduction benefits of sustainable site design practices and the use of green infrastructure to control stormwater runoff.

i. Projects that incorporate differential uses of water based on the level of treatment to reduce the costs of treating all water to potable water standards.

j. Projects that identify and quantify the benefits of using integrated water resources management approaches at the project, local or State level that preserve site, local or regional hydrology.

As defined by EPA Guidance and in ARRA, the following categories of work may be funded under *Drinking Water State Revolving Fund* (DWSRF) authority:

EPA anticipates that "water or energy efficiency" projects will likely be the principal focus of the Green Project Reserve under the DWSRF. However, there may also be projects, or components of projects, that qualify for consideration under the Green Project Reserve in the DWSRF on the basis of application of green infrastructure or being environmentally innovative.

1. *Water Efficiency*: Water efficiency is the use of improved technologies and practices to deliver equal or better services with less water.

Examples of projects include, but are not limited to:

- a. Installation of water meters or automated meter reading systems.
- b. Retrofit or replacement of water using fixtures, fittings, equipment or appliances (can include rebate programs).
- c. Distribution system leak detection equipment.
- d. Replacement or rehabilitation of distribution lines (note that eligibility will require documentation of exceptional technologies and practices to qualify).

2. *Energy Efficiency*: Energy efficiency includes capital projects that reduce the energy consumption of eligible drinking water infrastructure projects.

Examples of projects include, but are not limited to:

- a. Energy efficient retrofits and upgrades to pumps and treatment processes (note that eligibility will require documentation of exceptional technologies and practices to qualify).
- b. Leak detection equipment.

c. Production of clean power for use onsite (wind, solar, hydroelectric, geothermal, biogas powered combined heat and power).

d. Replacement or rehabilitation of distribution lines (note that eligibility will require documentation of exceptional technologies and practices to qualify).

3. *Green Infrastructure*: Green Infrastructure includes a wide array of practices that manage wet weather to maintain and restore natural hydrology by infiltrating, evapotranspiring and capturing and using stormwater. In the context of the DWSRF, green infrastructure consists of site-specific practices, such as green roofs and porous pavement at drinking water utility facilities. In addition to managing rainfall, these green infrastructure technologies can simultaneously provide other benefits such as reducing energy demands.

Examples of projects include, but are not limited to:

a. Implementation of wet weather management systems for utility buildings and parking areas which include: the incremental cost of porous pavement, bioretention, trees, green roofs and other practices that mimic natural hydrology and reduce effective imperviousness.

4. *Environmentally Innovative Projects*: Within the context of the DWSRF program, "environmentally innovative projects" would include those that are:

(1) consistent with the underlying project eligibilities of the DWSRF program;

(2) consistent with the timelines and objectives of the ARRA; and

(3) demonstrate new and/or innovative approaches to delivering service and/or managing water resources in a more sustainable way, including projects that achieve public health protection and environmental protection objectives at the least life-cycle costs.

Examples of projects include, but are not limited to:

a. Projects, or components of projects, that enable the utility to adapt to the impacts of global climate change.

b. Projects, or components of projects, consistent with a "Total Water Management" planning framework; or other planning framework within which project life cycle costs (including infrastructure, energy consumption and other operational costs) are minimized.

[Pa.B. Doc. No. 09-653. Filed for public inspection April 3, 2009, 9:00 a.m.]

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

Hearings Scheduled

The hearings have been scheduled, as authorized by 53 Pa.C.S. §§ 881.101—888.413 (relating to Pennsylvania Municipal Retirement Board), in connection with the Pennsylvania Municipal Retirement Board's (Board) denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Pennsylvania Municipal Retirement Board, 1010 North 7th Street, Suite 301, Eastgate Center, Harrisburg, PA 17102.

May 18, 2009	Washington Township Municipal Authority (Pension Benefit)	10 a.m.
	Judith A. Arrow (Pension Benefit)	1 p.m.
	Laura L. Snyder (Pension Benefit)	1 p.m.
June 19, 2009	Michael T. Gresseum (Pension Benefit)	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 should contact Tina Eisenhart at (717) 787-2065 to discuss how the Board 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 16 Pa. Code § 91.1 (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.

