

# PENNSYLVANIA BULLETIN

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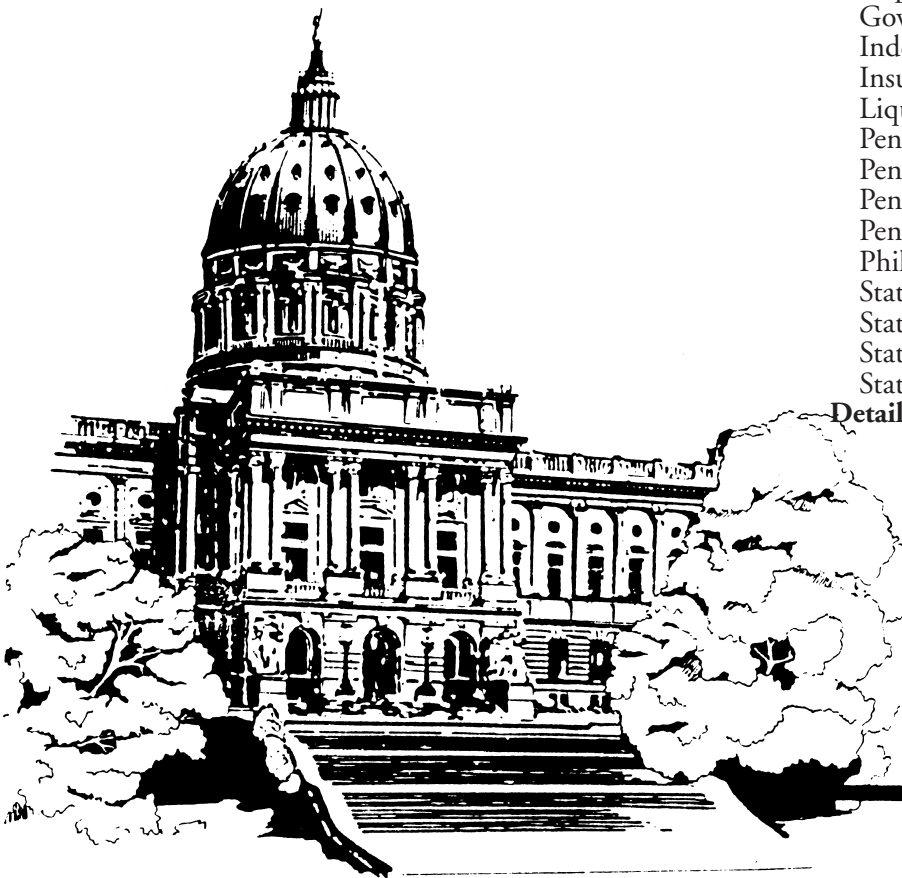
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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# THE GENERAL ASSEMBLY

## Recent Actions during the 2009 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2009 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2009 GENERAL ACTS of REGULAR SESSION ENACTED—ACT 026 through 028</b>					
026	Jul 27	SB0084	PN0067	60 days	Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act—limitation of economic development agency environmental liability and for defenses to liability
027	Jul 27	SB0568	PN1240	Immediately	Conveyance—Commonwealth property in East Vincent Township, Chester County
028	Jul 27	SB0817	PN0896	Immediately	Conveyance—Commonwealth property in East Pennsboro Township, Cumberland County, with removal and release of residential use and subdivision restrictions

\* denotes an effective date with exceptions

### Effective Dates of Statutes

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

### Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore—PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the “Commonwealth of Pennsylvania.”

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

[Pa.B. Doc. No. 09-1403. Filed for public inspection August 7, 2009, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CHS. 85, 89, 91 AND 93 ]

#### Amendments to Rules of Organization and Procedure of The Disciplinary Board of The Supreme Court of Pennsylvania

##### Order No. 69

The Rules of Organization and Procedure of the Board have been drafted to restate in full the substance of the Pennsylvania Rules of Disciplinary Enforcement. By Orders dated March 26, 2009 and April 16, 2009, the Supreme Court of Pennsylvania amended Pa.R.D.E. 321, 322, 324, 325, 327, 328, 102, 201, 204, 205, 217, 218 and 219, respectively. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(10), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

ELAINE M. BIXLER,  
*Secretary*

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

##### CHAPTER 85. GENERAL PROVISIONS

#### § 85.2. Definitions.

(a) Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific chapters, subchapters or other provisions of this subpart, the following words and phrases, when used in the subpart shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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**Administrative suspension**—Status of an attorney, after Court order, who: failed to pay the annual fee and/or file the form required by subdivisions (a) and (d) of Enforcement Rule 219; was reported to the Court by the Pennsylvania Continuing Legal Education Board under Rule 111(b), Pa.R.C.L.E., for having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education; failed to pay any expenses taxed pursuant to Enforcement Rule 208(g); or failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, or a military attorney.

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**Attorney Registration Office**—The administrative division of the Disciplinary Board which governs the annual registration of every attorney admitted to, or engaging in, the practice of law in this Commonwealth, with the exception of attorneys admitted to practice pro hac vice under Pa.B.A.R. 301.

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**Formerly admitted attorney**—A disbarred, suspended, administratively suspended, retired or inactive attorney.

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**Petitioner-attorney**—Includes any person subject to these rules who has filed a petition for reinstatement to the practice of law.

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#### § 85.3. Jurisdiction.

(a) *General rule.* Enforcement Rule 201(a) provides that the exclusive disciplinary jurisdiction of the Supreme Court and the Board under the Enforcement Rules extends to:

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(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, **administrative suspension**, or transfer to **retired or inactive** status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the **Disciplinary Rules**, the Enforcement Rules or these rules.

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#### § 85.8. Types of discipline.

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(c) *Limited In-House Corporate Counsel License.* Enforcement Rule 204(c) provides that a reference in the

Enforcement Rules and these rules to disbarment, suspension, temporary suspension, **administrative suspension**, or transfer to or assumption of **retired or inactive** status shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license; and that a respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

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**CHAPTER 89. FORMAL PROCEEDINGS**  
**Subchapter C. HEARING PROCEDURES**  
**ABBREVIATED PROCEDURE**

**§ 89.181. Abbreviated procedure.**

(a) *Scope.* Experience has shown that frequently at the conclusion of the hearings it obvious to all participants that no showing of misconduct has been made or there has been adequate proof of a violation of § 85.7 (relating to grounds for discipline) and that some form of private discipline would be appropriate. In such circumstances the cost and delay of the preparation of a formal transcript is unnecessary and the preparation of a detailed report as provided by § 89.172 (relating to contents of report) is an unnecessary and time-consuming burden on the hearing committee and others. Where the participants can stipulate to an acceptable determination the procedures of this section minimize cost, effort and time for all participants. **This section may be applicable to combined reinstatement and disciplinary hearings conducted before a hearing committee pursuant to § 89.273(b)(4) (relating to combined hearings in reinstatement matters where formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney).**

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**Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE**

**REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS**

**§ 89.271. Reinstatement only by Court order.**

Enforcement Rule 218(a) provides that [ **no attorney suspended for a period exceeding one year, transferred to inactive status more than three years prior to resumption of practice or transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or disbarred may resume practice until reinstated by order of the Supreme Court after petition therefor pursuant to the Enforcement Rules.** ] an attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to Rule 218 if the attorney was:

- (1) suspended for a period exceeding one year;
- (2) retired, on inactive status or on administrative suspension for more than three years;
- (3) transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct; or
- (4) disbarred.

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**§ 89.273. Procedures for reinstatement.**

(a) [ *General rule.* ] Enforcement Rule 218(c) [ **and (d) provide** ] provides that **the procedure for petitioning for reinstatement from suspension for a period exceeding one year or disbarment is as follows:**

(1) Petitions for reinstatement [ **by formerly admitted attorneys** ] shall be filed with the Board.

*Official Note:* The Board will not treat a petition for reinstatement as properly filed for purposes of commencing the procedures set forth in this section unless and until the petition is accompanied by a completed reinstatement questionnaire as required by § 89.275 (relating to completion of questionnaire by [ **respondent-attorney** ] **petitioner-attorney**).

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the response, the Board shall refer the petition and response to a hearing committee appointed by the Office of the Secretary pursuant to § 93.81(c) (relating to hearing committees) in the disciplinary district in which the formerly admitted attorney maintained an office at the time of the disbarment[ , ] or suspension [ **or transfer to inactive status** ]. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

*Official Note:* If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) The hearing committee shall promptly schedule a hearing at which[ ] :

(i) **A ] a** disbarred or suspended attorney shall have the burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in law required for admission to practice law in this Commonwealth and that the resumption of the practice of law within the Commonwealth by such person will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. **When the petitioner-attorney is seeking reinstatement from disbarment, the threshold inquiry articulated in *Office of Disciplinary Counsel v. Keller*, 509 Pa. 573, 579, 506 A.2d 872, 875 (1986) and its progeny applies.**

[ (ii) **A formerly admitted attorney who has been on inactive status shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.** ]

*Official Note:* The requirement that a hearing be scheduled "promptly" means that a hearing should ordinarily be held within 60 days after the **response to the** petition for reinstatement has been filed with the Board, unless the [ **chairman** ] **chair** of the hearing committee extends that time for good cause shown.

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(6) In the event the Board recommends reinstatement and the Supreme Court, after consideration of that recommendation, is of the view that a rule to show cause should be served upon the [ **respondent-attorney** ] **petitioner-attorney** why an order denying reinstatement should not be entered, the same shall be issued setting forth the areas of the Court's concern. A copy of the rule shall be served on Disciplinary Counsel (see § 89.27 (relating to service upon Disciplinary Counsel)). Within 20 days after service of the rule, [ **respondent-attorney** ] **petitioner-attorney**, as well as Disciplinary Counsel, may submit to the Supreme Court a response thereto. Unless otherwise ordered, matters arising under Enforcement Rule 218 will be considered without oral argument.

[ (7) A petition for reinstatement to active status from inactive status by a formerly admitted attorney who has not been suspended or disbarred shall be considered by a single senior or experienced hearing committee member who shall perform the functions of a hearing committee under this subsection (a).

(8) In all proceedings upon a petition for reinstatement, cross-examination of the respondent-attorney and witnesses of respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by Disciplinary Counsel. ]

(b) Enforcement Rule 218(d) provides that the procedure for petitioning for reinstatement from retired status for more than three years, inactive status for more than three years or administrative suspension for more than three years, or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct is as follows:

(1) Petitions for reinstatement shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall either:

(i) file a response thereto with the Board and serve a copy on the formerly admitted attorney; or

(ii) file a certification with the Board Secretary stating that after a review of the petition for reinstatement and reasonably diligent inquiry, Disciplinary Counsel has determined that there is no impediment to reinstatement and that the petitioner-attorney will meet his or her burden of proof under subsection (3) if the petition were to proceed to hearing under (4).

*Official Note:* If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney under (b)(2)(i), the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

(3) A formerly admitted attorney who has been on retired status, inactive status or administrative suspension shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.

(4) Upon receipt of a response under (b)(2)(i), the Board shall refer the petition and response to a single senior or experienced hearing committee member in the disciplinary district in which the

formerly admitted attorney maintained an office at the time of transfer to or assumption of retired or inactive status, or transfer to administrative suspension; the single senior or experienced hearing committee member shall promptly schedule a hearing during which the hearing committee member shall perform the functions of a hearing committee under this subsection (b). If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

(5) At the conclusion of the hearing, the hearing committee member shall promptly file a report containing the member's findings and recommendations and transmit same, together with the record, to the Board. Thereafter, the matter will proceed in accordance with the provisions of paragraphs (a)(5) and (a)(6) of this section.

(6) Upon receipt of a certification filed by Disciplinary Counsel under paragraph (b)(2)(ii) of this section, the Board Chair shall designate a single member of the Board to review the record and certification and to issue a report and recommendation.

(i) If the Board Member decides that reinstatement should be denied or that a hearing on the petition is warranted, the designated Board Member shall issue a report setting forth the areas of the designated Board Member's concern and direct the Board Secretary to schedule the matter for hearing pursuant to paragraph (b)(4) of this section.

(7) Upon receipt of a report and recommendation for an order of reinstatement, the Court may enter an order reinstating the formerly admitted attorney to active status; the Chief Justice may delegate the processing and entry of orders under this paragraph (b)(7) to the Prothonotary.

(c) Enforcement Rule 218(e) provides that in all proceedings upon a petition for reinstatement, cross-examination of the petitioner-attorney's witnesses and the submission of evidence, if any, in opposition to the petition shall be conducted by Disciplinary Counsel.

[ (b) ] (d) Attorneys suspended for less than one year. Enforcement Rule [ 218(f) ] 218(g) provides that:

\* \* \* \* \*

(2) Paragraph (1) of this subsection shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on inactive status or administrative suspension for more than three years; or

\* \* \* \* \*

[ (c) ] (e) Attorneys on inactive status, retired status or administrative suspension for [ less than three

*years* ] *three years or less*. Enforcement Rule [ 218(g) ] 218(h) provides that attorneys who have been on inactive status, **retired status or administrative suspension** for three years or less may be reinstated pursuant to § 93.145 (relating to [ **reinstatement** ] **administratively suspended attorneys**) [ or ], § 93.146[ (b) ] (relating to [ **reactivation** ] **voluntarily retired or inactive attorneys**), and § 93.112(c) (relating to **reinstatement upon payment of taxed costs**), as [ **appropriate** ] **applicable**. This subsection [ (c) ] (e) does not apply to any attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

§ 89.274. **Notice of reinstatement proceedings.**

(a) *General rule.* The Office of the Secretary shall forward a copy of the petition for reinstatement and Form DB-30 (Reference for Reinstatement Hearing) to:

\* \* \* \* \*

(4) The [ **president** ] **executive director** of the bar association of the county in which such attorney practiced.

\* \* \* \* \*

(b) *Publication of notice.* The Office of the Secretary shall cause a notice to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced and in each county in Pennsylvania in which the formerly admitted attorney has resided since being disbarred[ , ] **or suspended [ or transferred to inactive status ] for disciplinary reasons**. The notice shall state and be confined to:

\* \* \* \* \*

§ 89.275. **Completion of questionnaire by [ respondent-attorney ] petitioner-attorney.**

(a) *General rule.* If the petition for reinstatement does not have attached thereto a fully completed Form DB-36 (Reinstatement Questionnaire), the Office of the Secretary shall forward to the formerly admitted attorney four copies of Form DB-36 which shall require such attorney to set forth fully and accurately the following information and such other information as the Office of Disciplinary Counsel may require:

(1) Name, address, age and residence of the [ **respondent-attorney** ] **petitioner-attorney**.

(2) Name, address, residence, number and relationship of dependents of the [ **respondent-attorney** ] **petitioner-attorney**.

(3) If the formerly admitted attorney was disbarred or suspended **for disciplinary reasons**, the offense or misconduct upon which the disbarment or suspension was based, together with the date of the disbarment or suspension order and the caption and docket number of the proceeding in which entered. A certified copy of the disbarment[ , ] **or suspension [ or transfer to inactive status ]** order shall be attached to the questionnaire.

(4) The names and addresses of all complaining witnesses in any proceedings which resulted in disbarment or suspension and the names of:

(i) the hearing committee of the Board[ , **or the local grievance committee, committee of censors or other**

**similar body existing prior to the establishment of the Board,** ] which heard the evidence in the disciplinary proceedings; and

(ii) the trial judge and prosecuting attorney, if disbarment or suspension was based on conviction of a crime.

(5) The nature in detail of the occupation of the [ **respondent-attorney** ] **petitioner-attorney** during the period of disbarment, suspension, **administrative suspension, retired status** or inactive status, with names of all partners, associates in business, and employers, if any, and dates and duration of all such **business** relationships and employments.

(6) A statement showing the approximate monthly earnings and other income of the [ **respondent-attorney** ] **petitioner-attorney**, and the sources from which all such earnings and income were derived during such period, or during the ten years preceding the filing of the petition for reinstatement, whichever is less.

(7) A statement showing all residences maintained by the [ **respondent-attorney** ] **petitioner-attorney** during the ten years preceding the filing of the petition for reinstatement, with the names and addresses of landlords, if any. The statement shall also indicate the county in which any such residence in Pennsylvania is located.

(8) A statement showing all financial obligations of the [ **respondent-attorney** ] **petitioner-attorney** at the date of the filing of the petition, together with the dates when such obligations were incurred and the names and addresses of all creditors.

(9) A statement showing the dates, general nature and final disposition of every civil action during the period of disbarment, suspension, administrative suspension, retired status or inactive status wherein the [ **respondent-attorney** ] **petitioner-attorney** was either a party plaintiff or defendant or in which such attorney had or claimed an interest, together with dates of filing of complaints, titles of courts and causes and the names and addresses of all parties plaintiff and defendant, names and addresses of attorneys for said parties and of the trial judge, or judges, and names and addresses of all witnesses who testified in such actions.

(10) A statement showing the dates, general nature and ultimate disposition of every matter involving the arrest or prosecution of the [ **respondent-attorney** ] **petitioner-attorney** during the period of disbarment, suspension, **administrative suspension, retired status** or inactive status for any crime, whether felony or misdemeanor, together with the names and addresses of complaining witnesses, prosecutors and trial judges.

(11) A statement as to whether or not any applications were made during such period for a license requiring proof of good character for its procurement; and as to each such application, the dates, the names and address of the authority to whom it was addressed and the disposition thereof.

(12) A statement of any procedure of inquiry, during said period, concerning the standing of the [ **respondent-attorney** ] **petitioner-attorney** as a member of any profession or organization, or holder of any license or office, which involved the censure, removal, suspension, revocation of license, or discipline of the [ **respondent-attorney** ] **petitioner-attorney**; and as to each, the

dates, facts, and the disposition thereof, and the names and address of the authority in possession of the record thereof.

(13) A statement as to whether or not any charges of fraud were made, or claimed, against the [ **respondent-attorney** ] **petitioner-attorney** during the period of disbarment, suspension, **administrative suspension, retired status** or inactive status, whether formal or informal, together with the dates and names and addresses of persons making such charges.

(14) A statement of any financial or other action taken by the [ **respondent-attorney** ] **petitioner-attorney** in the nature of restitution or other appropriate relief.