JAMES B. ALLEN, Secretary

[Pa.B. Doc. No. 09-654. Filed for public inspection April 3, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Default Orders

Public Meeting held March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Able Co., Inc. (2006 Annual Rpt); Doc. No. C-2008-2036244; A-120025

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Able Co., Inc. (the Respondent), a gas utility certificated at A-120025. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on June 12, 2008. To date, more

than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Able Co., Inc. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Airnex Communications, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036566; A-310794

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Airnex Communications, Inc. (the Respondent), a reseller of interexchange toll services carrier certificated at A-310794. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal return receipt, the March 26, 2008 Complaint was served on the company and signed indicating receipt but did not indicate a date. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Airnex Communications Inc.'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 Respondent seeks relief from this Default Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Airnex Communications, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Airnex Communications, Inc. at A-310794 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. All Seasons Water Co. (2006 Annual Rpt); Doc. No. C-2008-2036688; A-210059

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against All Seasons Water Co. (the Respondent), a water utility certificated at A-210059. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that

the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 21, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. All Seasons Water Co. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Barkeyville Gas Co. (2006 Annual Rpt); Doc. No. C-2008-2036245; A-120010

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Barkeyville Gas Co. (the Respondent), a gas utility certificated at A-120010. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 12, 2008. To date, more

than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Barkeyville Gas Co. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Bradford Heights Woodland Prop. (2006 Annual Rpt); Doc. No. C-2008-2036696; A-230099

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Bradford Heights Woodland Prop. (the Respondent), a wastewater utility certificated at A-230099. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 8, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Bradford Heights Woodland Prop. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Buehner-Fry, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036567; A-310504

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Buehner-Fry, Inc. (the Respondent), a reseller of interexchange toll services carrier certificated at A-310504. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on April 28, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Buehner-Fry, Inc.'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 Respondent seeks relief from this Default Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Buehner-Fry, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Buehner-Fry, Inc. at A-310504 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Comtech 21 (2006 TRS & Annual Rpts); Doc. No. C-2008-2036557; A-310971F0002

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Comtech 21 (the Respondent), a competitive local exchange carrier certificated at A-310971F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report, Telecommunications Relay Service ("TRS") Annual Access Line Summary Report and Telecommunications Relay Service Annual Tracking Report (hereinafter collectively referred to as "Annual Report" and "TRS Reports") were due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report and TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report and TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was served on May 2, 2008. To date, more

than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report and TRS Reports have not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report and TRS Reports, we conclude that revocation of Comtech 21'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Comtech 21 immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Comtech 21 at A-310971F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section and the TRS Reports Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Conneaut Lake Park, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036689; A-210096

Default Order

By The Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Conneaut Lake Park, Inc. (the Respondent), a water utility certificated at A-210096. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written

notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was unclaimed. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Conneaut Lake Park, Inc. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Corecomm Pennsylvania, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036551; A-310801F0002

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Corecomm Pennsylvania, Inc. (the Respondent), a competitive local exchange carrier certificated at A-310801F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 2, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Corecomm Pennsylvania Inc.'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 Respondent seeks relief from this Default Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Corecomm Pennsylvania, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Corecomm Pennsylvania Inc. at A-310801F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission, Law Bureau
Prosecutory Staff v. Corecomm Pennsylvania (2006
Annual Rpt); Doc. No. C-2008-2036572; A-310801*

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Corecomm Pennsylvania (the Respondent), a interexchange intrastate carrier certificated at A-310801. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 5, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Corecomm Pennsylvania'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 Respondent seeks relief from this Default Order; *Therefore*,

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Corecomm Pennsylvania immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Corecomm Pennsylvania at A-310801 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Dynalink Communications, Inc. (2006 TRS Rpts); Doc. No. C-2008-2037622; A-311424F0002

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Dynalink Communications, Inc. (the Respondent), a competitive local exchange carrier certificated at A-311424F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Telecommunications Relay Service (TRS) Annual Access Line Summary Report and Annual Tracking Report (TRS Reports) were due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was served on May 7, 2008. To date, more than 30 days later, no answer has been filed to the Complaint and the 2006 TRS Reports have not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 TRS Reports, we conclude that revocation of Dynalink Communications Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Dynalink Communications, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Dynalink Communications Inc. at A-311424F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the TRS Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Esodus Communications, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036573; A-311333