(15) If the [ **respondent-attorney** ] **petitioner-attorney** has been disbarred or suspended for more than one year or has been on **administrative suspension, retired status** or inactive status for more than three years, a statement of the dates, locations and names of the courses or lectures taken in satisfaction of the requirements of § 89.279 (relating to evidence of competency and learning in law).

[ **Official Note: For purposes of allowing the Office of Disciplinary Counsel to begin its investigation of the petition for reinstatement, the Office of the Secretary will accept a preliminary questionnaire that lists courses or lectures that the respondent-attorney is registered to take in the future if proof of that registration, such as receipted bills or canceled checks, is attached to the questionnaire. The questionnaire, however, will not be considered completed and properly filed for purposes of commencing the running of the time periods in § 89.273 (relating to procedures for reinstatement) until the respondent-attorney has actually attended those courses or lectures.** ]

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§ 89.276. **Procedures before the Board.**

The provisions of these rules applicable to formal proceedings shall govern the procedure for hearings before **one or more** hearing [ **committees and** ] **committee members** and **subject review** by the Board upon petitions for reinstatement.

§ 89.277. **Abbreviated reinstatement procedure.**

(a) *Scope.* This section is applicable to formal proceedings for reinstatement of formerly admitted attorneys who have been on **administrative suspension, retired status** or inactive status and who have never been suspended for **disciplinary reasons** or disbarred. **See § 89.273(b)(4) (relating to hearing before a single senior or experienced hearing committee member). This section shall not be available at any hearing conducted after review by a designated Board Member pursuant to § 89.273(b)(6)(i) (relating to hearing scheduled at the direction of the designated Board Member).**

(b) *General rule.* The formerly admitted attorney and staff counsel in the manner provided by subsection (c) of this section, may agree to waive the preparation of a transcript and the filing of formal findings and recommendations. In such situations, unless the Board directs otherwise, the **hearing committee member** may submit to the Board a summary determination of the **hearing committee member**.

(c) *Procedures.*

(1) Immediately after the conclusion of the hearing the hearing committee **member** shall, if practicable and if neither the formerly admitted attorney nor staff counsel object thereto, [ **temporarily recess the proceedings and** ] determine [ **in private** ] the findings and recommendations of the **hearing committee member**.

(2) The hearing committee **member** shall [ **immediately reconvene the proceedings and** ] deliver to the participants Form DB-46 (Hearing Committee Determination Under Abbreviated Reinstatement Procedure) setting forth in summary the findings and recommendations of the **hearing committee member**. The official reporter shall be directed by the hearing committee member not to prepare a transcript until receipt from the **hearing committee member** of specific instructions to do so.

(3) The participants shall be conclusively deemed to have accepted and to have stipulated that the Board shall recommend to the Supreme Court the findings and recommendations of the hearing committee **member** unless either the formerly admitted attorney or staff counsel shall, within five days after receipt of the Form DB-46 as provided in paragraph (2) of this subsection, file a copy of such Form DB-46 with objections to the findings and recommendations [ **to** ] of the hearing committee [ **indicated thereon** ] **member**.

(4) If a timely objection is made as provided in paragraph (3) of this subsection the participants may file briefs, the official reporter shall be directed to prepare a transcript and the hearing committee **member** shall submit to the Board formal findings and recommendations in the manner and within the time otherwise provided by these rules.

(5) If no timely objection is made no briefs shall be filed, no formal findings and recommendations shall be prepared by the hearing committee **member** and the official reporter shall not prepare a transcript. The hearing committee **member** shall, however, prepare and file a brief summary of the case, in the form of a letter to the Board, which summary ordinarily should not exceed two pages in length, and the record of the proceedings shall forthwith be transmitted to the Office of the Secretary which shall serve upon the formerly admitted attorney and staff counsel copies of the brief summary of the case filed by the hearing committee **member**.

(6) Thereafter the Board shall either:

(i) recommend to the Supreme Court the disposition stipulated by the participants; or

(ii) remand the record to the hearing committee **member** with instructions to fix a briefing schedule and to proceed as provided in paragraph (4) of this subsection, if for any reason the disposition stipulated by the parties is not accepted by the Board.

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§ 89.278. **Expenses of reinstatement proceedings.**

Enforcement Rule [ **218(e)** ] **218(f)** provides that the Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and processing of the petition for reinstatement be paid by the [ **respondent-attorney** ] **petitioner-attorney; a reinstatement fee of \$300 shall be assessed against a petitioner-attorney who was administratively suspended at the time of the filing of the petition; and the annual fee required by Enforcement Rule 219(a)**

and the reinstatement fee, if applicable, shall be paid to the Attorney Registration Office after the Supreme Court order is entered.

§ 89.279. Evidence of competency and learning in law.

(a) *General rule.* Except as provided in subsection (b), in order to permit the Board to determine under Enforcement Rule 218 (relating to reinstatement) whether a formerly admitted attorney who has been disbarred or suspended for more than one year or who has been on **administrative suspension, retired status or inactive status** for more than three years possesses the competency and learning in the law required for reinstatement to practice in this Commonwealth, such a formerly admitted attorney shall within one year preceding the filing of the petition for reinstatement take **[(and prior to hearing on the petition, complete)]** courses meeting the requirements of the current schedule published by the Office of the Secretary under subsection (c).

(b) *Exceptions.*

(1) If a formerly admitted attorney has passed the Pennsylvania Bar Examination subsequent to entry of the order of suspension **[ or ]**, disbarment or **administrative suspension, or** assumption of **retired or inactive status** and within one year preceding the filing of the petition for reinstatement **[(and prior to hearing on the petition)]**, the formerly admitted attorney shall be conclusively deemed to have proven that he or she has the competency and learning in law required under Enforcement Rule 218.

(2) The **[ Chairman ] Chair** of the Board may waive the requirements of subsection (a) for good cause shown in the case of a formerly admitted attorney who has been on **administrative suspension, retired status or inactive status** for more than three years.

(c) *Publication of schedule.* **[ At least annually the ]** The Office of the Secretary shall publish in the *Pennsylvania Bulletin* a schedule of the minimum amount, type and subjects of continuing legal education courses that will satisfy the requirements of subsection (a).

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§ 89.280. Notice of reinstatement.

(a) *Publication of notice.* Enforcement Rule **[ 218(h) ] 218(i)** provides that the Board may cause a notice of a reinstatement to be published in one or more appropriate legal journals and newspapers of general circulation.

(b) *Transmission of notice to local president judge.* Enforcement Rule **[ 218(i) ] 218(j)** provides that the Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:

(1) the certification filed with the Prothonotary of the Supreme Court under § 93.145(a)(2) (relating to reinstatement of an attorney who has been **administratively suspended for three years or less**) or § 93.112(c) (relating to reinstatement upon payment of taxed costs); or

(2) any other order of reinstatement entered under these rules.

RESUMPTION OF PRACTICE

§ 89.285. Resumption of practice by justices and judges.

(a) *General rule.* Enforcement Rule **[ 219(m) ] 219(n)** provides that a former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the **[ Administrative ] Attorney Registration Office** a notice in writing to that effect.

(b) *Notice.* Enforcement Rule **[ 219(m) ] 219(n)** further provides that the notice shall:

(i) describe:

**[( a )A]** any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline **[ or the former Judicial Inquiry and Review Board ]**;

**[( b )B]** any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;

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CHAPTER 91. MISCELLANEOUS MATTERS

Subchapter E. FORMERLY ADMITTED ATTORNEYS

§ 91.91. Notification of clients in nonlitigation matters.

(a) *General rule.* Enforcement Rule 217(a) provides that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, **administrative suspension** or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status and shall advise such clients to seek legal advice elsewhere. Such notices shall be in substantially the language of Form DB-23 (Nonlitigation Notice of Disbarment, Suspension, **Administrative Suspension** or Transfer to Inactive Status).

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§ 91.92. Notification of clients in litigation matters.

(a) *General rule.* Enforcement Rule 217(b) provides that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, **administrative suspension** or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status. Such rule further provides that the notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney; that in the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, **administrative**



**tive suspension** or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw; and that the notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. Such notices shall be in substantially the language of Form DB-24 (Litigation Notice of Disbarment, Suspension, **Administrative Suspension** or Transfer to Inactive Status).

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§ 91.93. Notification of other persons.

(a) *General rule.* Enforcement Rule 217(c) provides that a formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, **administrative suspension** or transfer to inactive status, by registered or certified mail, return receipt requested:

(1) all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, **administrative suspension** or transfer to inactive status, and

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing.

(b) *Responsibility to provide notice.* Enforcement Rule 217(c) further provides that the responsibility of the formerly admitted attorney to provide the notice required by this section shall continue for as long as the formerly admitted attorney is disbarred, suspended, **administrative suspension** or on inactive status.

§ 91.94. Effective date of suspension, disbarment, **administrative suspension** or transfer to inactive status.

Enforcement Rule 217(d) provides that orders imposing suspension, disbarment, **administrative suspension** or transfer to inactive status shall be effective 30 days after entry; that the formerly admitted attorney, after entry of the disbarment, suspension, **administrative suspension** or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature; but that, during the period from the entry date of the order to its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

§ 91.95. Proof of Compliance.

(a) *General rule.* Enforcement Rule 217(e) provides that within ten days after the effective date of the disbarment, suspension, **administrative suspension** or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement (Form DB-25) (Statement of Compliance) showing:

\* \* \* \* \*

§ 91.96. Publication of notice of suspension, disbarment, **administrative suspension** or transfer to inactive status.

Enforcement Rule 217(f) provides that the Board shall cause a notice of the suspension, disbarment, **administrative suspension** or transfer to inactive status [ (Form DB-26) (Notice of Suspension, Disbarment or Transfer to Inactive Status) ] to be published in the

legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced. If there is no such legal journal, the notice shall be published in the legal journal of an adjoining county. Upon entry of an order imposing suspension, disbarment, **administrative suspension** or transfer to inactive status, such notice shall be published forthwith and shall be transmitted to such courts as may be appropriate.

§ 91.97. Action to protect clients of formerly admitted attorney.

Enforcement Rule 217(g) provides that the Board shall promptly transmit a certified copy of the order of suspension, disbarment, **administrative suspension** or transfer to inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced; and that the president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

§ 91.98. Maintenance of records.

(a) *General rule.* Enforcement Rule 217(i) provides that a formerly admitted attorney shall keep and maintain records of the various steps taken by such person under the Enforcement Rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with the Enforcement Rules and with the disbarment, suspension, **administrative suspension** or transfer to inactive status order will be available; and that proof of compliance with the Enforcement Rules shall be a condition precedent to any petition for reinstatement.

\* \* \* \* \*

§ 91.99. Indicia of licensure.

Enforcement Rule 217(h) provides that within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the [ Court Administrator of Pennsylvania ] Attorney Registration Office under § 93.143 (relating to issue of certificate as evidence of compliance) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys). The Board may destroy the annual certificate issued under § 93.143, but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

**Subchapter F. PROTECTION OF THE INTERESTS OF CLIENTS**

§ 91.121. Appointment of conservator to protect interests of clients of absent attorney.

(a) *General rule.* Enforcement Rule 321(a) provides that upon application of Disciplinary Counsel or any

other interested person **with the written concurrence of Disciplinary Counsel**, the president judge of a court of common pleas shall have the power to appoint one or more eligible persons to act as conservators of the affairs of an attorney or formerly admitted attorney if:

(1) the attorney maintains or has maintained an office for the practice of law within the judicial district; **and**

(2) **[ [ Reserved ]; ] any of the following applies:**

(i) the attorney is made the subject of an order under § 91.151 (relating to emergency interim suspension orders and related relief); **or**

(ii) the president judge of the court of common pleas pursuant to § 91.97 (relating to action to protect clients of formerly admitted attorneys) by order directs Disciplinary Counsel to file an application under Enforcement Rule 321; **or**

(iii) the attorney **abandons his or her practice, disappears, dies or** is transferred to inactive status because of incapacity or disability **[ , or disappears or dies ]**; and

(3) no partner or other responsible successor to the practice of the attorney is known to exist.

\* \* \* \* \*

(c) *Hearing.* Enforcement Rule 321(c) and (d) provide that the president judge of the court of common pleas shall conduct a hearing on the application no later than seven days after the filing of the application; that at the hearing the applicant shall have both the burden of production and the burden of persuading the court by the preponderance of the credible evidence that grounds exist for appointment of a conservator; that within three days after the conclusion of the hearing on the application, the president judge shall enter an order either granting or denying the application **[ , ]**; that the order shall contain findings of fact and a statement of the grounds upon which the order is based **[ , ]**; and that if no appearance has been entered on behalf of the absent attorney, a copy of the order shall be served upon the absent attorney in the manner prescribed by subsection (b) of this section.

(d) *Qualifications of conservator.* Enforcement Rule 321(e) provides that the conservator or conservators shall be appointed by the president judge, from among members of the bar of this Commonwealth **[ who ]**, **subject to the following:**

(1) **non-disciplinary counsel conservators:**

**[ (1) ] (i) [ are not representing ] shall not represent** any party who is adverse to any known client of the absent attorney; and

**[ (2) ] (ii) shall** have no adverse interest or relationship with the absent attorney or his or her estate.

(e) *Tolling of limitation times.* Enforcement Rule 321(f) provides that the filing by Disciplinary Counsel **or any other interested person** of an application for the appointment of a conservator under the Enforcement Rules shall be deemed for the purposes of any statute of limitations or limitation on time for appeal as the filing in the court of common pleas or other proper court or magisterial district **court** of this Commonwealth on behalf of every client of the absent attorney of a complaint or other proper process commencing any action, proceeding, appeal or other matter arguably suggested by any information appearing in the files of the absent attorney if:

(1) the application for appointment of a conservator is granted, and

(2) substitute counsel actually files an appropriate document in a court or magisterial district **court** within 30 days after executing a receipt for the file relating to the matter.

**(f) Enforcement Rule 321(g) provides that the filing by Disciplinary Counsel or any other interested person of an application for the appointment of a conservator under these rules shall operate as an automatic stay of all pending legal or administrative proceedings in this Commonwealth where the absent attorney is counsel of record until the earliest of such time as:**

(1) **the application for appointment of a conservator is denied;**

(2) **the conservator is discharged;**

(3) **the court, tribunal, magisterial district court or other government unit in which a matter is pending orders that the stay be lifted; or**

(4) **30 days after the court, tribunal, magisterial district court or other government unit in which a matter is pending is notified that substitute counsel has been retained.**

**(g) Enforcement Rule 321(h) provides that as used in this section, the term “government unit” has the meaning set forth in 42 Pa.C.S. § 102 (relating to definitions).**

**§ 91.122. Duties of conservator.**

(a) *General rule.* Enforcement Rule 322(a)—(c) provides that:

\* \* \* \* \*

**[ (3) The conservator shall send written notice to all clients of the absent attorney of the fact of the appointment of a conservator, the grounds which required such appointment, and the possible need of the clients to obtain substitute counsel; that all such notices shall include the name, address and telephone number of any lawyer referral service or similar agency available to assist in the location of substitute counsel; that the conservator shall, if necessary, send a second written notice to all clients of the absent attorney whose files appear to be active; that a file may be returned to a client upon the execution of a written receipt, or released to substitute counsel upon the request of the client and execution of a written receipt by such counsel; that the conservator shall deliver all such receipts to the appointing court at the time of filing the application for discharge; and that on approval by the appointing court of the application for discharge, all files remaining in the possession of the conservator shall be destroyed by the conservator in a secure manner which protects the confidentiality of the files. ]**

**(3) The conservator shall make a reasonable effort to identify all clients of the absent attorney whose files were opened within five (5) years of the appointment of the conservator, regardless of whether the case is active or not, and a reasonable effort to identify all clients whose cases are active, regardless of the age of the file. The conservator shall send all such clients, and former clients, written notice of the appointment of a conservator, the grounds which required such appointment, and**

the possible need of the clients to obtain substitute counsel. All such notices shall include the name, address and telephone number of any lawyer referral service or similar agency available to assist in the location of substitute counsel. The conservator shall, if necessary, send a second written notice to all clients of the absent attorney whose files appear to be active.

(4) All clients whose files are identified by the conservator as both inactive and older than five (5) years shall be given notice by publication of the appointment of a conservator, the grounds which required such appointment, and the possible need of the clients to obtain substitute counsel. All such notices shall include the name, address and telephone number of any lawyer referral service or similar agency available to assist in the location of substitute counsel. The specific method of publication shall be approved by the appointing court, as to both the method, and duration, of publication. The conservator shall deliver proofs of publication to the appointing court at the time of filing the application for discharge.

(5) A file may be returned to a client upon the execution of a written receipt, or released to substitute counsel upon the request of the client and execution of a written receipt by such counsel. The conservator shall deliver all such receipts to the appointing court at the time of filing the application for discharge. On approval by the appointing court of the application for discharge, all files remaining in the possession of the conservator shall be destroyed by the conservator in a secure manner which protects the confidentiality of the files.

\* \* \* \* \*

(c) *Written report.* Enforcement Rule 322(e) provides that the conservator shall file a written report with the appointing court and the Board no later than 30 days after the date of appointment covering the matters specified in subsection (a) of this section; that if those duties have not been accomplished, then the conservator shall state what progress has been made in that regard; and that thereafter, the conservator shall file a similar written report every [ 30 ] 60 days until discharge.

(d) Enforcement Rule 322(f) provides that in the case of a deceased attorney, the conservator shall notify the executor of the estate of the Disciplinary Board's need to be reimbursed by the estate for the costs and expenses incurred in accordance with § 91.128(3) (relating to compensation and expenses of conservator).

§ 91.124. Bank and other accounts.

Enforcement Rule 324 provides that:

\* \* \* \* \*

(3) The conservator may engage the services of a certified public accountant when considered necessary to assist in the bookkeeping and auditing of the financial accounts and records of the absent attorney.

(i) If the state of the financial accounts and records of the absent attorney, or other relevant circumstances, render a determination as to ownership of purported client funds unreasonable and impractical, the conservator shall petition the appointing court for permission to pay all funds held by the absent attorney in any trust, escrow, or

IOLTA account, to the Pennsylvania Lawyers Fund For Client Security. Any petition filed under this subsection shall be served by publication, the specific method and duration of which shall be approved by the appointing court.

\* \* \* \* \*

§ 91.125. Duration of conservatorship.

Enforcement Rule 325 provides that appointment of a conservator pursuant to the Enforcement Rules shall be for a period of no longer than six months; that the appointing court shall have the power, upon application of the conservator and for good cause, to extend the appointment for an additional three months; [ and ] that any order granting such an extension shall include findings of fact in support of the extension; and that no additional extensions shall be granted absent a showing of extraordinary circumstances.

§ 91.127. Liability of conservator.

Enforcement Rule 327 provides that a conservator appointed under the Enforcement Rules shall:

(1) Not be regarded as having an attorney-client relationship with clients of the absent attorney, except that the conservator shall be bound by the obligation of confidentiality imposed by the [ Disciplinary Rules ] Rules of Professional Conduct with respect to information acquired as conservator.

\* \* \* \* \*

§ 91.128. Compensation and expenses of conservator.

Enforcement Rule 328 provides that:

(1) A conservator [ shall normally serve without compensation, but where a conservatorship is expected to be prolonged or require greater effort than normal the appointing court may, with the prior written approval of the Board Chairman, order that the conservator be compensated on an agreed basis. Any such agreement shall be filed with the Office of the Secretary ] not associated with the Office of Disciplinary Counsel shall be compensated pursuant to a written agreement between the conservator and the Board Chair. Compensation under such an agreement shall be paid at reasonable intervals, and at an hourly rate identical to that received by court-appointed counsel at the non-court appearance rate in the judicial district where the conservator was appointed. When the conservator believes that extraordinary circumstances justify an enhanced hourly rate, the conservator may apply to the Board Chair for enhanced compensation. Such an application shall be granted only in those situations in which extraordinary circumstances are shown to justify enhanced compensation.

[ (2) Upon the completion of a conservatorship, the appointing court, with the prior written approval of the Board Chairman, shall have the power to award compensation or to increase compensation previously agreed to upon application of the conservator and upon demonstration by the conservator that the nature of the conservatorship was extraordinary and that failure to award or increase previously agreed compensation would work a substantial hardship on the conservator; and that in such event, compensation shall be awarded only to the extent that the efforts of the conservator have

exceeded those normally required or reasonably anticipated at the time the original compensation agreement was approved.

(3) ] (2) The necessary expenses (including, but not limited to, the fees and expenses of a certified public accountant engaged pursuant to § 91.124(3) (relating to bank and other accounts)) and any compensation of a conservator or any attendant staff shall, if possible, be paid by the absent attorney or his or her estate; and [ if not so paid, then upon certification by the president judge of the appointing court and approval by the Board Chairman, the ] any expenses and any compensation of the conservator that are not reimbursed to the Board shall be paid as a cost of disciplinary administration and enforcement. Payment of any costs incurred by the Board pursuant to Enforcement Rule 328 that have not been reimbursed to the Board may be made a condition of reinstatement of a formerly admitted attorney or may be ordered in a disciplinary proceeding brought against the absent attorney.

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter B. THE DISCIPLINARY BOARD

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

\* \* \* \* \*

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

\* \* \* \* \*

(iii) consider a petition for reinstatement to active status from inactive status under § 89.273 [ (a)(7) ] (relating to procedures for reinstatement).

\* \* \* \* \*

Subchapter G. FINANCIAL MATTERS  
TAXATION OF COSTS

§ 93.112. Failure to pay taxed expenses.

(a) *Action by Board.* Enforcement Rule 219(g) and [ (k) ] (l) provide that the Board shall:

(1) Transmit by certified mail, return receipt requested, to every attorney who fails to pay any expenses taxed pursuant to § 89.205(b) (relating to taxation of expenses), or § 89.209 (relating to expenses of formal proceedings), addressed to the last known address of the attorney, a notice stating:

(i) that unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request [ for transfer to inactive status ] to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will [ immediately ] enter an order [ transferring the attorney to inactive status ] administratively suspending the attorney; and

(ii) that upon entry of the order [ transferring the attorney to inactive status ] of administrative suspension, the attorney shall comply with Chapter 91 Subchapter E (relating to formerly admitted attorneys).

\* \* \* \* \*

(b) *Action by Supreme Court.* Enforcement Rule 219(g) provides that upon certification to the Supreme Court of the name of any attorney pursuant to paragraph (a)(2), the Court shall [ immediately ] enter an order [ transferring such attorney to inactive status ] administratively suspending the attorney; and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.

(c) *Reinstatement upon payment of taxed costs.* Enforcement Rule 219 [ (l) ] (m) provides that upon payment of all expenses taxed pursuant to § 89.205(b) and § 89.209 by a formerly admitted attorney [ transferred to inactive status ] on administrative suspension solely for failure to comply with paragraph (a)(1) of this section, the Board shall so certify to the Supreme Court; and that unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Board with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

ANNUAL ASSESSMENT OF ATTORNEYS

§ 93.141. Annual assessment.

(a) *General rule.* Enforcement Rule 219(a) provides that every attorney admitted to practice law in this Commonwealth [ , other than a military attorney holding a limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys) ] shall pay an annual fee under such rule of \$130.00; that the annual fee shall be collected under the supervision of the [ Administrative ] Attorney Registration Office, which shall send and receive, or cause to be sent and received, the notices and [ statements ] forms provided for in this Subchapter, and that the fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

(b) *Inapplicable to justices and judges.* Enforcement Rule 219(b) provides that [ justices and judges ] the following shall be exempt from the annual fee [ for such time as they serve in office. ]:

(1) Justices or judges serving in the following Pennsylvania courts of record shall be exempt for such time as they serve in office: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court;

(2) retired attorneys; and

(3) military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys).

*Official Note:* The exemption created by subdivision (b)(1) does not include Philadelphia Traffic Court judges, Pittsburgh Municipal Court judges, magisterial district judges, arraignment court magistrates or administrative law judges.

§ 93.142. Filing of annual [ statement ] form by attorneys.

(a) *Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the [ Admin-

**istrative ] Attorney Registration** Office shall transmit by ordinary mail to all persons required by the rule to pay an annual fee a form **[ for completing the annual statement ]** required by subsection (b) of this section.

(b) *Filing of annual [ statement ] form.* Enforcement Rule 219(d) provides that on or before July 1 of each year all persons required by the rule to pay an annual fee shall file with the **[ Administrative ] Attorney Registration** Office a signed **[ statement on the ]** form prescribed by the **[ Administrative ] Attorney Registration** Office in accordance with the following procedures:

(1) The **[ statement ] form** shall set forth:

(i) The date on which the attorney was **[ first ]** admitted to practice, licensed as foreign legal consultant, **granted limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311**, or issued a Limited In-House Corporate Counsel License, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been license' to practice law, with the current status thereof.

(ii) The current residence and office addresses of the attorney, each of which shall be an actual street address or rural route box number, and the **[ Administrative ] Attorney Registration** Office shall refuse to accept a **[ statement ] form** that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the **[ statement ] form** and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board.

**Official Note: The Note to Enforcement Rule 219(d)(1)(ii) explains that public web docket sheets will show the attorney's address as entered on the court docket.**

(iii) The name of each financial institution in Pennsylvania in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The **[ statement ] form** shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. The **[ statement ] form** provided to a person holding a Limited In-House Corporate Counsel License **or a Foreign Legal Consultant License** need not request the information required by this subparagraph.

\* \* \* \* \*

(vi) Such other information as the **[ Administrative ] Attorney Registration** Office may from time to time direct.

(2) Payment of the annual fee shall accompany the **[ statement ] form**. Where a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee shall also have been paid. The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for

checks returned to the Board unpaid. On or before July 1 of each year the Office of the Secretary shall publish in the *Pennsylvania Bulletin* a notice of the collection fee established by the Board for the coming assessment year.

(3) Every person who has filed such a **[ statement ] form** shall notify the **[ Administrative ] Attorney Registration** Office in writing of any change in the information previously submitted within 30 days after such change.

(4) Upon original admission to the bar of this Commonwealth, licensure as a **[ foreign legal consultant ] Foreign Legal Consultant, [ or ]** issuance of a Limited In-House Corporate Counsel License, **or limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311**, a person shall concurrently file a **[ statement ] form** under this subsection for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

**§ 93.143. Issue of certificate as evidence of compliance.**

Enforcement Rule 219(e) provides that **[ within 20 days of the ]** upon receipt of a **[ statement ] form**, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of § 93.142 (relating to filing of annual **[ statement ] form** by attorneys), and of payment of any required annual fee **to practice law in this Commonwealth**, receipt thereof shall be acknowledged on a certificate **[ issued by the Court Administrator of Pennsylvania, evidencing compliance with § 93.142(b) (relating to filing of annual statement) ]** or license.

**§ 93.144. [ Transfer to inactive status ] Administrative suspension** for failure to comply.

(a) *Action by [ Administrative ] Attorney Registration Office.* Enforcement Rule 219(f) and (g) provide that the **[ Administrative ] Attorney Registration** Office shall:

(1) Transmit by **[ certified ] ordinary mail[ , return receipt requested, ]** to every attorney who fails to timely file the **[ statement ] form** and pay the annual fee required by this Subchapter, addressed to the last known **mailing** address of the attorney, a notice stating:

(i) That unless the attorney shall comply with the requirements of § 93.142 (relating to filing of annual **[ statement ] form** by attorneys) within 30 days after the date of the notice, such failure to comply will be deemed a request **[ for transfer to inactive status ]** to be **administratively suspended**, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will **[ immediately ]** enter an order **[ transferring the attorney to inactive status ]** **administratively suspending the attorney.**

(ii) That upon the entry of the order **[ transferring the attorney to inactive status ]** of **administrative suspension**, the attorney shall comply with Chapter 91 of Subchapter E (relating to formerly admitted attorneys), and that a copy of Enforcement Rule 217 (relating to formerly admitted attorneys) shall be enclosed with the notice.

\* \* \* \* \*

(b) *Action by the Supreme Court.* Enforcement Rule 219(g) provides that upon certification to the Supreme Court of the name of any attorney pursuant to paragraph (a)(2) of this section, the Court shall [ **immediately** ] enter an order [ **transferring such attorney to inactive status** ] **administratively suspending the attorney**; and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.

#### § 93.145. Reinstatement.

(a) *General rule.* Enforcement Rule 219(h)[ (1) ] provides that [ **upon compliance by a formerly admitted attorney with the provisions of § 93.142(b) (relating to filing of annual statement by attorneys), including payment of all arrears due from the date to which such person was last paid, the Administrative** ] the procedure for reinstatement of an attorney who has been administratively suspended for three years or less pursuant to the provisions of § 93.144(b) is as follows:

(1) **The formerly admitted attorney shall submit to the Attorney Registration Office the form required by § 93.142(b) along with payment of:**

- (i) **the current annual fee;**
- (ii) **the annual fee that was due in the year in which the attorney was administratively suspended;**
- (iii) **the late payment penalty required by paragraph (b) of this section;**
- (iv) **a reinstatement fee of \$300.00.**

(2) **Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (a)(1) of this section, the Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court; and that unless [ such person ] the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the [ Administrative ] Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.**

(b) *Late payment penalty.* Enforcement Rule 219(h)[ (2) ] (3) provides that [ **for the purposes of §§ 93.141—93.147 (relating to annual assessment of attorneys) arrearages shall include a late payment penalty payable by every attorney to whom a notice has been transmitted under § 93.144(a)(1) (relating to action by Administrative Office) plus the actual cost of any publication effected pursuant to § 91.96 (relating to publication of notice of suspension, disbarment or transfer to inactive status)** ] a formerly admitted attorney who is administratively suspended pursuant to § 93.142(b) must pay a late payment penalty with respect to that year. The amount of the late payment penalty shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the [ **statement** ] form required by § 93.142(b). On or before July 1 of each year the Office of

the Secretary shall publish in the *Pennsylvania Bulletin* a notice of the late payment penalty established by the Board for the coming assessment year.

#### § 93.146. Voluntarily retired or inactive attorneys.

(a) [ *General rule.* ] *Retired Status:* Enforcement Rule 219(i) provides that:

(1) [ **an** ] **An attorney who has retired**[ , is not engaged in practice or who sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct ] shall file with the [ **Administrative** ] Attorney Registration Office [ **a notice in writing (Form DB-28) (Notice of Voluntary Assumption of Inactive Status) that the attorney desires to voluntarily assume inactive status and discontinue the practice of law;** ] Form DB-27 (Application for Retirement).

(2) [ **upon** ] **Upon** the transmission of [ **such notice** ] the application from the [ **Administrative** ] Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to [ **inactive** ] retired status, and the attorney shall no longer be eligible to practice law [ **but shall continue to file the statement specified in § 93.142(b) (relating to filing of annual statement by attorneys) for six years thereafter in order that the formerly admitted attorney can be located in the event complaints are made about the conduct of such person while such person was engaged in practice;** ] .

(3) [ **the** ] **The [ formerly admitted ] retired attorney will be relieved from the payment of the fee specified in § 93.141 (relating to annual assessment)**[ ; ] .

(4) Chapter 91 Subchapter E (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Supreme Court in connection with the entry of an order of suspension or disbarment under another provision of the Enforcement Rules[ ; and ] .

(5) **An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, by filing a Form DB-29 (Application for Resumption of Active Status), except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement.**

(6) [ **the** ] **The Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.**

(b) [ *Reactivation* ] *Inactive Status.* Enforcement Rule 219(j) provides that:

(1) [ **Upon the filing of Form DB-28, an** ] **An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request voluntary inactive status or continue that status once assumed. The attorney shall file either the annual form required by § 93.142(b) and request voluntary inactive status or file Form DB-28 (Notice of Voluntary Assumption**

**of Inactive Status).** The attorney shall be removed from the roll of those classified as active until and unless such person [ requests ] files [ ( ) Form DB-29 [ ] ] (Application for Resumption of Active Status) and is granted reinstatement to the active rolls.

(2) An inactive attorney under this subsection (b) shall continue to file the annual form required by § 93.142(b) and shall pay an annual fee of \$70.00. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after the Attorney Registration Office provides notice in accordance with the provisions of § 93.144. An attorney who voluntarily assumed inactive status under former subsection (a) of this rule shall continue to file the annual form and pay an annual fee of \$70.00 commencing with the next regular assessment year. Noncompliance with this paragraph will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of § 93.144(a)(1).

(3) [ That reinstatement ] Reinstatement shall be granted, unless the [ formerly admitted ] inactive attorney is subject to an outstanding order of suspension or disbarment or unless the [ order ] inactive status has been in effect for more than three years, [ automatically ] upon the payment of [ any assessment in effect ] the active fee for the assessment year in which the [ request ] Form DB-29 (Application for Resumption of Active Status) is [ made ] filed or the difference between the active fee and the inactive fee that has been paid for that year, and any arrears accumulated prior to [ transfer to ] the assumption of inactive status. See § 93.145(b) (relating to late payment penalty).

[ (3) That disciplinary proceedings may be initiated and maintained against a formerly admitted attorney who has voluntarily assumed inactive status. See § 85.3(a)(3) (relating to jurisdiction). ]

(4) In transmitting the annual fee form under subsection (a) of § 93.142, the Attorney Registration Office shall include a notice of subdivision (j) of Enforcement Rule 219 (relating to request for voluntary inactive status).

**Official Note:** Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new paragraph (b)(2) of this section, payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by § 93.146(b)(2) and file the form required by § 93.142(b) (relating to filing of annual form by attorneys) will result in an order administratively suspending the attorney.

§ 93.147. Notification of suspension or inactivation.

Where administrative suspension is [ effected ] ordered under this Subchapter, the attorney shall comply with the requirements of Chapter 91 of Subchapter E (relating to formerly admitted attorneys). Public notice of such administrative suspension shall clearly state that suspension was [ effected ] ordered for failure to file the required annual [ statement or for failure to ]

form and pay the required annual assessment, or for failure to comply with § 93.112 (relating to failure to pay taxed expenses).

§ 93.148. Grace period.

Enforcement Rule 219(k) provides that on the effective date of that Rule, any attorney who is on inactive status:

(a) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of Rule 219,

(b) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(c) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(d) by order after having failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender legal services programs pursuant to Pa.B.A.R. 311, or a military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under § 93.142(b) is due, in which to request reinstatement to active status under an applicable provision of Rule 219, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under § 93.146(b) until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under § 93.142(a), the Attorney Registration Office shall include a notice of Enforcement Rule 219(k).

**Official Note:** Attorneys who voluntarily assumed inactive status under former § 93.146(a) are governed by the provisions of § 93.146(b). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to § 93.112 are governed by the provisions of that section.

[Pa.B. Doc. No. 09-1404. Filed for public inspection August 7, 2009, 9:00 a.m.]

## PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 83 ]

In re: Amendment of Rule 208(f)(1) of the Pennsylvania Rules of Disciplinary Enforcement; No. 78; Disciplinary Rules; Doc. No. 1

### Order

*Per Curiam:*

And Now, this 24th day of July, 2009, it is ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that:

1. Rule 208(f)(1) of The Pennsylvania Rules of Disciplinary Enforcement is amended as set forth in Annex A.

2. This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. To the extent that publication of a notice of proposed rulemaking would otherwise be required with respect to the amendment adopted by this Order, such publication is hereby found to be unnecessary because the immediate adoption of this Order is required in the interests of justice.

3. The amendment adopted herein shall take effect in 30 days.

JOHN V. VASKOV,  
Deputy Prothonotary  
Supreme Court of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 208. Procedure.

\* \* \* \* \*

(f) *Emergency temporary suspension orders and related relief.*

(1) Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to these rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief. A copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel. **If Disciplinary Counsel cannot make personal service after reasonable efforts to locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to an employee, agent or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney pursuant to Rule 219(d). Service is complete upon delivery or mailing, as the case may be.** The Court, or any justice thereof, may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days. The Court, or any justice thereof, may, before or after issuance of the rule, issue:

(i) such orders to the respondent-attorney, and to such financial institutions or other persons as may be necessary to preserve funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled in manifest violation of the Disciplinary Rules[ . ]; and

(ii) an order directing the president judge of the court of common pleas in the judicial district where the respondent-attorney maintains his or her prin-

cipal office for the practice of law or conducts his or her primary practice, to take such further action and to issue such further orders as may appear necessary to fully protect the rights and interests of the clients of the respondent-attorney when:

(A) the respondent-attorney does not respond to a rule to show cause issued after service of the petition pursuant to subdivision (f)(1); or

(B) Disciplinary Counsel's petition demonstrates cause to believe that the respondent-attorney is unavailable to protect the interests of his or her clients for any reason, including the respondent-attorney's disappearance, abandonment of practice, incarceration, or incapacitation from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants.