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Esodus Communications, Inc. (the Respondent), a reseller of interexchange toll services carrier certificated at A-311333. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 27, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Esodus Communications Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the

Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Esodus Communications, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Esodus Communications Inc. at A-311333 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

—————
Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission, Law Bureau
Prosecutory Staff v. Fleeher George H (2006 Annual Rpt);
Doc. No. C-2008-2036697; A-230114*

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Fleeher George H (the Respondent), a wastewater utility certificated at A-230114. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 8, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Fleeher George H is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

—————
Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission, Law Bureau
Prosecutory Staff v. Hopkins & Reedy Water Co. (2006
Annual Rpt); Doc. No. C-2008-2036691; A-211425*

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Hopkins & Reedy Water Co. (the Respondent), a water utility certificated at A-211425. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 14, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Hopkins & Reedy Water Co. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

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Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission, Law Bureau
Prosecutory Staff v. Mountain Communications, LLC,
d/b/a Procom (2006 TRS Rpts); Doc. No.
C-2008-2037630; A-311221F0002*

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Mountain Communications, LLC, d/b/a Procom (the Respondent), a competitive local exchange carrier certificated at A-311221F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Telecommunications Relay Service (TRS) Annual Access Line Summary Report and Annual Tracking Report (TRS Reports) were due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was served on May 15, 2008. To date, more than 30 days later, no answer has been filed to the Complaint and the 2006 TRS Reports have not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 TRS Reports, we conclude that revocation of Mountain Communications, LLC, d/b/a Procom'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the

Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Mountain Communications, LLC, d/b/a Procom immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Mountain Communications, LLC, d/b/a Procom at A-311221F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the TRS Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

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Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission, v. Law Bureau
Prosecutory Staff v. Nationsline North, Inc. (2006 TRS &
Annual Rpts); Doc. No. C-2008-2036559; A-311362*

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Nationsline North, Inc. (the Respondent), a competitive local exchange carrier certificated at A-311362. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report, Telecommunications Relay Service ("TRS") Annual Access Line Summary Report and Telecommunications Relay Service Annual Tracking Report (hereinafter collectively referred to as "Annual Report" and "TRS Reports") were due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report and TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report and TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was served on May 5, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report and TRS Reports have not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report and TRS Reports, we conclude that revo-

cation of Nationsline North Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Nationsline North, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Nationsline North Inc. at A-311362 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section and the TRS Reports Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. One Voice Communications, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036552; A-311051F0004

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against One Voice Communications, Inc. (the Respondent), a competitive local exchange carrier certificated at A-311051F0004. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 2, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has

any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of One Voice Communications Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. One Voice Communications, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by One Voice Communications, Inc. at A-311051F0004 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Pine-Roe Natural Gas, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036247; A-122430

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Pine-Roe Natural Gas, Inc. (the Respondent), a gas utility certificated at A-122430. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by

failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 21, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Pine-Roe Natural Gas, Inc. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Riemer, Herman Gas Co. (2006 Annual Rpt); Doc. No. C-2008-2036248; A-122670

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Riemer, Herman Gas Co. (the Respondent), a gas utility certificated at A-122670. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order imposing a civil penalty in the amount of \$1,000 for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 2, 2008. To date, more

than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that a civil penalty in the amount of \$1,000 is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of further penalties under section 3301, if Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. Riemer, Herman Gas Co. is hereby directed to file its 2006 Annual Report and pay a civil penalty in the amount of \$1,000 within 30 days of the entry date of this order.

3. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Telemanagement Services, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036681; A-310878

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Telemanagement Services, Inc. (the Respondent), a reseller of interexchange toll services carrier certificated at A-310878. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 8, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Telemangement Services Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Telemangement Services, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Telemangement Services, Inc. at A-310878 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission, Law Bureau
Prosecutory Staff v. United Systems Access Telecom, Inc.
(2006 TRS Rpts); Doc. No. C-2008-2037635;
A-311133F0002*

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against United Systems Access Telecom, Inc. (the Respondent), a competitive local exchange carrier certificated at A-311133F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Telecommunications Relay Service (TRS) Annual Access Line Summary Report and Annual Tracking Report (TRS

Reports) were due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was served on May 7, 2008. To date, more than 30 days later, no answer has been filed to the Complaint and the 2006 TRS Reports have not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 TRS Reports, we conclude that revocation of United Systems Access Telecom Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. United Systems Access Telecom, Inc. immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by United Systems Access Telecom, Inc. at A-311133F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the TRS Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Xchange Telecom Corporation (2006 Annual Rpt); Doc. No. C-2008-2036685; A-311386

Default Order

By the Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Xchange Telecom Corporation (the Respondent), a reseller of interexchange toll services carrier certificated at A-311386. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Annual Report was due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 Annual Report. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 Annual Report.

According to the U.S. Postal Service return receipt, the Complaint was served on May 15, 2008. To date, more than 20 days later, no answer has been filed to the Complaint and the 2006 Annual Report has not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 Annual Report, we conclude that revocation of Xchange Telecom Corporation'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Xchange Telecom Corporation immediately cease providing service to any new customers and, within 10 days of the entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Xchange Telecom Corporation at A-311386 shall be cancelled, and the company's name stricken from all active-

utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

Default Order

Public Meeting held
March 12, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Ygnition Networks, Inc. (2006 TRS Rpts); Doc. No. C-2008-2037638; A-311426F0002

Default Order

By The Commission:

On March 26, 2008, the Law Bureau Prosecutory Staff filed a Formal Complaint against Ygnition Networks, Inc. (the Respondent), a competitive local exchange carrier certificated at A-311426F0002. In the Complaint, Prosecutory Staff alleged that the Commission sent by certified mail prior written notices to the Respondent that pursuant to 66 Pa.C.S. § 504 its 2006 Telecommunications Relay Service (TRS) Annual Access Line Summary Report and Annual Tracking Report (TRS Reports) were due. The Complaint alleged that the Respondent violated 66 Pa.C.S. § 504 by failing to file its 2006 TRS Reports. The Complaint requested that the Commission issue an order cancelling the Respondent's certificate of public convenience for failure to file its 2006 TRS Reports.

According to the U.S. Postal Service return receipt, the Complaint was served on April 30, 2008. To date, more than 30 days later, no answer has been filed to the Complaint and the 2006 TRS Reports have not been filed. In addition, we are not aware that Respondent has any current customers in Pennsylvania, and Respondent was never assigned any NXX codes.

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, 505, 506 and 3301. Based on Respondent's failure to file an answer to the Complaint or file its 2006 TRS Reports, we conclude that revocation of Ygnition Networks, Inc.'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 Respondent seeks relief from this Default Order; *Therefore,*

It Is Ordered That:

1. The allegations in the Law Bureau Prosecutory Staff's Complaint are deemed admitted and the Complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin*.

3. Ygnition Networks, Inc. immediately cease providing service to any new customers and, within 10 days of the

entry date of this order, provide written notice to any existing customers directing each to select an alternative service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience.

4. Thirty (30) days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate(s) of public convenience held by Ygnition Network, Inc. at A-311426F0002 shall be cancelled, and the company's name stricken from all active-utility lists maintained by the TRS Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

By the Commission,

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-655. Filed for public inspection April 3, 2009, 9:00 a.m.]

Opinion and Order

Public Meeting held
February 26, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

*Implementation of the Alternative Energy
Portfolio Standards Act of 2004: Standard
Interconnection Application Forms;
Doc. No. M-00051865*

Opinion and Order

By the Commission:

On June 25, 2008, this Commission issued a Tentative Order at this docket proposing to establish standardized interconnection application and agreement forms in accordance with the Alternative Energy Portfolio Standards Act of 2004 (AEPS Act), 73 P. S. §§ 1648.1—1648.8, and our Regulations at 52 Pa. Code §§ 75.1—75.51. The proposed standard application and agreement forms are intended to be used for all levels of review for proposed interconnection projects. Different levels of review are required depending on the nameplate capacity of the generation equipment to be installed and the complexity of the project. See 52 Pa. Code § 75.34.