Where the Court enters an order under (f)(1)(ii), the Board shall promptly transmit a certified copy of the order to the president judge, whose jurisdiction and authority under this rule shall extend to all client matters of the respondent-attorney.

Where the Court enters an order under (f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

\* \* \* \* \*

[Pa.B. Doc. No. 09-1405. Filed for public inspection August 7, 2009, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[ 231 PA. CODE CH. 200 ]

In Re: Amendment of Rule 234.2 Governing the Issuance and Service of Subpoenas; No. 514

Order

*Per Curiam:*

*And Now*, this 23rd day of July, 2009, Pennsylvania Rule of Civil Procedure 234.2 is amended to read as follows.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 234.2. Subpoena. Issuance. Service. Compliance. Fees. Prisoners.

\* \* \* \* \*



(b) A copy of the subpoena may be served upon any [ person ] adult within the Commonwealth by an adult[ . ]

**Official Note:** For service of a subpoena upon a minor who is a witness, see subdivision (e).

\* \* \* \* \*

(c) The fee for one day’s attendance and round trip mileage shall be tendered upon demand at the time the person is served with a subpoena. If a subpoena is served by mail, a check in the amount of one day’s attendance and round trip mileage shall be enclosed with the subpoena.

**Official Note:** See 42 [ Pa.C.S.A. ] Pa.C.S. § 5903 for the compensation and expenses of witnesses. See also *Evans v. Otis Elevator Co.*, 403 Pa. 13, 168 A.2d 573 (1961), regarding the right of an expert witness to refuse to testify on behalf of an adverse party.

\* \* \* \* \*

(e)(1) For the purposes of this subdivision, “guardian” shall mean any parent, custodian, or other person who has legal custody of a minor, or person designated by the court to be a temporary guardian for purposes of a proceeding.

(2)(i) Except as provided by subdivision (ii), if a witness is a minor, a copy of the subpoena shall be served upon the minor and the guardian of the minor within the Commonwealth by an adult in the manner prescribed in subdivision (b).

**Official Note:** See Rule 76 for definition of “minor.”

(ii) Upon prior court approval and good cause shown, a copy of the subpoena may be served upon a minor who is a witness without serving a copy of the subpoena on the guardian. The copy of the subpoena shall be served upon the minor within the Commonwealth by an adult in the manner prescribed in subdivision (b).

**Explanatory Comment**

To provide greater protection to minors, Rule 234.2 has been amended to provide a separate procedure for the issuance and service of a subpoena on a witness who is a minor. The amendment provides that a subpoena must be served upon the minor and the guardian of the minor. A subpoena may be served on a minor who is a witness without also serving the guardian if a court has reviewed and given prior approval for the issuance of the subpoena upon good cause shown.

*By the Civil Procedural Rules Committee*

STEWART L. KURTZ,  
*Chair*

[Pa.B. Doc. No. 09-1406. Filed for public inspection August 7, 2009, 9:00 a.m.]

**PART I. GENERAL**

[ 231 PA. CODE CH. 200 ]

**Proposed Amendment of Rule 212.3 Governing Pre-Trial Conferences and Promulgation of New Rules 212.5 and 212.6 Governing Settlement Conferences; Proposed Recommendation No. 239**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 212.3 governing pre-trial conferences be amended and that new Rules of Civil Procedure 212.5 and 212.6 governing settlement conferences be promulgated as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than October 2, 2009 to:

Karla M. Shultz, Esquire  
Counsel  
Civil Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg, PA 17106-2635  
or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Supreme Court.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 200. BUSINESS OF COURTS**

**Rule 212.3. Pre-trial conference.**

(a) In any action at any time the court, [ of its own motion ] sua sponte or on motion of any party, may direct the attorneys for the parties or any unrepresented party to appear for a conference to consider:

- (1) The simplification of the issues;
- (2) The [ necessity or desirability of amendments to the pleadings ] entry of a scheduling order;

\* \* \* \* \*

(5) [ The advisability of a preliminary reference of issues to a master for findings to be used as evidence when the trial is to be by jury ] Settlement and/or mediation of the case;

**Official Note:** See Rule 212.5 for procedures governing a settlement conference.

(6) Such other matters as may aid in the disposition of the action.

(b) A court may require, pursuant to a court order, various parties to be present, including an insurance or similar representative, who has com-

plete authority to negotiate and settle the case, to attend the pre-trial conference.

(c) In the absence of a court order, at any pre-trial conference held after the filing of the pre-trial statements and that will involve settlement discussions:

(1) prior to the conference date, the attorneys for the parties, or the parties if unrepresented, shall engage in good faith efforts to resolve the case;

(2) an attorney who will be trying the case, or another attorney who has sufficient knowledge of the claims asserted, defenses presented, relief sought and legal issues raised, and has the authority to act on behalf of the client shall attend the pre-trial conference; and

(3) an insurance or similar representative, who has complete authority to negotiate and settle the case, must either attend the pre-trial conference or be promptly available by telephone.

[ (b) ] (d) The court may make an order reciting the action taken at the conference, [ the amendments allowed to the pleadings, and ] the agreements made by the parties as to any of the matters considered and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

[ (c) ] (e) The court may establish by rule a pre-trial list on which actions may be placed for consideration as above provided, and may either confine the list to jury actions or to non-jury actions, or extend it to all actions.

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

#### Rule 212.5. Settlement Conference.

(a) At any time, the court, sua sponte or on motion of any party, may enter an order in the form provided in Rule 212.6 scheduling a settlement conference, the purpose of which is to resolve the litigation. Prior to the conference date, the attorneys for the parties, or the parties if unrepresented, shall engage in good faith efforts to resolve the case.

(b) At a settlement conference scheduled pursuant to this rule,

(1) an attorney who will be trying the case, or another attorney who has sufficient knowledge of the claims asserted, defenses presented, relief sought and legal issues raised, and has the authority to act on behalf of the client shall attend the settlement conference;

(2) an insurance or similar representative, who has complete authority to negotiate and settle the case must be present at the conference, unless the court permits the representative to ensure that he or she will be available by telephone; and

(3) the court shall have discretion to order the attendance of other individuals as reasonably necessary to accomplish resolution of the case.

**Official Note:** Rule 212.3 governs a pre-trial conference which includes consideration of matters relating to the trial of a case. A settlement conference pursuant to this rule considers only the settlement of litigation.

#### Rule 212.6. Settlement Conference. Form of Order.

An order scheduling a settlement conference pursuant to Rule 212.5 shall be substantially in the following form:

(Caption)

#### Scheduling Order for Rule 212.5 Settlement Conference

For the above-captioned case, a settlement conference pursuant to Rule 212.5 has been scheduled before \_\_\_\_\_ at \_\_\_\_\_

(name of judge)

Courthouse at \_\_\_\_\_ o'clock. All parties shall be in compliance with the requirements of Rule 212.5(b).

J.

#### Explanatory Comment

The success, or the lack thereof, of settlement negotiations often hinges on the preparation of the parties for such negotiations. To facilitate the settlement of cases, the Civil Procedural Rules Committee is proposing the amendment of Rule 212.3 governing pre-trial conferences to provide guidance to the parties when a court schedules a pre-trial conference for the purpose of settlement negotiations. Proposed new Rule 212.5 is intended to provide guidance to the parties for a conference scheduled specifically to settle litigation.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,  
Chair

[Pa.B. Doc. No. 09-1407. Filed for public inspection August 7, 2009, 9:00 a.m.]

#### PART I. GENERAL

#### [ 231 PA. CODE CH. 1000 ]

#### Proposed Amendment of Rule 1020 Governing Pleading More Than One Cause of Action; Proposed Recommendation No. 240

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1020 governing the pleading of more than one cause of action be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than October 2, 2009 to:

Karla M. Shultz, Esquire  
Counsel

Civil Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg, PA 17106-2635

or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

PLEADINGS

**Rule 1020. Pleading More Than One Cause of Action. Alternative Pleading. Failure to Join. Bar.**

\* \* \* \* \*

(d)(1) If a transaction or occurrence gives rise to more than one cause of action heretofore asserted in assumpsit and trespass, against the same person, including causes of action in the alternative, they shall be joined in separate counts in the action against any such person. Failure to join a cause of action as required by this subdivision shall be deemed a waiver of that cause of action as against all parties to the action.

**Official Note:** Mandatory joinder is limited to related causes of action heretofore asserted in assumpsit and trespass. There is no mandatory joinder of related causes of action in equity.

See Rule 2226 et seq. governing joinder of parties.

See Rule 213(a) and (b) governing the consolidation and severance of causes of action.

**(2) When personal injuries to a person and damage to that person's property arise from the same tortious act, the person who sustained both personal injuries and property damage must seek recovery for both in a single action. If a separate action is instituted for each category of damage, a judgment rendered in one such action bars recovery in the other action.**

**Official Note:** Subdivision (d)(2) applies the prohibition against splitting causes of action to a subrogee because a subrogee derives his or her right to recovery from the person who sustained both personal injuries and property damage. This subdivision supersedes *State Farm Mutual Automobile Ins. Co. v. Ware's Van Storage*, 953 A.2d 568 (Pa. Super. 2008), which permitted a person injured in an automobile accident to pursue his personal injury claims in one lawsuit and the insurance company of the injured person to pursue a subrogated property damage claim in a second lawsuit.

**Explanatory Comment**

The Civil Procedural Rules Committee is proposing the amendment of Rule 1020(d) so that the prohibition against splitting causes of action applies to a subrogee. The proposed amendment would require a single lawsuit so that a party is not required to defend multiple lawsuits for personal injuries and property damage by the same person for the same tortious act. In addition, the proposed amendment is intended to protect the trial courts from being encumbered by multiple actions arising from the same transaction or occurrence, and to create certainty that once a claim is settled additional litigation cannot be instituted.

*By the Civil Procedural Rules Committee*

STEWART L. KURTZ  
*Chair*

[Pa.B. Doc. No. 09-1408. Filed for public inspection August 7, 2009, 9:00 a.m.]

PART I. GENERAL

[ 231 PA. CODE CH. 4000 ]

**Proposed Rescission of Rule 4014, Promulgation of New Rules 4014.1, 4014.2 and 4014.3 Governing Request for Admission, and Amendments of Rule 4019 Governing Sanctions; Proposed Recommendation No. 241**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 4014 be rescinded, that new Rules 4014.1, 4014.2 and 4014.3 governing the request for admission be promulgated, and that Rule 4019 governing sanctions be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than October 2, 2009 to:

Karla M. Shultz, Esquire  
Counsel  
Civil Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 6200  
P. O. Box 62635  
Harrisburg, PA 17106-2635  
or E-Mail to  
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

CHAPTER 4000. DEPOSITIONS AND DISCOVERY  
ENTRY UPON PROPERTY FOR INSPECTION AND  
OTHER ACTIVITIES

Rule 4014. Request for Admission.

**[(a) A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rules 4003.1 through 4003.5 inclusive set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness, authenticity, correctness, execution, signing, delivery, mailing or receipt of any document described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or available for inspection and copying in the county. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the original process upon that party.]**

**(b) Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within thirty days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission an answer verified by the party or an objection, signed by the party or by the**

party's attorney; but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of forty-five days after service of the original process upon him or her. If objection is made, the reasons therefor shall be stated. The answer shall admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully do so. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the answering party states that he or she has made reasonable inquiry and that the information known or readily obtainable by him or her is insufficient to enable him or her to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request. That party may, subject to the provisions of Rule 4019(d), deny the matter or set forth reasons why he or she cannot admit or deny it.

**Official Note:** The requirements of an answer are governed by this rule and not by Rule 1029(b).

(c) The party who has requested the admission may move to determine the sufficiency of the answer or objection. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pre-trial conference or at a designated time prior to trial.

(d) Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 212.3 governing pre-trial conferences, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him or her in maintaining the action or defense on the merits. Any admission by a party under this rule is for the purpose of the pending action only and is not an admission by the party for any other purpose nor may it be used against the party in any other proceeding ] (Reserved).

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

**Rule 4014.1. Request for Admission. Statement or Opinion of Fact or Law. Genuineness of Document.**

(a) A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rules 4003.1 through 4003.5 inclusive set forth in the request that relate to statement or opinion of fact or of the application of law to fact, and including the genuine-

ness, authenticity, correctness, execution, signing, delivery, mailing or receipt of any document described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or available for inspection and copying in the county.

(b) The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the original process upon that party.

**Rule 4014.2. Response to Request for Admission. Denial.**

(a) Each matter of which an admission is requested shall be separately set forth. Within thirty days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed shall serve upon the party requesting the admission an answer verified by the party or an objection, signed by the party or by the party's attorney; but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of forty-five days after service of the original process upon him or her. If objection is made, the reasons therefor shall be stated.

(b) The answer shall admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully do so. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder.

(c)(1) An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the answering party states that he or she has made reasonable inquiry and that the information known or readily obtainable by him or her is insufficient to enable him or her to admit or deny.

(2) A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request. That party may, subject to the provisions of Rule 4019(d), deny the matter or set forth reasons why he or she cannot admit or deny it.

**Official Note:** The requirements of an answer are governed by this rule and not by Rule 1029(b).

**Rule 4014.3. Request for Admission. Motion to Compel Answer or to Determine Sufficiency of Answer or Objection.**

If a party fails to serve an answer, a sufficient answer or proper objections to a request for admission, the court, on motion, may enter an order pursuant to Rule 4019(a). If the party fails to comply with the order entered pursuant to Rule 4019(a), the court may enter an appropriate order pursuant to Rule 4019(c), including an order that the matter as to which an admission was sought is admitted.

**Rule 4019. Sanctions**

(a)(1) The court may, on motion, make an appropriate order if

\* \* \* \* \*

(viii) a party fails to serve an answer, a sufficient answer or a proper objection to a request for admission under Rules 4014.1, 4014.2, and 4014.3;

(ix) a party or person otherwise fails to make discovery or to obey an order of court respecting discovery.

\* \* \* \* \*

(c) The court, when acting under subdivision (a) of this rule, may make

(1) an order that the matters regarding which the questions were asked **or the admissions were requested**, or the character or description of the thing or land, or the contents of the paper, or any other designated fact shall be taken to be established **or admitted** for the purposes of the action in accordance with the claim of the party obtaining the order;

\* \* \* \* \*

**Explanatory Comment**

Current Rule 4014(b) provides for a request for admission to be deemed admitted if the party upon whom the request is served fails to serve an answer or objections. Rule 4014(d) provides that an admission is conclusively established unless a court on motion permits withdrawal or amendment of the admission. Subdivision (d) also provides that a court may permit withdrawal or amendment when the presentation of the merits of the action will be subverted thereby, and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him or her in maintaining the action or defense on the merits.

The Civil Procedural Rules Committee is proposing that Rule 4014 be amended so that the procedure governing requests for admission follows that governing interrogatories and requests for production of documents. Using this new procedure, if a party does not respond to the request for admission or raises objections to the request, the party who has made the request will seek a court order compelling a response. Upon violation of the court order, the party making the request may obtain appropriate sanctions which may include that the matter is admitted.

The format of Rule 4014 is also proposed to be revised by designating subdivisions (a), (b), and (c) of the current rule as new Rules 4014.1, 4014.2, and 4014.3 respectively. Subdivision (d) of the current rule would be deleted as unnecessary. The proposed format creates a “mini chapter” of rules and is intended to make its use easier for the practitioner. Rule 4019(a) and (c) governing sanctions would be amended to conform to the requirements of the proposed amendment of Rule 4014.

*By the Civil Procedural Rules Committee*

STEWART L. KURTZ,  
*Chair*

[Pa.B. Doc. No. 09-1409. Filed for public inspection August 7, 2009, 9:00 a.m.]

**Title 237—JUVENILE RULES**

**PART I. RULES**

[ 237 PA. CODE CHS. 1, 3 AND 5 ]

**In Re: Order Amending Rules 120, 345, 348, 515 and 520 of the Rules of Juvenile Court Procedure; No. 475**

**Order**

*Per Curiam:*

Now, this 28th day of July, 2009, upon the recommendation of the Juvenile Court Procedural Rules Committee and the proposal having been published for public comment before adoption at 38 Pa.B. 5594 (October 11, 2008), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 955, No. 2, October 10, 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 the modifications to the Rules of Juvenile Court Procedure Rules 120, 345, 348, 515 and 520 are approved as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

**Annex A**

**TITLE 237. JUVENILE RULES**

**PART I. RULES**

**Subpart A. DELINQUENCY MATTERS**

**CHAPTER 1. GENERAL PROVISIONS**

**PART A. BUSINESS OF COURTS**

**Rule 120. Definitions.**

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

AFFIANT is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person’s act.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law and local practice to maintain the official juvenile court file and docket, without regard to that person’s official title.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include masters when they are permitted to hear cases under these rules and magisterial district judges when issuing an arrest warrant pursuant to Rule 210. Juvenile Court shall have the same meaning as Court.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases juvenile court action on a case.

**GUARDIAN** is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

**INTAKE STAFF** is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

**ISSUING AUTHORITY** is any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a Magisterial District Judge.

**JUVENILE** is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age.

**LAW ENFORCEMENT OFFICER** is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

**MASTER** is an attorney with delegated authority to hear and make recommendations for juvenile delinquency matters. Master has the same meaning as hearing officer.

**MEDICAL FACILITY** is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

**MINOR** is any person, other than a juvenile, under the age of eighteen.

**ORDINANCE** is a legislative enactment of a political subdivision.

**PARTIES** are the juvenile and the Commonwealth.

**PENAL LAWS** include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

**PETITION** is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

**PETITIONER** is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

**PLACEMENT FACILITY** is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation or program description, to receive delinquent juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure.

**POLICE OFFICER** is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

**POLITICAL SUBDIVISION** shall mean county, city, township, borough, or incorporated town or village having legislative authority.

**PROCEEDING** is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

**RECORDING** is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

**VERIFICATION** is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

**WRITTEN ALLEGATION** is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

### Comment

Under the term "court," to determine if masters are permitted to hear cases, *see* Rule 187. *See* Rule 210 for the power of magisterial district judges to issue arrest warrants.

**The term "disposition" includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case "with prejudice" prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.**

Neither the definition of "law enforcement officer" nor the definition of "police officer" gives the power of arrest to any person who is not otherwise given that power by law.

A "petition" and a "written allegation" are two separate documents and serve two distinct functions. A "written allegation" is the document that initiates juvenile delinquency proceedings. Usually, the "written allegation" will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a "probable cause affidavit," "complaint," "police paper," "charge form," "allegation of delinquency," or the like. Once this document is submitted, a preliminary determination of the juvenile court's jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

For definition of "delinquent act," *see* 42 Pa.C.S. § 6302.

**Official Note:** Rule 120 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 July 28, 2009, effective immediately.**

### *Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 120 published with the Court's Order at 36 Pa.B. 187 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 38 Pa.B. 1145 (March 8, 2008).

**Final Report explaining the amendment to Rule 120 published with the Court's Order at 39 Pa.B. 4748 (August 8, 2009).**

**CHAPTER 3. PRE-ADJUDICATORY PROCEDURES**  
**PART D(1). MOTION PROCEDURES**

**Rule 345. Filing and Service.**

*A. Filings.*

1) *Generally.* Except as otherwise provided in these rules, all written motions, and any notice or document for which filing is required, shall be filed with the clerk of courts.

2) *Clerk of courts' duties.* Except as provided in paragraph (A)(3), the clerk of courts shall docket a written motion, notice, or document when it is received and record the time of filing in the docket. The clerk of courts promptly shall transmit a copy of these papers to such person as may be designated by the court.

3) *Filings by represented juveniles.* In any case in which a juvenile is represented by an attorney, if the juvenile submits for filing a written motion, notice, or document that has not been signed by the juvenile's attorney, the clerk of courts shall not file the motion, notice, or document in the juvenile court file or make a docket entry, but shall forward it promptly to the juvenile's attorney.

4) *Method of filing.* Filing may be accomplished by:

- a) personal delivery to the clerk of courts; or
- b) mail addressed to the clerk of courts, provided, however, that filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

*B. Service.*

1) *Generally.* The party filing the document shall serve the other party concurrently with the filing.

2) *Method of service to parties.* Service on the parties shall be by:

- a) personal delivery of a copy to a party's attorney, or, if unrepresented, the party; or
- b) mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or
- c) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box; or
- d) sending a copy to an unrepresented juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement.

*C. Proof of service.* All documents that are filed and served pursuant to this rule shall include a certificate of service.

**Comment**

See Rule 166 for maintaining records in the clerk of courts.

Under paragraph (A)(2), the court is to designate a court official to process motions and other matters for appropriate scheduling and [ **disposition** ] **resolution**.

Under paragraph (B), the party filing a document is required to serve the other party.

This rule does not affect court orders, which are to be served upon each party's attorney and the juvenile, if unrepresented, by the clerk of courts as provided in Rule 167.

For service of petitions, see Rule 331.

**Official Note:** Rule 345 adopted April 1, 2005, effective October 1, 2005; **amended July 28, 2009, effective immediately.**

*Committee Explanatory Reports:*

**Final Report explaining the amendment to Rule 345 published with the Court's Order at 39 Pa.B. 4748 (August 8, 2009).**

**Rule 348. [ Disposition ] Determination of Omnibus Motions.**

Unless otherwise provided in these rules, all omnibus motions shall be determined before the adjudicatory hearing. If necessary for the determination of the omnibus motion, the court may postpone the adjudicatory hearing.

**Official Note:** Rule 348 adopted April 1, 2005, effective October 1, 2005; **amended July 28, 2009, effective immediately.**

*Committee Explanatory Reports:*

**Final Report explaining the amendment to Rule 348 published with the Court's Order at 39 Pa.B. 4748 (August 8, 2009).**

**CHAPTER 5. DISPOSITIONAL HEARING**

**PART B. DISPOSITIONAL HEARING AND AIDS**

**Rule 515. Dispositional Order.**

*A. Generally.* When the court enters a disposition **after an adjudication of delinquency pursuant to Rule 409(A)(2)**, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

- 1) the terms and conditions of the disposition;
- 2) the name of any agency or institution that is to provide care, treatment, supervision, or rehabilitation of the juvenile;
- 3) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1)(i) for limited public information;
- 4) the date of the order; and
- 5) the signature and printed name of the judge entering the order.

*B. Restitution.* If restitution is ordered in a case, the dispositional order shall include:

- 1) a specific amount of restitution to be paid by the juvenile;
- 2) to whom the restitution is to be paid; and
- 3) a payment schedule, if so determined by the court.

*C. Guardian participation.* The court shall include any obligation in its dispositional order imposed upon the guardian.

**Comment**

Pursuant to paragraph (A)(3), the court is to determine if the case is eligible for limited public information under

the requirements of 42 Pa.C.S. § 6307(b)(1)(i). *See* 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

*See* 23 Pa.C.S. § 5503 and 42 Pa.C.S. § 6310.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P. L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

**Official Note:** Rule 515 adopted April 1, 2005, effective October 1, 2005; amended August 20, 2007, effective December 1, 2007; **amended July 28, 2009, effective immediately.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. [ 4866 ] 4868 (September 8, 2007).

**Final Report explaining the amendment to Rule 515 published with the Court's Order at 39 Pa.B. 4748 (August 8, 2009).**

### PART C. POST-DISPOSITIONAL MOTIONS

#### Rule 520. Post-Dispositional Motions.

##### A. *Optional Post-Dispositional Motion.*

1) The parties shall have the right to make a post-dispositional motion. All requests for relief from the court shall be stated with specificity and particularity, and shall be consolidated in the post-dispositional motion.

2) Issues raised before or during the adjudicatory hearing shall be deemed preserved for appeal whether or not the party elects to file a post-dispositional motion on those issues.

##### B. *Timing.*

1) If a post-dispositional motion is filed, it shall be filed no later than ten days after the imposition of disposition.

2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed:

a) within thirty days of the entry of the order deciding the motion;

b) within thirty days of the entry of the order denying the motion by operation of law in cases in which the judge fails to decide the motion; or

c) within thirty days of the entry of the order memorializing the withdrawal in cases in which a party withdraws the motion.

3) If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the imposition of disposition.

##### C. *Court Action.*

1) *Briefing Schedule and Argument.* Within ten days of the filing of the post-dispositional motion, the court shall:

a) determine if briefs, memoranda of law, or oral arguments are required; and

b) set a briefing schedule and dates for oral argument, if necessary.

2) *Failure to Set Schedule.* If the court fails to act according to paragraph (C)(1), briefs and oral arguments are deemed unnecessary.

3) *Transcript.* If the grounds asserted in the post-dispositional motion do not require a transcript, neither the briefs nor arguments on the post-dispositional motion shall be delayed for transcript preparation.

D. *Time Limits for Decision on Motion.* The judge shall not vacate disposition pending the decision on the post-dispositional motion, but shall decide the motion as provided in this paragraph.

1) Except as provided in paragraph (D)(2), the judge shall decide the post-dispositional motion as soon as possible but within thirty days of the filing of the motion. If the judge fails to decide the motion within thirty days, or to grant an extension as provided in paragraph (D)(2), the motion shall be deemed denied by operation of law.

2) Upon motion of a party within the 30-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

3) When a post-dispositional motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and, as provided pursuant to Rule 167, [ **forthwith** ] shall serve a copy of the order on each attorney and the juvenile, if unrepresented, that the post-dispositional motion is deemed denied. This order is not subject to reconsideration.

4) If the judge denies the post-dispositional motion, the judge promptly shall issue an order and the order shall be filed and served as provided in Rule 167.

5) If a party withdraws a post-dispositional motion, the judge promptly shall issue an order memorializing the withdrawal, and the order shall be filed and served as provided in Rule 167.

E. *Contents of order.* An order denying a post-dispositional motion, whether issued by the judge pursuant to paragraph (D)(4) or entered by the clerk of courts pursuant to paragraph (D)(3), or an order issued following a party's withdrawal of the post-dispositional motion pursuant to paragraph (D)(5), shall include notice to the party of the following:

1) the right to appeal;

2) the time limits within which the appeal shall be filed; and

3) the right to counsel in the preparation of the appeal.

F. *After-discovered evidence.* A motion for a new adjudication on the grounds of after-discovered evidence shall be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

#### **Comment**

The purpose of this rule is to promote the fair and prompt [ **disposition** ] **resolution** of all issues relating



to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for court review, and by setting reasonable but firm time limits within which the motion is to be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

**For the definition of “disposition,” see Rule 120 and its Comment.**

#### OPTIONAL POST-DISPOSITIONAL MOTION

*See In re Brandon Smith*, 393 Pa. Super. 39, 573 A.2d 1077 (1990), for motions on ineffective assistance of counsel.

Under paragraph (A)(2), any issue raised before or during adjudication is deemed preserved for appeal whether a party chooses to raise the issue in a post-dispositional motion. It follows that the failure to brief or argue an issue in the post-dispositional motion would not waive that issue on appeal as long as the issue was properly preserved, in the first instance, before or during adjudication. Nothing in this rule, however, is intended to address Pa.R.A.P. 1925(b) or the preservation of appellate issues once an appeal is filed. *See Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (1998) (any issues not raised in a 1925(b) statement will be deemed waived).

Under paragraph (B)(1), if a party chooses to file a post-dispositional motion, the motion is to be filed within ten days of imposition of disposition. The filing of the written post-dispositional motion triggers the time limits for decision on the motion. *See* paragraph (D)(1).

#### TIMING

Paragraph (B) contains the timing requirements for filing the optional post-dispositional motion and taking an appeal. Under paragraph (B)(1), the post-dispositional motion is to be filed within ten days of imposition of disposition. Supplemental motions may be filed but the time requirements of paragraph (B)(1) are to be followed.

When a party files a timely post-dispositional motion, the 30-day period for the juvenile’s direct appeal on all matters in that case is triggered by the judge’s decision on the post-dispositional motion, the denial of the motion by operation of law, or the withdrawal of the post-dispositional motion. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by the party while the post-dispositional motion is pending. *See* paragraph (B)(2).

If no timely post-dispositional motion is filed, the party’s appeal period runs from the date disposition is imposed. *See* paragraph (B)(3).

#### BRIEFS; TRANSCRIPTS; ARGUMENT

Under paragraph (C)(1), the judge should determine, on a case-by-case basis, whether briefs, memoranda of law, or arguments are required for a fair resolution of the post-dispositional motion. If they are not needed, or if a concise summary of the relevant law and facts is sufficient, the judge should so order. Any local rules requiring briefs or oral argument are inconsistent with this rule. *See* Rule 121(C).

Under paragraph (C)(3), the judge, in consultation with the attorneys, should determine what, if any, portions of the notes of testimony are to be transcribed so that the post-dispositional motion can be resolved. The judge should then set clear deadlines for the court reporter to insure timely [ **disposition** ] **resolution** of the motion.

Nothing in this rule precludes the judge from ordering the transcript or portions of it immediately after the conclusion of the adjudicatory hearing or the entry of an admission.

For the recording and transcribing of court proceedings generally, see Rule 127. The requirements for the record and the writing of an opinion on appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be heard on every post-dispositional motion. When oral argument is heard on the post-dispositional motion, the juvenile need not be present.

#### DISPOSITION

Under paragraph (D), once a party makes a timely written post-dispositional motion, the judge retains jurisdiction for the duration of the disposition period. The judge may not vacate the order imposing disposition pending decision on the post-dispositional motion.

Paragraph (D)(2) permits one 30-day extension of the 30-day time limit, for good cause shown, upon motion of a party. In most cases, an extension would be requested and granted when new counsel has entered the case. Only a party may request such an extension. The judge may not, *sua sponte*, extend the time for decision: a congested court calendar or other judicial delay does not constitute “good cause” under this rule.

The possibility of an extension is not intended to suggest that thirty days are required for a decision in most cases. The time limits for [ **disposition** ] **resolution** of the post-dispositional motion are the outer limits. Easily resolvable issues, such as a modification of disposition or an admission challenge, should ordinarily be decided in a much shorter period of time.

If the judge decides the motion within the time limits of this rule, the judge may grant reconsideration on the post-dispositional motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701(b)(3), but the judge may not vacate the disposition pending reconsideration. The reconsideration period may not be used to extend the timing requirements set forth in paragraph (D) for decision on the post-dispositional motion: the time limits imposed by paragraphs (D)(1) and (D)(2) continue to run from the date the post-dispositional motion was originally filed. The judge’s reconsideration, therefore, is to be resolved within the 30-day decision period of paragraph (D)(1) or the 30-day extension period of paragraph (D)(2), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-dispositional motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (D)(3).

Under paragraph (D)(1), on the date when the court disposes of the motion, or the date when the motion is denied by operation of law, the judgment becomes final for the purposes of appeal. *See* Judicial Code, 42 Pa.C.S. §§ 102, 722, 742, 5105(a) and *Commonwealth v. Bolden*, 472 Pa. 602, 373 A.2d 90 (1977). *See* Pa.R.A.P. 341.

An order entered by the clerk of courts under paragraph (D)(3) constitutes a ministerial order and, as such, is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, paragraph (D)(3) requires that the clerk of courts enter an order denying the motion on behalf of the court and immediately notify the attorneys, or the juvenile, if unrepresented, that the motion has been denied. This

notice is intended to protect the party's right to appeal. The clerk of courts also is to comply with the filing, service, and docket entry requirements of Rule 167.

#### CONTENTS OF ORDER

Paragraph (E) protects a party's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a party's withdrawal of a post-dispositional motion, contain written notice of the party's appeal rights. This requirement ensures adequate notice to the party, which is important given the potential time lapse between the notice provided at disposition and the resolution of the post-dispositional motion. *See also Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. Ct. 1998), concerning the contents of the order memorializing the withdrawal of a post-dispositional motion.

When a party withdraws a post-dispositional motion in open court and on the record, the judge should orally enter an order memorializing the withdrawal for the record, and give the party notice of the information required by paragraph (E). *See Commonwealth v. Miller*, *supra*.

#### MISCELLANEOUS

Under paragraph (A)(1), the grounds for the post-dispositional motion should be stated with particularity. Motions alleging insufficient evidence, for example, are to specify in what way the evidence was insufficient, and motions alleging that the court's findings were against the weight of the evidence are to specify why the findings were against the weight of the evidence.

Because the post-dispositional motion is optional, the failure to raise an issue with sufficient particularity in the post-dispositional motion will not constitute a waiver of the issue on appeal as long as the issue was preserved before or during adjudication. *See* paragraph (A)(2).

Issues properly preserved at the dispositional hearing need not, but may, be raised again in a motion to modify disposition in order to preserve them for appeal. In deciding whether to move to modify disposition, counsel carefully is to consider whether the record created at the dispositional hearing is adequate for appellate review of the issues, or the issues may be waived. *See Commonwealth v. Jarvis*, 444 Pa. Super. 295, 663 A.2d 790 (1995). As a general rule, the motion to modify disposition under paragraph (A)(1) gives the dispositional judge the earliest opportunity to modify the disposition. This procedure does not affect the court's inherent powers to correct an illegal disposition or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. *See, e.g., Commonwealth v. Jones*, 520 Pa. 385, 554 A.2d 50 (1989) (court can, *sua sponte*, correct an illegal sentence even after the defendant has begun probation or placement) and *Commonwealth v. Cole*, 437 Pa. 288, 263 A.2d 339 (1970) (inherent power of the court to correct obvious and patent mistakes).

Once a disposition has been modified or reimposed pursuant to a motion to modify disposition under paragraph (A)(1), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify disposition in order to preserve an issue for appeal, as long as the issue was properly preserved at the time disposition was modified or reimposed.

**Official Note:** Rule 520 adopted May 17, 2007, effective August 20, 2007; amended July 28, 2009, effective immediately.

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 520 published with the Court's Order at 37 Pa.B. 2509 (June 2, 2007).

**Final Report explaining the amendment to Rule 520 published with the Court's Order at 39 Pa.B. 4748 (August 8, 2009).**

#### Introduction

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 120, 345, 348, 515 and 520. The changes are effective July 28, 2009.

### EXPLANATORY REPORT JULY 2009

#### Rule 120—Definitions.

There is a new definition for "disposition." It was brought to the Committee's attention that there are several instances in which a case is terminated in juvenile court and the guidelines for the timing of appeals in those cases are unclear. The new definition clearly sets forth which cases could be included in a post-dispositional motion pursuant to Rule 520, which affects the timing of appeals.

A disposition includes all final determinations made by the court. The common interpretation of a disposition is when the court adjudicates the juvenile delinquent and finds the juvenile in need of treatment, supervision, or rehabilitation, and makes a decision to place the juvenile in a placement facility, on alternative care, or on probation. However, disposition also includes: 1) a finding that the juvenile did not commit a delinquent act; 2) a finding that the juvenile is not in need of treatment, supervision, or rehabilitation; 3) dismissal of the case "with prejudice" prior to the commencement of an adjudicatory hearing; or 4) any other action that terminates or closes the juvenile case.

The new definition and *Comment* alleviate confusion regarding this term and address the different types of dispositions.

#### Rule 345—Filing and Service.

Because of the new definition for "disposition," resolution has replaced disposition in the *Comment*.

#### Rule 348—Disposition of Omnibus Motion.

Because of the new definition for "disposition," determination has replaced disposition in the title to this Rule.

#### Rule 515—Dispositional Order.

The addition of "after an adjudication of delinquency pursuant to paragraph (A)(2)" indicates when a dispositional order will be entered under this rule. This rule is designed to address cases when the court has found the juvenile to have committed a delinquent act and that the juvenile is in need of treatment, supervision, and rehabilitation. With the new definition, it is important to clarify which type of disposition is governed by this rule.