The task of developing standard application forms and interconnection agreements for each level of interconnection request was assigned to the Interconnection Standards Working Group. On November 17, 2006, a sub-group was formed to concentrate on development of the interconnection application and agreement forms. The sub-group consisted of representatives from consumer interests, alternative energy system vendors, EDCs and the Energy Association of Pennsylvania.

In December of 2007, the Interconnection Standards sub-group finished its work on the proposed forms. On December 19, 2007, Commission Staff forwarded the draft standard application and agreement forms to the full Interconnection Standards Working Group for comment. Very few comments were received. The Interconnection Standards sub-group reviewed and incorporated those comments into a draft of the standard application forms.

On February 13, 2008, Commission Staff forwarded the draft of the standard application and agreement forms to the full Interconnection Standards Working Group for comment. Only one comment was received which recommended increasing certain nameplate capacity limits to be consistent with amendments to the AEPS Act. The sub-group revised the draft standard application and agreement forms to address that single comment.

The work product of the sub-group was adopted and issued in the form of a Tentative Order entered June 25, 2008. The proposed forms were also posted to the Commission's web site. Very few comments were received. However, the Department of Environmental Protection (DEP) advised that the forms posted on the Commission's web site contained several drop down menu boxes that failed to operate properly. The forms were corrected and reposted to the Commission's web site. On October 21, 2008, Commission staff advised the full Interconnection Standards Working Group of the corrected forms and extended the comment period to November 5, 2008. Only two comments were filed in response to the corrected forms.

The comments received do not seek to alter the basic structure of the application forms and interconnection agreements. The applications and interconnection agreements are split into two discrete formats. First, Level 1 inverter-based systems with nameplate capacities of 10 kW or less, which have been certified per the Commission's Regulations at 52 Pa. Code § 75.34(1)(ii), will be processed with a basic application form and agreement. The application form is designed to provide the EDC with sufficient information at the beginning of the process to permit prompt action on the request and reduce the amount of time the EDC will need to evaluate and approve the interconnection.

The Interconnection Agreements for Levels 1 and 2-4 contain specific limitations on liability and indemnification provisions. These provisions are consistent with the MADRI¹ forms. It should be noted that there is no requirement for insurance. *Final Rulemaking Re Interconnection Standards for Customer-generators pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P. S. § 1648.5, L-00050175* (Order entered August 22, 2006) at 19.

By their nature, Levels 2 through 4 interconnection requests are more complicated endeavors and cover a far broader range of equipment installations than a Level 1 interconnection request. For that reason, the Level 2 through 4 standard forms advise prospective interconnection customers of the types of information that may be required by an EDC, but direct the customer to work directly with the EDC to determine the kinds of information needed to process the application. As noted in the standard form, a Level 2, 3 or 4 interconnection may require several meetings with EDC personnel as well as engineering studies as required by the Commission's Regulations.

The DEP filed comments to the forms proposed in our Tentative Order. The DEP's first comment involves the Interconnection Agreement form for Level 1 systems. At page L-5 of the Application/Agreement, Terms and Conditions for Level 1 systems, there is a requirement for periodic testing of equipment. The specific provision provides:

¹ "MADRI" is the acronym for Mid-Atlantic Demand Resource Initiative, a regional group which has been addressing interconnection standards and logistics. As noted in our Tentative Order, it was determined that the starting point for Pennsylvania's forms and standards would be the MADRI work product. Tentative Order at 2.

3. Periodic Testing. All interconnection-related protective functions and associated batteries shall be periodically tested at intervals specified by the manufacturer, system integrator, or authority that has jurisdiction over the Customer-Generator Facility interconnection. Periodic test reports or a log for inspection shall be maintained.

The DEP expressed concern with the testing requirement as proposed. The DEP states: "We recognize that this language was adopted from the MADRI forms and that its origin is the IEEE 1547 Standard however, we are concerned that testing may not be practicable for all systems and believe the wording is ambiguous." DEP Comments at 1. The DEP suggests that this Commission should be the entity that sets the appropriate testing intervals and the manner of such testing. *Id.* at 2.