Other types of cases will be disposed of differently and are not addressed in this rule. If the court finds that the juvenile did not commit the alleged delinquent acts pursuant to Rule 408(B), it will enter an order releasing the juvenile under Rule 408. If the court finds that the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A)(1), it will enter an order releasing the juvenile pursuant to Rule 409. If the court dismisses the case "with prejudice" prior to the

commencement of an adjudicatory hearing or terminates the case for any other reason, the court will enter an order to that effect.

**Rule 520—Post-Dispositional Motions.**

Because of the new definition for “disposition,” resolution has replaced disposition in the *Comment*.

This proposed addition to the *Comment* of this Rule is a reference to the new definition of “disposition.” All scenarios included under this definition trigger when a post-dispositional motion may be filed.

[Pa.B. Doc. No. 09-1410. Filed for public inspection August 7, 2009, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### PERRY COUNTY

#### In Re: Filing of New Criminal Complaints in Perry County by Capital Tax Collection Bureau; AD No. 1 of 2009

##### Administrative Order

*And Now*, this 30th day of June, 2009, it is hereby ordered as follows:

1. Effective July 1, 2009, all new criminal complaints filed in Perry County by Capital Tax Collection Bureau (CTCB) will be filed in the office of Magisterial District Judge Elizabeth Frownfelter.

2. All existing open cases in front of either Judges Howell or McGuire will continue to remain open with those respective offices.

*By the Court*

KATHY A. MORROW,  
*President Judge*

[Pa.B. Doc. No. 09-1411. Filed for public inspection August 7, 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 July 24, 2009, Bernard J. McBride, Jr., is Suspended on Consent from the Bar of this Commonwealth for a period of 1 year and 1 day, to be effective August 23, 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. 09-1412. Filed for public inspection August 7, 2009, 9:00 a.m.]

## SUPERIOR COURT

### Change of Address

Effective August 26, 2009, the Middle District of the Superior Court of Pennsylvania will relocate. The new address for the Middle District filing office will change to Superior Court of Pennsylvania, Office of the Prothonotary, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 1600, P. O. Box 62435, Harrisburg, PA 17106-2435, (Physical location—17120-0901).

The addresses of the Eastern District filing office in Philadelphia and the Western District filing office in Pittsburgh will not change.

For additional information, call the Office of the Prothonotary at (717) 772-1294 or visit the Superior Court’s web page at [www.superior.court.state.pa.us](http://www.superior.court.state.pa.us) or at [www.aopc.org](http://www.aopc.org).

KAREN REID BRAMBLETT,  
*Prothonotary*

[Pa.B. Doc. No. 09-1413. Filed for public inspection August 7, 2009, 9:00 a.m.]

#### In Re: Children’s Fast Track Appeals; No. 1; Administrative Order; Doc. 2009

##### Order

*And Now*, this 27th day of July, 2009, in the interest of implementing the rules of appellate procedure governing children’s fast track appeals and in the interest of reducing delay in these appeals, the Superior Court of Pennsylvania hereby establishes the following procedure:

When a notice of appeal involving a Children’s Fast Track case as defined by Pa.R.A.P. 102 is received from the trial court by the Prothonotary of Superior Court, and it is determined that a Statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(a)(2) has not been filed with the notice of appeal, an administrative order shall be entered ordering the appellant to file and serve a Statement pursuant to that rule within ten days of the date of the order.

Failure of the appellant to comply with the order may result in waiver and/or dismissal of the appeal without further notice.

*By the Court*

KATE FORD ELLIOTT,  
*President Judge*

[Pa.B. Doc. No. 09-1414. Filed for public inspection August 7, 2009, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 22—EDUCATION

### STATE BOARD OF EDUCATION

#### [ 22 PA. CODE CH. 14 ]

#### General Provisions

The State Board of Education (Board) amends § 14.102 (relating to incorporation of Federal regulation) to read as set forth in Annex A.

Because the Board finds that proposed rulemaking procedures are unnecessary under the circumstances, public notice of the Board's intention to adopt this final-form rulemaking has been omitted as authorized under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law (CDL) (45 P. S. § 1204(3)). Proposed rulemaking has been omitted as unnecessary because the amendment is mandated under sections 1407(1) and 1412(a) of the Individuals with Disabilities Education Act (IDEA) (Pub. L. No. 108-446), 20 U.S.C.A. §§ 1407 and 1412(a), and 34 CFR 300.15, 300.300 and 300.512 (relating to education; parental consent; and hearing rights), which are among the regulations promulgated by the United States Department of Education (USDOE) on December 1, 2008, implementing the IDEA.

The Board adopted the Federal regulations by reference in its rulemaking published June 28, 2008. Because the USDOE later amended those regulations, it is necessary for the Board to formally adopt by reference the regulations as amended. Failure to conform State regulations to Federal regulations would seriously jeopardize Federal funding of special education programs for IDEA-eligible disabled children. The requirements of Federal law are specific, allowing for no alternative means of compliance. The Department is required to strictly adopt the Federal standards in the amendment. Thus, inasmuch as this rulemaking is necessary to align the Commonwealth's regulations with the new version of Federal regulations, proposed rulemaking is unnecessary.

The new Federal requirements affect three subparagraphs of § 14.102(a)(2) that refer to Federal regulations. Those provisions of § 14.102(a)(2) currently provide as follows:

(a) It is the intent of the Board that children with disabilities be provided with quality special education services and programs. The purposes of this chapter are to serve the following:

(1) To adopt Federal regulations by incorporation by reference to satisfy the statutory requirements under the act (20 U.S.C.A. §§ 1400—1482) . . .

\* \* \* \* \*

(2) To adopt, except as expressly otherwise provided in this chapter, the requirements of 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) as published at 71 FR 46540—46845 (August 14, 2006). The following sections are incorporated by reference:

\* \* \* \* \*

(iii) 34 CFR 300.9—300.15 (relating to consent; core academic subjects; day, business day, school day; educational service agency; elementary school; equipment; and evaluation).

\* \* \* \* \*

(xxiv) 34 CFR 300.300 and 300.301 (relating to parental consent; and initial evaluations).

\* \* \* \* \*

(xxx) 34 CFR 300.510—300.516 (relating to resolution process; impartial due process hearing; hearing rights; hearing decisions; finality of decisions, appeal; impartial review; timelines and convenience of hearings and reviews; and civil action).

The regulations as currently published incorporate by reference the Federal regulatory requirements that were published at 71 FR 46540—46845 (August 14, 2006). To fully and formally comply with Federal law and regulation, § 14.102(d)(2) must be amended as follows:

(2) To adopt, except as expressly otherwise provided in this chapter, the requirements of 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) as published at 71 FR 46540—46845 (August 14, 2006), and amended at 73 FR 73006—73029 (December 1, 2008). The following sections are incorporated by reference:

\* \* \* \* \*

#### Affected Persons

Persons affected by this amendment have been given actual notice of the Board's intention to amend § 14.102 in advance of final-omitted form rulemaking under section 204(2) of the CDL. Specifically, all local educational agencies (LEAs) will receive electronic notice by means of PENN LINK transmission. Organizations representing students with disabilities and their parents will be notified in writing.

#### Statutory Authority

The Board acts under the authority of sections 1372 and 2603-B of the Public School Code of 1949 (Code) (24 P. S. §§ 13-1372 and 26-2603-B).

#### Background

Section 14.102 addresses the general provisions of the Commonwealth's special education regulations that adopted by reference certain of the Federal regulations at the time Chapter 14 was amended at 38 Pa.B. 3575 (June 28, 2008). On December 1, 2008, the USDOE amended the Federal regulations effective on December 31, 2008. The changes made in this final-form rulemaking to § 14.102 merely would require compliance with the current Federal regulations.

#### Purpose of the Amendment

This final-form rulemaking, proposed rulemaking omitted, is necessary to align the Commonwealth's regulations to the December 1, 2008, version of Federal IDEA-implementing regulations. Currently, the Commonwealth's special education regulations adopt by reference the August 14, 2006, version of the Federal mandates. Specifically, the December 1, 2008, amendments to 34 CFR 300 (relating to assistance to states for the education of children with disabilities) modify the prior version to provide as follows:

- A parent has the right unilaterally to withdraw a child with a disability from continued special education and related services, and a public agency may not challenge that parent's decision using Part B dispute resolution procedures. See 34 CFR 300.300.

- If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency may not continue to provide special education and related services to that child but must provide prior written notice in accordance with § 300.503 before ceasing the provision of special education and related services. See 34 CFR 300.300(b)(4).

- While a parent may revoke consent for the continued provision of special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent. See 34 CFR 300.9.

- Parties may be accompanied or advised by counsel or by individuals with special knowledge or training with respect to the problems of children with disabilities at a due process hearing; however, State law determines whether or not parties have the right to be represented by non-attorneys during a due process hearing. See 34 CFR 300.512.

*Fiscal Impact and Paperwork Requirements*

The amendment will have no fiscal impact on the Commonwealth, its political subdivisions or local educational agencies. That is so because the change simply adopts the requirements that were promulgated by the USDOE on December 1, 2008, and were mandatory effective December 31, 2008.

*Effective Date*

The final-omitted rulemaking is effective upon publication in the *Pennsylvania Bulletin*. However, based upon the USDOE promulgated regulations, these requirements were made effective on December 31, 2008, by force of Federal law.

*Sunset Date*

In accordance with its policy and practice regarding regulations, the Board will review the effectiveness of this regulation after 4 years. Therefore, no sunset date is necessary.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 3, 2009, a copy of the final-omitted regulation was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees on Education (Committees) for review and comment. A copy of the final-omitted regulation was submitted on the same date to the Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, the final-omitted regulation was deemed approved by the Committees on July 22, 2009. Under section 5.1(e) of the Regulatory Review Act, on July 23, 2009, IRRC met and approved the final-omitted regulation.

*Contact Person*

The official responsible for information on this final-form rulemaking is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787, TDD (717) 787-7367.

*Findings*

The Board finds that:

(1) Public notice of the intention to amend its regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedures specified in section 201 and 202 of the CDL are, in this circumstances, unnecessary because the requirements of Federal law are specific, allowing for no alternative means of compliance. The Department is required to strictly adopt the Federal standard set forth in these amendments.

(2) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for administration of the *Pennsylvania Code* and the Commonwealth's obligations established by the act.

*Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 14, are amended by amending § 14.102 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Executive Director will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

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

(d) This order is effective upon publication in the *Pennsylvania Bulletin*.

JIM BUCKHEIT,  
*Executive Director*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 4752 (August 8, 2009).)*

**Fiscal Note:** 6-317 (final omitted). No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART I. STATE BOARD OF EDUCATION**

**Subpart A. MISCELLANEOUS PROVISIONS**

**CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS**

**GENERAL PROVISIONS**

**§ 14.102. Purposes.**

(a) It is the intent of the Board that children with disabilities be provided with quality special education services and programs. The purposes of this chapter are to serve the following:

\* \* \* \* \*

(2) To adopt, except as expressly otherwise provided in this chapter, the requirements of 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) as published at 71 FR 46540—46845 (August 14, 2006), and amended at 73 FR 73006—73029 (December 1, 2008). The following sections are incorporated by reference:

\* \* \* \* \*

[Pa.B. Doc. No. 09-1415. Filed for public inspection August 7, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION
[ 22 PA. CODE CH. 711 ]
General Provisions and Supervision

The Department of Education (Department) amends § 711.3 (relating to incorporation of Federal regulation) to read as set forth in Annex A.

Because the Department finds that proposed rule-making procedures are unnecessary under the circumstances, public notice of the Department's intention to adopt this final-form rulemaking has been omitted as authorized under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law (CDL) (45 P. S. § 1204(3)). Proposed rulemaking has been omitted as unnecessary because the amendment mandated under sections 1407(1) and 1412(a) of the Individuals With Disabilities Education Act (IDEA) (Pub. L. No.108-446), 20 U.S.C.A. §§ 1407 and 1412(a), and 34 CFR 300.15, 300.300 and 300.512 (relating to evaluation; parental consent; and hearing rights), which are among the regulations promulgated by the United States Department of Education (USDOE) on December 1, 2008, implementing the IDEA.

The Department adopted the Federal regulations by reference in its rulemaking published at 38 Pa.B. 3593 (June 28, 2008). Because the USDOE later amended those regulations, it is necessary for the Department to formally adopt by reference the regulations as amended. Failure to conform State regulations to Federal regulations would seriously jeopardize Federal funding of special education programs for IDEA-eligible disabled children. The requirements of Federal law are specific, allowing for no alternative means of compliance. The Department is required to strictly adopt the Federal standards in this amendment. Thus, inasmuch as this rulemaking is necessary to align the Commonwealth's regulations with the new version of Federal regulations, proposed rulemaking is unnecessary.

The new Federal requirements affect three paragraphs of § 711.3(b) that refer to Federal regulations. Those provisions of § 711.3 currently provide as follows:

(a) Charter schools and cyber charter schools assume the duty to ensure that a FAPE is available to a child with a disability in compliance with IDEA and its implementing regulations in 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities) and section 504 and its implementing regulations in 34 CFR Part 104 (relating to nondiscrimination on the basis of handicap in programs and activities receiving federal financial assistance).

(b) The requirements of 34 CFR Part 300 as published at 71 FR 46450—46845 (August 14, 2006) are incorporated by reference, as follows:

\* \* \* \* \*

(2) 34 CFR 300.9—300.15 (relating to consent; core academic subjects; day, business day, school day; educational service agency; elementary school; equipment; and evaluation).

\* \* \* \* \*

(21) 34 CFR 300.300 and 300.301 (relating to parental consent; and initial evaluations).

\* \* \* \* \*

(27) 34 CFR 300.510—300.516 (relating to resolution process; impartial due process hearing; hearing rights; hearing decisions; finality of decisions, appeal; impartial review; timelines and convenience of hearings and reviews; and civil action).

The regulations as currently published incorporate by reference the Federal regulatory requirements that were published at 71 FR 46540—46845 (August 14, 2006). To fully and formally comply with Federal law and regulation, § 711.3(b) must be amended as follows:

(b) The requirements of 34 CFR Part 300 as published at 71 FR 46540—46845 (August 14, 2006), amended at 73 FR 73006—73029 (December 1, 2008) are incorporated by reference, as follows:

\* \* \* \* \*

Affected Persons

Persons affected by this amendment have been given actual notice of the Department's intention to amend § 711.3(b) (relating to incorporation of Federal regulations) in advance of final-omitted form rulemaking under section 204(2) of the CDL. Specifically, all local educational agencies (LEAs) will receive electronic notice by means of PENN LINK transmission. Organizations representing students with disabilities and their parents will be notified in writing.

Statutory Authority

The Department acts under the authority of sections 1732-A(c)(2) and 1749-A(b)(8) of the Public School Code of 1949 (Code) (24 P. S. §§ 17-1732-A(c)(2) and 17-1749-A(b)(8)).

Background

Section 711.3 addresses the general provisions of the Commonwealth's special education regulations that adopted by reference certain of the Federal regulations at the time Chapter 711 was amended on June 27, 2008. On December 1, 2008, the USDOE amended the Federal regulations effective on December 31, 2008. The changes made in this final-form rulemaking to § 711.3(b) merely would require compliance with the current Federal regulations.

Purpose of the Amendment

This final-form rulemaking, proposed rulemaking omitted, is necessary to align the Commonwealth's regulation to the December 1, 2008, version of Federal IDEA-implementing regulations. Currently, the Commonwealth's special education regulations adopt by reference the August 14, 2006, version of the Federal mandates. Specifically, the December 1, 2008, amendments to 34 CFR 300 (relating to assistance to states for the education of children with disabilities) modify the prior version to provide as follows:

- A parent has the right unilaterally to withdraw a child with a disability from continued special education and related services, and a public agency may not challenge that parent's decision using Part B dispute resolution procedures. See 34 CFR 300.300.
• If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency may not continue to provide special education and related services to that child but must provide prior written notice in accordance with § 300.503 before ceasing the provision of special education and related services. See 34 CFR 300.300(b)(4).

- While a parent may revoke consent for the continued provision of special education and related services, the public agency is not required to amend the child’s education records to remove any references to the child’s receipt of special education and related services because of the revocation of consent. See 34 CFR 300.9.

- Parties may be accompanied or advised by counsel or by individuals with special knowledge or training with respect to the problems of children with disabilities at a due process hearing; however, State law determines whether or not parties have the right to be represented by nonattorneys during a due process hearing. See 34 CFR 300.512.

*Fiscal Impact and Paperwork Requirements*

The amendment will have no fiscal impact on the Commonwealth, its political subdivisions or local educational agencies. That is so because the change simply adopts the requirements that were promulgated by the USDOE on December 1, 2008, and were mandatory effective December 31, 2008.

*Effective Date*

The final-omitted rulemaking is effective upon publication in the *Pennsylvania Bulletin*. However, based upon the USDOE promulgated regulations, these requirements were made effective on December 31, 2008, by force of Federal law.

*Sunset Date*

In accordance with its policy and practice regarding regulations, the Department will review the effectiveness of this regulation after 4 years. Therefore, no sunset date is necessary.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 3, 2009, a copy of the final-omitted regulation was submitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees on Education (Committees) for review and comment. A copy of the final-omitted regulation was submitted on the same date to the Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, the final-omitted regulation was deemed approved by the Committees on July 22, 2009. Under section 5.1(e) of the Regulatory Review Act, on July 23, 2009, IRRC met and approved the final-omitted regulation.

*Contact Person*

The official responsible for information on this final-form rulemaking is John Tommasini, Director, Bureau of Special Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 783-6134, TDD (717) 783-6139.

*Findings*

The Department finds that:

(1) Public notice of the intention to amend its regulation as adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL, because the Department has, for good cause, found that the procedures specified in sections 201 and

202 of the CDL are, in this circumstance, unnecessary because the requirements of Federal law are specific, allowing for no alternative means of compliance. The Department is required to strictly adopt the Federal standard set forth in the amendment.

(2) The amendment of the regulation of the Department in the manner provided in this order is necessary and appropriate for administration of the *Pennsylvania Code* and the Commonwealth’s obligations established by the IDEA.

*Order*

The Department, acting under authorizing statute, orders that:

(a) The regulations of the Department, 22 Pa. Code Chapter 711, are amended by amending § 711.3 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

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

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

(d) This order is effective upon publication in the *Pennsylvania Bulletin*.

GERALD L. ZAHORCHAK, D. Ed.,  
*Secretary*

*(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 4750 (August 8, 2009).)*

**Fiscal Note:** 6-320 (final omitted). No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART XX. DEPARTMENT OF EDUCATION**

**CHAPTER 711. CHARTER SCHOOL AND CYBER CHARTER SCHOOL SERVICES AND PROGRAMS FOR CHILDREN WITH DISABILITIES**

**GENERAL PROVISIONS AND SUPERVISION**

**§ 711.3. Incorporation of Federal regulations.**

\* \* \* \* \*

(b) The requirements of 34 CFR Part 300 (as published at 71 FR 46540—46845 (August 14, 2006), amended at 73 FR 73006—73029 (December 1, 2008) are incorporated by reference, as follows:

\* \* \* \* \*

[Pa.B. Doc. No. 09-1416. Filed for public inspection August 7, 2009, 9:00 a.m.]

# Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

## STATE BOARD OF OSTEOPATHIC MEDICINE

[ 49 PA. CODE CH. 25 ]

### Physician Assistant Prescriptive Authority

The State Board of Osteopathic Medicine (Board) is amending its regulations by amending §§ 25.142 and 25.162 (relating to definitions; and criteria for registration as supervising physician) and adding §§ 25.177 and 25.178 (relating to prescribing and dispensing drugs, pharmaceutical aids and devices; and medical records), to read as set forth in Annex A.

#### *Description and Need for the Rulemaking*

Section 10(p) of the Osteopathic Medical Practice Act (act) (63 P. S. § 271.10(p)) authorizes the Board to promulgate jointly with the State Board of Pharmacy regulations “to permit a physician assistant to prescribe and dispense drugs at the direction of a licensed physician.” Because the Board has not yet promulgated regulations to implement this statutory provision, physician assistants practicing under the direction of a physician licensed by the Board do not yet have prescriptive privileges. This situation has caused a great deal of confusion in health care settings, because a physician assistant licensed by the State Board of Medicine (Medical Board) is permitted to prescribe and dispense drugs under the direction of a physician licensed by the Medical Board in accordance with the Medical Board’s regulation in § 18.158 (relating to prescribing and dispensing drugs, pharmaceutical aids and devices). This rulemaking is intended to resolve this confusion by permitting physician assistants who are practicing under the direction of an osteopathic physician to prescribe drugs in a manner similar to the practice of physician assistants under the direction of physicians licensed by the Medical Board.

#### *Summary of Comments and Responses to Proposed Rulemaking*

The Board published notice of proposed rulemaking at 37 Pa.B. 5598 (October 20, 2007) with a 30-day public comment period. The Board received written comments from the following members of the public: the Pennsylvania Rural Health Association, the Pennsylvania Society of Physician Assistants, the Pennsylvania Osteopathic Medical Association (POMA) and the Pennsylvania Medical Society. The Board also received written public comments from a large number of physician assistant students, certified physician assistants (practicing under the supervision of both medical doctors and osteopathic physicians), medical doctors and osteopathic physicians, instructors in physician assistant education programs, osteopathic medical students, and pharmacists, all of whom generally urged the Board to finally promulgate regulations authorizing a physician assistant practicing under the supervision of an osteopathic physician to prescribe drugs. 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 did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

Many commentators strongly encouraged the Board to align its physician assistant prescription authority regulations with those of the Medical Board. Because ensuring the provisions mandate the same requirements for both areas of medical practice would alleviate any confusion and provide consistency in the various practice settings, the HPLC also commented that the Board’s regulations should be consistent with those of the Medical Board. IRRC agreed and urged the Board to amend proposed §§ 25.177(a)(3), (c), (d)(1), (d)(4) and 25.178 to match corresponding provisions of the Medical Board’s physician assistant prescriptive authority regulations. The Board has attempted to be as consistent as possible with the Medical Board’s requirements for physician assistant prescribing and dispensing of drugs.

The HPLC noted that proposed § 25.177(a)(3) required a physician assistant to notify the supervising physician “as soon as possible, but in no event longer than 24 hours from the issuance of” a prescription for a Schedule II controlled substance. The HPLC questioned whether the means of notifying the supervising physician is left to the discretion of the physician or physician assistant. The Board has not set forth in its regulation the means of notification, but will leave that to the physician assistant and the supervising physician to determine as part of their practice, whether or not included in the written agreement. The Medical Board also does not specify the means of notification in its requirement in § 18.158(a)(3).

The HPLC also noted that proposed § 25.177(a)(3) would permit a physician assistant to write a prescription for a Schedule II controlled substance for up to a 30-day supply if the patient was examined at the time of renewal of a prior prescription and the patient’s ongoing therapy was reviewed and approved by the supervising physician prior to writing the renewal. The HPLC contrasted this provision with the Medical Board regulation in § 18.158(a)(3) (physician assistant may write prescription for Schedule II controlled substance for up to a 30-day supply if approved by supervising physician for ongoing therapy). POMA opposed permitting a physician assistant to prescribe Schedule II narcotics without the involvement of the supervising physician. In response to these comments, the Board initially revised the rulemaking to permit a physician assistant to write a prescription for a Schedule II controlled substance for up to a 30-day supply of ongoing therapy if the patient was examined within the first 30 days by the supervising physician. However, upon disapproval by IRRC as discussed in this preamble, the Board again revised this provision to read as follows (with emphasis to identify the revised provisions):

(3) A physician assistant may prescribe a Schedule II controlled substance for initial therapy, up to a 72-hour dose. The physician assistant shall notify the supervising physician of the prescription as soon as possible, but in no event longer than 24 hours from the issuance of the prescription. **The physician assistant shall have no authority to prescribe a Schedule II controlled substance after the initial therapy of up to a 72-hour dose, until the patient has been examined by the supervising physician and the supervising physician has reviewed and approved the prescription of a Schedule II controlled substance by the physician assistant for up to a 30-day supply. Thereafter, (i) if the supervising physician determines and documents that the patient is chronically ill, the physician assistant may write a prescription for a Schedule II controlled substance for up to a 30-day supply of the Schedule II con-**



**trolled substance, only if the prescription of a Schedule II controlled substance by the physician assistant is reviewed and approved by the supervising physician at least every 30 days; and (ii) if the supervising physician determines and documents that the patient is terminally ill, the physician assistant may write a prescription for a Schedule II controlled substance for up to a 30-day supply if the prescription of a Schedule II controlled substance by the physician assistant is reviewed and approved by the supervising physician at least every 120 days.** The prescription must clearly state on its face that it is for initial or ongoing therapy.

As stated in the Board's report under section 7(c) of the Regulatory Review Act (71 P. S. § 745.7(c)):

The Board adopted this revision of § 25.177(a)(3) to clarify the words of the regulation and implement the intent of a majority of the Board members when it took formal action to approve the rulemaking.

The Board focused on the clarity and scope of the words "ongoing therapy" in the sentence: "A physician assistant may write a prescription for a Schedule II controlled substance for up to a 30 day supply for ongoing therapy if the patient was examined within the first 30 days by the supervising physician." Board members were concerned that this language is unduly vague, could be subject to multiple interpretations and did not adequately express the intent of the Board that there be ongoing physician involvement in the prescription of Schedule II controlled substances by physician assistants with respect to chronic conditions. The added language was adopted to make crystal clear the intent and requirements of the rulemaking.

It is important to note that this subsection deals with **only** the prescription of Schedule II controlled substances. These are defined in Pennsylvania law as substances with "**a high potential for abuse**, currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, **and abuse may lead to severe psychic or physical dependence.**" 35 P. S. § 780-104(2) (emphasis added). The Board strongly believes that, for the protection of the public, ongoing physician supervision and involvement with patient care is essential for the long-term prescription of Schedule II controlled substances. The Board believes that this revision clarifies the wording of the rulemaking. The requirement for ongoing involvement of physicians is particularly important with respect to the prescription of substances where, in the words of the statute, "abuse may lead to severe psychic or physical dependence." The language adopted by the Board will help to make certain that the public is protected when physician assistants prescribe Schedule II controlled substances.

The HPLC questioned whether the term "professional samples" as used in proposed § 25.177(a)(5) (physician assistant may request, receive and sign for professional samples and may distribute professional samples to patients) would include scheduled drugs and, if so, whether there would be appropriate oversight. These professional samples do not include scheduled drugs. Believing that doing so should be the responsibility of the physician, POMA also opposed permitting a physician assistant to request, receive, sign for or distribute professional samples. The supervising physician, who is responsible to

supervise the physician assistant, through the written agreement may set the parameters of the physician assistant's prescribing and dispensing of drugs, including involvement with professional samples. The Board has not revised the rulemaking in response to this comment. The Medical Board's requirement in § 18.158(a)(5) is identical.

The HPLC questioned when it would be appropriate for the physician assistant's Drug Enforcement Administration (DEA) registration number to appear on the prescription as required under proposed § 25.177(b)(2) (signature of physician assistant must be followed by initials "PA-C" or similar designation to identify signer as physician assistant; when appropriate, physician assistant's DEA registration number must appear on prescription). It is appropriate to include the DEA registration number of a prescriber who prescribes a Schedule II drug. The Medical Board's requirement in § 18.158(b)(2) is identical.

The HPLC asked for clarification as to whether a pharmacy would be responsible for filling a prescription outside the physician assistant's authority and therefore an inappropriate prescription for which proposed § 25.177(c) would require the physician assistant or supervising physician to notify the pharmacy to discontinue. A pharmacist is always free to question a prescription, including contacting the physician assistant or supervising physician for additional information. Upon receipt of information that the physician assistant is not permitted to prescribe the specified drug or is otherwise prescribing outside the scope of the written agreement or Board requirements, the pharmacist may refuse to fill the prescription. The Board has also corrected the typographical error of the term "supervision physician" in § 25.177(c) to "supervising physician" as noted by the HPLC.

Finally, the HPLC questioned why proposed § 25.177(d)(4) required the supervising physician to countersign the patient record at least weekly and proposed § 25.178 required the supervising physician to review the medical records at least weekly, although the Medical Board only requires it to be done within 10 days. The Board believes that this shorter period of time of a round single week is easier to remember and simpler to apply. Additionally, within the definition of "supervision" in § 25.142, the Board previously set forth an appropriate degree of supervision to include "periodic and regular—at least weekly—review by the supervising physician of the patient records upon which entries are made by the physician assistant." And as discussed in the preamble, new § 25.162(a)(4)(vi) also requires the supervising physician to countersign the patient record within 10 days.

IRRC also noted that the Board had not defined the term "written agreement," though the Medical Board has defined it in § 18.122 (written agreement is defined as the agreement between the physician assistant and supervising physician, which satisfies the requirements of § 18.142 (relating to written agreements)). In § 25.142 (relating to definitions), the Board has now defined "written agreement" as "the agreement between the physician assistant and supervising physician, which satisfies the requirements of § 25.162(a)(4)." Because the proposed regulations did not include any provision equivalent to § 18.142, the Board has also revised § 25.162(a)(4) revised to include requirements substantially equivalent to those of § 18.142, substituting of course the term "osteopathic physician" for "medical doctor." In addition, § 25.162(a)(4)(ii) requires that the description of the manner in which the physician assistant will assist each

named physician be in detail and that the functions to be delegated to the physician assistant include the procedures enumerated in § 25.171(a) (relating generally to physician assistant utilization). Section 25.162(a)(4)(iii) requires that the written agreement must describe detailed instructions for the use of the physician assistant in the performance of delegated tasks. Section 25.162(a)(4)(iv) requires that the method and frequency, in addition to the time, place and manner, of supervision and direction each named physician will provide must be described in the written agreement. And, § 25.162(a)(4)(viii) requires that the written agreement provide the name, address and telephone number of at least two physicians who can substitute for the supervising physician whenever unavailable.

#### *Fiscal Impact and Paperwork Requirements*

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

#### *Effective date*

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

#### *Statutory Authority*

The final-form rulemaking is authorized under section 10(h) and (p) of the act.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 10, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 5598, 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.

The Board delivered the final-form rulemaking to IRRC and the Chairpersons of the HPLC and the SCP/PLC on February 26, 2009. Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on March 10, 2009, the HPLC approved the final-form rulemaking. On April 1, 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 April 2, 2009, and disapproved the final-form rulemaking. As stated in IRRC's order of disapproval received by the Board on April 13, 2009, IRRC disapproved the final-form regulation at the request of the Board, acting through its Chairperson, to permit the Board to revise § 25.177(a)(3).

Under section 7(c) of the Regulatory Review Act (71 P. S. § 745.7(c)), on May 22, 2009, the Board delivered a revised final-form rulemaking to IRRC and the chairpersons of the HPLC and the SCP/PLC, including the report required by that section. Under section 7(c.1) of the Regulatory Review Act, IRRC met on June 11, 2009, and approved the final-form rulemaking. Under section 7(d) of the Regulatory Review Act (71 P. S. § 745.7(d)), on June 26, 2009, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC.

#### *Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4858, st-osteo@state.pa.us.

#### *Findings*

The Board finds that:

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

(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. 5598.

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

#### *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended, by amending §§ 25.142 and 25.162 and by adding §§ 25.177 and 25.178 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*.

JOSEPH C. GALLAGHER, Jr., D. O.,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 3297 (June 27, 2009).)*

**Fiscal Note:** Fiscal Note 16A-5318 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 25. STATE BOARD OF OSTEOPATHIC MEDICINE**

#### **Subchapter C. PHYSICIAN ASSISTANT PROVISIONS**

#### **GENERAL PROVISIONS**

#### **§ 25.142. Definitions.**

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

*Certification*—The approval of an individual by the Board to serve as a physician assistant; and the approval of a program by the Board for the training and education of physician assistants.

*Direct supervision*—The physical presence of the supervising physician on the premises so that the supervising physician is immediately available to the physician assistant when needed. Where emergency rooms are concerned, direct supervision requires the presence of the supervising physician in the emergency room suite.

*NCCPA*—The National Commission on the Certification of Physician Assistants.

*Protocol*—Written treatment instructions prepared by the supervising osteopathic physician for use by the physician assistant, containing a detailed description of the manner in which the physician assistant will assist the physician in his practice, a list of functions to be delegated to the physician assistant including the procedures enumerated in § 25.171(a) (relating to generally) and other specified delegated tasks, detailed instructions for the use of the physician assistant in the performance of delegated tasks, the method and frequency of supervision and the geographic location where the physician assistant will serve.

*Registration*—The approval by the Board of an osteopathic physician, licensed to practice osteopathic medicine and surgery without restriction, to supervise and utilize a specified physician assistant.

*Satellite operations*—An office or clinic separate and apart from the office of the supervising physician established by the physician and manned exclusively by a physician assistant.

*Supervising physician*—A physician licensed to practice osteopathic medicine and surgery in this Commonwealth who registers with the Board and who accepts the responsibility for the supervision of services rendered by physician assistants.

*Supervision*—The opportunity or ability of the physician, or in his absence a substitute supervising physician, to provide or exercise control and direction over the services of physician assistants. Constant physical presence of the supervising physician on the premises is not required so long as the supervising physician and the physician assistant are or can easily be in contact with each other by radio, telephone or telecommunication. Supervision requires the availability of the supervising physician to the physician assistant. An appropriate degree of supervision includes:

- (i) Active and continuing overview of the physician assistant's activities to determine that the physician's directions are being implemented.
- (ii) Immediate availability of the supervising physician to the physician assistant for necessary consultations.
- (iii) Personal and regular—at least weekly—review by the supervising physician of the patient records upon which entries are made by the physician assistant.
- (iv) Periodic—at least monthly—education and review sessions held by the supervising physician for the physician assistant under his supervision for discussion of specific conditions, protocols, procedures and specific patients.

*Written agreement*—The agreement between the physician assistant and supervising physician, which satisfies the requirements of § 25.162(a)(4) (relating to criteria for registration as supervising physician).

**CERTIFICATION OF PHYSICIAN ASSISTANTS AND REGISTRATION OF SUPERVISING PHYSICIANS**

**§ 25.162. Criteria for registration as supervising physician.**

(a) The Board will approve for registration as a supervising physician, an applicant who:

(1) Possesses a current unrestricted license to practice osteopathic medicine and surgery in this Commonwealth.

(2) Has submitted a completed application together with the required fee. The application shall require detailed information regarding the physician's professional background and specialties, medical education, internship, residency, continuing education, membership in American Boards of medical specialty, hospital or staff privileges and other information the Board may require.

(3) Has submitted a statement that he will direct and exercise supervision over the physician assistant in accordance with the provisions of this subchapter and that he recognizes that he retains full professional and legal responsibility for the performance of the physician assistant and the care and treatment of his patients.

(4) Has submitted a written agreement that satisfies the following requirements. The agreement must:

(i) 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. At least one physician shall be an osteopathic physician.

(ii) Describe in detail the manner in which the physician assistant will be assisting each named physician. The description must list functions to be delegated to the physician assistant including the procedures enumerated in § 25.171(a) (relating to generally) and other delegated tasks.

(iii) Describe detailed instructions for the use of the physician assistant in the performance of delegated tasks.

(iv) Describe the time, place and manner, method and frequency of supervision and direction each named physician will provide the physician assistant, including the frequency of personal contact with the physician assistant.

(v) Designate one of the named physicians who shall be an osteopathic physician as the primary supervising physician.

(vi) Require that the supervising physician shall countersign the patient record completed by the physician assistant within a reasonable amount of time. This time period may not exceed 10 days.

(vii) Identify the locations and practice settings where the physician assistant will serve.

(viii) Provide the name, address and telephone number of at least two physicians who can substitute for the applicant when he is either absent or otherwise unavailable.