We will not adopt the DEP's suggestion on this issue. As the DEP notes, this specific testing provision was adopted from the MADRI process and also finds support in the applicable IEEE 1547 Standards. We do not find that the proposed language is as ambiguous as the DEP suggests. It is fairly straightforward. In those instances where testing intervals and methods are not specified by the manufacturer or other independent body, those details can be agreed upon by the EDC and the Customer-Generator. In the event that a Customer-Generator believes the EDC is unreasonable as to the testing method and appropriate intervals, the Customer-Generator can avail itself of the Commission's arbitration process set forth in our Regulations at 52 Pa. Code § 75.51.

The next issue raised by the DEP is the concern that there is a standard form of Agreement Terms and Conditions for certified inverter-based Level 1 facilities, but no standard terms and conditions for Level 2 through 4 facilities. The Department recommends that standard Agreement Terms and Conditions should attach to other facilities as well. DEP Comments at 2.

Initially, we note that there is an Application Form which applies to Level 2 through 4 requests. However, we agree with the DEP that a form Agreement should also attach to Levels 2 through 4. Accordingly, we have used the existing Level 1 Agreement form and adapted it for use in Levels 2 through 4. The form Agreement closely tracks the Commission's Regulations at 52 Pa. Code §§ 75.21 through 75.51 by providing the various steps the parties will move through before a Customer-Generator's generating facility may become fully operational on an interconnected basis. We note that the same periodic testing provision is contained in the Level 2 through 4 Agreement that the DEP commented on in the Level 1 Agreement. Our determination that the testing provision should remain as stated also applies here.

The DEP also commented that, in the Level 2-4 Interconnection Application Form at Page L2-1, there is an inquiry as to whether the Customer-Generator intends to export power. The DEP expresses the concern that the final choice listed in the drop down menu box may not be appropriate due to recent changes in the net metering rules. DEP Comments at 4. The final choice provides for the possibility that the interconnection request contemplates "[s]ignificant annual export/No net-metering/IPP." This choice is to provide information to the EDC that the applicant intends to operate as an independent power producer without any net metering involved.

The DEP expresses its concern that this choice may be confusing to some applicants because certain changes to the net metering rules eliminated the requirement that

net metering customers use their generating facilities to primarily offset some, or all, of their generating needs. But it should be noted that this application applies to Levels 2 through 4 installations. These review levels generally apply to more complex systems. Accordingly, there will be greater interaction between EDCs and these applicants than a Level 1 installation. In addition, it can be expected that Level 2 through 4 applicants, or their vendors, will be more knowledgeable about the process. On that basis, we do not find that the choice presents as much possibility for confusion as suggested by the DEP. If, over the course of time, we find this issue is a problem, we can readily address it by amending the Application form.

The sub-group has brought a concern to our attention regarding language in the heading of the Level 2 through 4 Application. Currently, that heading provides that it is applicable to Applications involving "Generation up to 5,000 kW." The Sub-group advises that while the Act provides that interconnection may be requested up to 5,000 kW (5 MW), several issues arise as nameplate capacity of generation facilities reach 2,000 kW and above. In many instances, generation facilities with nameplate capacities in excess of 2,000 kW would require interconnection at the transmission level. Accordingly, it has been suggested that the heading be modified to read: "*Applicants proposing to install generation approaching 2,000 kW or larger should contact the EDC for guidance in determining the appropriate application process.*"

We agree with this suggestion and will modify the heading for the Level 2 through 4 Application form. Preliminary discussions between EDCs and Customer-Generators who propose larger capacity installations will save time and expense over the course of the review process. As always, in the event that a Customer-Generator believes that an EDC is requiring an inappropriate level of review, or requires interconnection at an inappropriate voltage level, recourse may be had through the mediation provisions at 52 Pa. Code § 75.51. In our view, the capacity levels at issue here will involve parties with substantial technical and operational expertise. It is unlikely that installations of this nature will require substantial Commission involvement.

Conclusion

Under section 1648.5 of the AEPS Act (73 P. S. § 1648.5), and § 75.33 of the Commission's Regulations, 52 Pa. Code § 75.33, we will adopt the standard Interconnection Application and Agreement Forms attached to this Opinion and Order as Appendix A; *Therefore,*

It Is Ordered That:

1. The standard Interconnection Application and Agreement Forms attached hereto as Appendix A are adopted for use by jurisdictional electric distribution companies for processing interconnection requests brought under the Commission's Regulations at 52 Pa. Code §§ 75.1—75.51.

2. A copy of this Opinion and Order and Annex A be served upon the Commission's Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, all jurisdictional electric utility companies, licensed electric generation suppliers, the Pennsylvania Department of Environmental Protection and the Interconnection Standards Working Group.

3. The Secretary shall cause a copy of this Opinion and Order to be published in the *Pennsylvania Bulletin*.

4. Copies of the Application and Agreement Forms attached as Appendix A shall be published on this Commission's internet web site.

5. Jurisdictional electric distribution companies shall use the Application and Agreement Forms contained in Appendix A for interconnection requests processed under this Commission's rules and Regulations. Each jurisdictional electric distribution company shall have copies of the Application and Agreement Forms readily available and shall post copies of the Application and Agreement Forms on their respective Internet web sites.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-656. Filed for public inspection April 3, 2009, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by April 20, 2009. 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-2009-2095408. Metro Transportation of Pennsylvania, LLC, t/a Metro Taxi (111 Vanderbilt Drive, Pittsburgh, Allegheny County, PA 15243), a corporation of the Commonwealth—persons, upon call or demand, in Crawford County.

A-2009-2096816. Vauxco Limousines, LLC (3731 Bakerstown Road, Gibsonia, Allegheny County, PA 15044)—a limited liability corporation of the Commonwealth—in limousine service, from points in the Counties of Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Washington and Westmoreland, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

A-2009-2096861. Richard Devere Fye, t/a Richard Fye Transportation (15039 Route 36, Punxsutawney, Jefferson County, PA 15767)—in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Jefferson County, to points in Pennsylvania, and return.

A-2009-2096891. DNA Ambulance, Inc. (8351 Hegerman Street, Philadelphia, PA 19136)—a corporation of the Commonwealth—in paratransit service, from points in the City and County of Philadelphia, to points in Pennsyl-

vania, and return. *Attorney:* David Temple, 1760 Market, Suite 1100, Philadelphia, PA 19103.

Application of the following for approval to *begin operating as contract carriers for transportation of persons as described under the application.*

A-2009-2096869. CUSA ES, LLC, t/a Coach America Crew Transport (5430 LBJ Freeway, 3 Lincoln Centre No. 1075, Dallas, TX 75240)—begin to transport, as a contract carrier, persons in paratransit service for Canadian Pacific Railroad from 800 River Road, Allentown, Lehigh County; Shikellamy Avenue, Sunbury, Northumberland County; 1600 Langley Avenue, Philadelphia, Philadelphia County; 218 Enola Road, Harrisburg, Dauphin County; and 3 Depot Street, Taylor, Lackawanna County; to points in Pennsylvania and return. *Attorney:* David H. Coburn, Esquire, Steptoe & Johnson, LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

Application of the following for the approval of the *transfer of stock as described under the application.*

A-2009-2096844. Rosemont Taxicab Co., Inc. (800 Chestnut Street, Suite 103, Philadelphia, Philadelphia County, PA 19107)—a corporation of the Commonwealth—approval of the transfer of 500 shares of the issued stock, from Avihay Karsenty to Jacob Gabbay.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Pierce Hauling, LLC;
Doc. No. C-2009-2044323*

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 Pierce Hauling, LLC (respondent) is under suspension effective October 6, 2008 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at P. O. Box 27, Schenley, PA 15682.
3. That respondent was issued a Certificate of Public Convenience by this Commission on December 27, 2007, at A-00124217.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250 and cancellation of the Certificate of Public Convenience.

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 pays the penalty of \$250 and 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 A-00124217 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

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, 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
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 **and by paying the \$250 fine** proposed in the Complaint by certified check or money order 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

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

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.

*Pennsylvania Public Utility Commission; Bureau of
Transportation and Safety v. Jose Francisco Jose;
Doc. No. C-2009-2050012*

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 Jose Francisco Jose (respondent) is under suspension effective January 27, 2009, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 515 Winters Avenue, West Hazelton, PA 18202.

3. That respondent was issued a Certificate of Public Convenience by this Commission on May 13, 2008, at A-00124154.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250 and cancellation of the Certificate of Public Convenience.

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 pays the penalty of \$250 and 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 A-00124154 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

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, 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
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 regula-

tion, 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 **and by paying the \$250 fine** proposed in the Complaint by certified check or money order 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

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

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.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. James Michael Nugent;
Doc. No. C-2008-2043362

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 James Michael Nugent (respondent) is under suspension effective January 3, 2008, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at P. O. Box 751, Bushkill, PA 18324.

3. That respondent was issued a Certificate of Public Convenience by this Commission on March 01, 2007, at A-00121978.

4. That respondent has failed to maintain evidence of 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-00121978 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

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, 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
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 and by paying the fine proposed in the Complaint by certified check or money order 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

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

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.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. In Disguise, LLC;*
Doc. No. C-2008-2043351

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 In Disguise, LLC (respondent) is under suspension effective January 6, 2008, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 233 West 3rd Street, Williamsport, PA 17701.

3. That respondent was issued a Certificate of Public Convenience by this Commission on December 27, 2001, at Application Docket No. A-001 17432.

4. That respondent has failed to maintain evidence of 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-001 17432 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

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, 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
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 1 7105-3265

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 and by paying the fine proposed in the Complaint by certified check or money order 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

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The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

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.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Dunfar, Inc.;*
Doc. No. C-2009-2086489

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 responsi-

bilities. 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 Dunfar, Inc. (respondent) is under suspension effective January 14, 2009, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at P. O. Box 460, Northern Cambria, PA 15714.

3. That respondent was issued a Certificate of Public Convenience by this Commission on February 19, 2003, at A-00119500.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250 and cancellation of the Certificate of Public Convenience.

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 pays the penalty of \$250 and 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 A-00119500 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

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, 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
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 and by paying the \$250 fine proposed in the Complaint by certified check or money order 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

Acord Certificates of Insurance and Faxed Form Es and Hs are Unacceptable as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

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. 09-657. Filed for public inspection April 3, 2009, 9:00 a.m.]

must comply with all applicable EEO laws. Mandatory prebid job site meeting will be held April 9, 2009, 10 a.m. at PRPA's office (previous address), Philadelphia, PA. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 09-659. Filed for public inspection April 3, 2009, 9:00 a.m.]

Telecommunications

A-2009-2096240. Verizon North, Inc. and Cooperative Communications, Inc. Joint petition of Verizon North, Inc. and Cooperative Communications, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and Cooperative Communications, Inc., by its counsel, filed on March 19, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an 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 Cooperative Communications, 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. 09-658. Filed for public inspection April 3, 2009, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 09-029.4, On-Call Elec. Invest. and Repairs at PRPA Piers until 2 p.m. on Thursday, April 23, 2009. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and are available March 31, 2009. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax) and is nonrefundable. PRPA is an Equal Opportunity Employer. Contractor

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

The 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 3, 2009	John F. Yocklovich (Effective Date of Retirement)	1 p.m.
July 22, 2009	Sara B. Christianson (Class T-D)	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 should contact Barb Fluire, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The 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. 09-660. Filed for public inspection April 3, 2009, 9:00 a.m.]

STATE BOARD OF NURSING

In the Matter of the Automatic Suspension of the License to Practice of Practical Nursing of Lori Ann Boggs, RN; Doc. No. 0247-51-09

On March 6, 2009, Lori Ann Boggs, license no. RN-532097, of Uniontown, Fayette County, was issued an automatic suspension based on her felony conviction, in violation of The Control Substance, Drug and Cosmetic Act (35 P. S. §§ 780-101—780-144).

Individuals may obtain a copy of the automatic suspension by writing to C. William Fritz, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This automatic suspension represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously-named Board counsel.

ANN L. O'SULLIVAN, Ph.D., FAAN, CRNP,
Chairperson

[Pa.B. Doc. No. 09-661. Filed for public inspection April 3, 2009, 9:00 a.m.]