(b) An application for registration as a supervising physician shall be submitted for each physician assistant the physician intends to utilize and shall be accompanied by the fee required by § 25.231 (relating to schedule of fees). A physician may not be registered to supervise more than two physician assistants at any time. To expand the protocol for a physician assistant for whom the physician is already registered to supervise and utilize, the physician shall first secure approval from the Board. This can be accomplished by the physician submitting to the Board, in writing, a request for modification of the

physician assistant utilization which enumerates the expanded manner in which the physician assistant will function and which contains additional instructions for the use of the physician assistant and other information pertinent to the intended departure from the former manner of practice, method and frequency of supervision, or geographic location. The fee required is that specified for initial registration in § 25.231. The Board will notify the physician, in writing, as to its approval or rejection of the requested modification. Departure from the original protocol is not permitted until the Board approves the request for modification.

(c) After the physician submits an initial application for registration as a supervising physician, which conforms with the requirements of subsection (a), for a second application and ensuing applications for registration, the physician shall only submit an abbreviated application which will be provided by the Board upon request. Only additions and deletions to the information provided in the initial application will be required.

(d) If the applicant supervising physician plans on utilizing physician assistants in satellite operations, he shall provide the Board with supplemental information as set forth in § 25.175 (relating to physician assistants and satellite operations) for specific approval.

(e) An application for registration as a supervising physician may be obtained by writing to the Harrisburg office of the Board.

#### PHYSICIAN ASSISTANT UTILIZATION

##### § 25.177. Prescribing and dispensing drugs, pharmaceutical aids and devices.

(a) *Prescribing, dispensing and administration of drugs.*

(1) The supervising physician may delegate to the physician assistant the prescribing, dispensing and administering of drugs and therapeutic devices.

(2) A physician assistant may not prescribe or dispense Schedule I controlled substances as defined under section 4 of The Controlled Substances, Drug, Device and Cosmetic Act (35 P. S. § 780-104).

(3) A physician assistant may prescribe a Schedule II controlled substance for initial therapy, up to a 72-hour dose. The physician assistant shall notify the supervising physician of the prescription as soon as possible, but in no event longer than 24 hours from the issuance of the prescription. The physician assistant shall have no authority to prescribe a Schedule II controlled substance after the initial therapy of up to a 72-hour dose, until the patient has been examined by the supervising physician and the supervising physician has reviewed and approved the prescription of a Schedule II controlled substance by the physician assistant for up to a 30-day supply.

(i) If the supervising physician determines and documents that the patient is chronically ill, the physician assistant may write a prescription for a Schedule II controlled substance for up to a 30-day supply of the Schedule II controlled substance, only if the prescription of a Schedule II controlled substance by the physician assistant is reviewed and approved by the supervising physician at least every 30 days.

(ii) If the supervising physician determines and documents that the patient is terminally ill, the physician assistant may write a prescription for a Schedule II controlled substance for up to a 30-day supply if the prescription of a Schedule II controlled substance by the

physician assistant is reviewed and approved by the supervising physician at least every 120 days.

(iii) The prescription must clearly state on its face that it is for initial or ongoing therapy.

(4) A physician assistant may only prescribe or dispense a drug for a patient who is under the care of the physician responsible for the supervision of the physician assistant and only in accordance with the supervising physician's instructions and written agreement.

(5) A physician assistant may request, receive and sign for professional samples and may distribute professional samples to patients.

(6) A physician assistant authorized to prescribe or dispense, or both, controlled substances shall register with the Drug Enforcement Administration (DEA).

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

(1) Prescription blanks must bear the license number of the physician assistant and the name of the physician assistant in printed format at the heading of the blank. The supervising physician's name and license number must also be printed or preprinted on the prescription.

(2) The signature of a physician assistant must be followed by the initials "PA-C" or similar designation to identify the signer as a physician assistant. When appropriate, the physician assistant's DEA registration number must appear on the prescription.

(3) The supervising physician is prohibited from presigning prescription blanks.

(4) The physician assistant may use a prescription blank generated by a hospital provided the information in paragraph (1) appears on the blank.

(c) *Inappropriate prescription.* The supervising physician shall immediately advise the patient, notify the physician assistant and, in the case of a written or oral prescription, advise the pharmacy if the physician assistant is prescribing or dispensing a drug inappropriately. The supervising physician shall advise the patient and notify the physician assistant to discontinue using the drug and, in the case of a written or oral prescription, notify the pharmacy to discontinue the prescription. The order to discontinue use of the drug or prescription shall be noted in the patient's medical record by the supervising physician.

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

(1) When prescribing a drug, the physician assistant shall keep a copy of the prescription, including the number of refills, in a ready reference file, or record the name, amount, directions for use and doses of the drug prescribed, the number of refills, the date of the prescription and the physician assistant's name in the patient's medical records.

(2) When dispensing a drug, the physician assistant shall record the physician assistant's name, the name of the medication dispensed, the amount of medication dispensed, the dose of the medication dispensed and the date dispensed in the patient's medical records.

(3) The physician assistant shall report, orally or in writing, to the supervising physician within 36 hours, a drug prescribed or medication dispensed by the physician assistant while the supervising physician was not physically present, and the basis for each decision to prescribe or dispense in accordance with the written agreement.

(4) The supervising physician shall countersign the patient record at least weekly in accordance with § 25.178 (relating to medical records).

(5) The physician assistant and the supervising physician shall provide immediate access to the written agreement to anyone seeking to confirm the physician assistant's authority to prescribe or dispense a drug. The written agreement must list the categories of drugs which the physician assistant is not permitted to prescribe.

(e) *Compliance with regulations relating to prescribing, administering, dispensing, packaging and labeling of drugs.* A physician assistant shall comply with this section and with the regulations of the Department of

Health in 28 Pa. Code §§ 25.51—25.58 and 25.91—25.95 (relating to prescriptions; and labeling of drugs, devices and cosmetics).

**§ 25.178. Medical records.**

The supervising physician shall timely review, at least weekly, the medical records prepared by the physician assistant to ensure that the requirements of § 25.213 (relating to medical records) have been satisfied.

[Pa.B. Doc. No. 09-1417. Filed for public inspection August 7, 2009, 9:00 a.m.]

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# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

GOVERNOR'S OFFICE  
[ 4 PA. CODE CH. 1 ]

### Executive Orders, Management Directives, and Other Issuances of the Directives Management System indexed for Reference Purposes

The Index of Issuances is being updated to reflect changes since 38 Pa.B. 6943 (December 20, 2008). This amendment adds new issuances, amends and rescinds others. Recipients of publications listed in this index should be kept informed of the status of these publications.

NAOMI WYATT,  
*Secretary of Administration*

*(Editor's Note: This Index of Issuances is published under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code). This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Bulletin.)*

#### INDEX OF ISSUANCES

This manual provides a complete listing of issuances, specified in Title 4 of the *Pennsylvania Code* § 1.2, from the Governor's Office and from agencies under the Governor's jurisdiction, except proclamations and press releases, that are intended for distribution to two or more agencies following the procedures for publication of issuances in *Management Directive 210.1, Directives Management System*. This manual is amended weekly to reflect the latest issuances, and published annually in Title 4 of the *Pennsylvania Code* § 1.4 at the end of each fiscal year. This amendment updates the index for all executive orders, management directives, and manuals issued, amended, and rescinded between July 1, 2008, and June 30, 2009.

Individuals should subscribe to receive e-Alerts to receive notification of published issuances. For questions regarding the Directives Management System, contact OA, EB-DMS.

PA Office of Administration  
Office of Enterprise Records Management  
613 North Street  
Room 311, Finance Building  
Harrisburg, PA 17120-0400  
www.oa.state.pa.us

This manual replaces, in its entirety, *Manual M210.3* dated August 11, 2008.

This manual includes all new and amended issuances through June 30, 2009.

#### How to Use Index:

- Executive orders are by year of issuance.
- Management directives and manuals are numbered in sequence by category (e.g., Financial Management) and subcategory (e.g., Payroll).
- All documents preceded by the letter "M" are manuals.
- Documents that have been rescinded are indicated as rescinded.
- Amendments are presented as complete documents that incorporate all changes since the last issuance.
- Revisions which generally affect older issuances are pen and ink changes or replacement pages and affect only those parts of an issuance being changed. Therefore the issuance changed by a revision will be in more than one document because there will be original issuance and any revision.

**Fiscal Note:** GOV 2009-210.3. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 4. ADMINISTRATION CHAPTER 1. AGENCY OPERATION AND ORGANIZATION Subchapter A. DIRECTIVES MANAGEMENT SYSTEM

#### § 1.4. Index of Issuances.

Executive Orders.	Date of Original or Latest Amendment	Current Revisions
1973-9	Environmental Protection By State Agencies . . . . .	7/13/1973
1974-7	Directives Management System . . . . .	Rescinded by EO2001-1—2/13/2001
1974-11	Governor's Interdepartmental Council on Seasonal Farmworkers . . . . .	11/2/1978
1975-3	Establishment of the Pennsylvania Commission for Women . . . . .	Rescinded by EO1997-3—6/25/1997
1975-5	Commitment Toward Equal Rights . . . . .	9/19/1978
1975-6	Preservation of Historic Resources . . . . .	5/6/1975
1977-4	Compliance with <i>Section 504 of the Rehabilitation Act of 1973</i> (P. L. 93-112) . . . . .	8/3/1977
1977-5	Implementation of <i>Act No. 1976-101</i> . . . . .	9/27/1977
1978-4	Flood Plain Management . . . . .	3/1/1978
1978-9	Public Information Policies and Practices . . . . .	5/23/1978

<b>Executive Orders.</b>	<b>Date of Original or Latest Amendment</b>	<b>Current Revisions</b>
1978-19 Access by Handicapped Individuals to Meeting Locations . . . . .	12/19/1978	
1979-10 Commonwealth Child Development Committee. . . . .	7/25/1979	
1979-13 Governor's Office of Policy and Planning. . . . .	9/18/1979	
1980-3 Life Cycle Costing . . . . .	2/8/1980	
1980-4 Golden Keystone Discount Card Program. . . . .	2/27/1980	
1980-5 Task Force on Employment Services to Displaced Homemakers . . . . .	2/28/1980	
1980-7 Small Business Service Center. . . . .	2/29/1980	
1980-13 Contract Management. . . . .	Rescinded by EO1999-5—12/9/1999	
1980-18 Code of Conduct . . . . .	5/16/1984. . . . .	1—3 (-4 Rescinded)
1980-20 Pennsylvania Coastal Zone Management Program. . . . .	9/22/1980	
1981-3 Scheduling of Bond and Note Issue Sales . . . . .	1/30/1981	
1981-4 Federal Program Coordination . . . . .	2/9/1981	
1981-6 Pennsylvania Department of Health Advisory Board of Arthritis. . . . .	5/22/1981	
1981-13 Governor's Committee on Employment of the Handicapped . . . . .	10/19/1981	
1983-1 Transfer of Cresson Center to the Bureau of Correction . . . . .	1/4/1983	
1983-4 Coordination of State Employment and Training Programs. . . . .	Rescinded by EO1997-7—6/30/1998	
1984-3 Accounting and Financial Reporting. . . . .	10/11/1984	
1985-1 State Employee Combined Appeal. . . . .	Rescinded by EO2001-2—2/14/2001	
1986-1 Commonwealth Single Audit Coordinator . . . . .	2/24/1986	
1986-2 Task Force on Special Supplemental Food Program for Women, Infants, and Children (WIC) . . . . .	4/22/1986	
1986-5 Standby Allocations of the Volume Cap Under the <i>Tax Reform Act of 1986</i> . . . . .	10/2/1986	
1986-7 Liquor Control Board Sunset: Privatization of State Liquor Monopoly; Transfer of Liquor Control Board Functions. . . . .	12/1/1986	
1987-1 1987 Allocations of the Unified Volume Cap Under the <i>Tax Reform Act of 1986</i> . . . . .	1/7/1987	
1987-2 Permanent Transfer of Retreat State Hospital to the Department of Corrections . . . . .	1/16/1987	
1987-3 Transfer of Waynesburg Youth Development Center to the Department of Corrections . . . . .	1/16/1987	
1987-4 Economic Development Partnership (EDP). . . . .	Rescinded by EO2001-4—6/5/2001	
1987-7 State Inspector General . . . . .	4/6/1987	
1987-8 Pennsylvania Emergency Response Commission. . . . .	4/20/1987	
1987-9 Allocation of State Low-Income Housing Credit Authority Under the Internal Revenue Code of 1986. . . . .	4/22/1987	
1987-10 Highway Safety. . . . .	11/25/1992	
1987-12 Cultural Advisor to the Governor. . . . .	5/27/1987	
1987-19 Delegation to Department of Environmental Resources in Compliance with Federal <i>Low-Level Radioactive Waste Policy Amendments Act</i> . . . . .	12/21/1987	
1988-4 Coordination of Food and Nutrition Programs; Appointment of the Advisor to the Governor on Food and Nutrition Programs and the Inter-Agency Council on Food and Nutrition . . . . .	4/7/1988. . . . .	1
1988-5 Pennsylvania Department of Health Diabetes Task Force . . . . .	Terminated 12/31/1994	
1988-8 Pennsylvania State Data Center . . . . .	7/12/1988	
1988-9 Small Business Advisory Council. . . . .	Terminated 12/31/1994	
1988-10 Management of Automated Technology . . . . .	Rescinded by EO2002-12—9/25/2002	
1988-11 Motor Carrier Advisory Committee . . . . .	11/18/1988. . . . .	1-2-3
1989-2 Upper Delaware Federal Scenic River . . . . .	Rescinded by EO2003-5—6/22/2003	

<b>Executive Orders.</b>	<b>Date of Original or Latest Amendment</b>	<b>Current Revisions</b>
1989-3 Master Leasing Program .....	3/2/1989	
1989-4 Developmental Disabilities Planning Council.....	Rescinded by EO1997-2—5/30/1997	
1989-8 Municipal Waste Reduction and Planning Program.....	10/17/1989	
1990-1 Municipal Waste Transportation Enforcement Program .....	3/14/1990	
1990-2 Bureau of Women’s Business Development.....	Terminated 6/30/1995	
1990-3 Contractor Responsibility Program .....	6/29/1990	
1990-4 UNITED STATES BRIG NIAGARA—“Flagship of Pennsylvania” .....	8/17/1990	
1990-7 Interagency River Island Task Force .....	10/17/1990 .... 1	
1991-2 Utilization of Commonwealth Owned and Leased Space .....	Rescinded by EO2004-2—2/18/2004	
1991-3 Use of Permanently-Assigned Commonwealth-Registered Vehicles .....	2/27/1991	
1991-4 Governor’s Council on Physical Fitness and Sports .....	Rescinded by EO1997-5—9/24/1997	
1991-5 Environmental Training Partnership.....	4/22/1991	
1991-8 Pennsylvania Heritage Affairs Commission .....	Terminated 12/31/1994	
1992-1 Records Management .....	1/8/1992	
1992-2 Housing and Supportive Services Task Force.....	Terminated 1/31/1995	
1993-2 Civil Disorder and Emergency .....	4/9/1993	
1999-3 State Land Use Planning—Goals and Objectives for Commonwealth Agencies .....	8/31/1993	
1993-4 State Center for Health Statistics and Research.....	10/13/1993	
1994-1 State Commission on National and Community Service.....	1/28/1994	
1994-2 Governor’s Office of PennPORTS.....	3/29/1994	
1994-3 Agricultural Land Preservation Policy.....	Rescinded by EO1997-6—10/14/1997	
1994-4 Governor’s Committee on Education Standards and Assessment.....	5/18/1994	
1994-5 Nursing Home Loan Agency’s Authorization to Sell Loans.....	11/4/1994	
1995-1 Judicial Appointments.....	2/27/1995	
1995-2 Drug Policy Planning Coordination.....	12/19/1997	
1995-3 Pennsylvania Energy Development Authority .....	Rescinded by EO2004-5—4/8/2004	
1995-4 Monitoring Supplies of Petroleum Products .....	7/10/1995	
1995-5 Money-Back Guarantee Permit Review Program for the Department Environmental Protection .....	8/23/1995	
1995-6 Governor’s Community Partnership for Safe Children .....	9/14/1995	
1995-7 Governor’s Executive Council on Recycling Development and Waste Reduction .....	10/11/1995	
1995-8 Governor’s Advisory Commission on Public School Finance.....	10/11/1995	
1995-9 Governor’s Sportsmen’s Advisory Council .....	Rescinded by EO2001-5—9/17/2001	
1995-10 Governor’s Sports and Exposition Facilities Task Force .....	10/27/1995	
1996-1 Regulatory Review and Promulgation .....	2/6/1996	
1996-2 Implementation of the IMPACCT Commission Recommendations.....	4/19/1996	
1996-3 Governor’s Advisory Commission on African American Affairs .....	Rescinded by EO2003—76/22/2003	
1996-4 Governor’s Advisory Commission on Latino Affairs .....	Rescinded by EO2003-9—7/1/2003	
1996-5 Municipal Waste Facilities Review Program.....	8/29/1996	
1996-6 Governor’s Advisory Commission on Academic Standards .....	9/30/1996	
1996-7 Pennsylvania Center for Environmental Education .....	12/20/1996	
1996-8 Minority and Women Business Enterprise and Contract Compliance Programs .....	Rescinded by EO2004-6—4/15/2004	
1996-9 Equal Employment Opportunity .....	Rescinded by EO2002-3—5/3/2002	
1996-10 State Employee Assistance Program.....	12/20/1996	



<b>Executive Orders.</b>	<b>Date of Original or Latest Amendment</b>	<b>Current Revisions</b>
1996-11 Disability-Related Policy .....	Rescinded by EO2002-5—5/3/2002	
1996-12 Workplace Policy for HIV/AIDS .....	Rescinded by EO2003-4—5/5/2003	
1996-13 Commonwealth of Pennsylvania's Policy on Substance Abuse in the Workplace.....	12/20/1996	
1996-14 Prohibition of Sexual Harassment in the Commonwealth .....	Rescinded by EO1999-3—5/13/1999	
1997-1 Governor's Travel and Tourism Council .....	3/17/1997	
1997-2 Developmental Disabilities Council.....	5/30/1997	
1997-3 Pennsylvania Commission for Women .....	Rescinded by EO2003-6—6/22/2003	
1997-4 The 21st Century Environment Commission .....	7/1/1997..... 1	
1997-5 Governor's Advisory Council on Physical Fitness and Sports .....	9/24/1997	
1997-6 Agricultural Land Preservation Policy .....	Rescinded by EO2003-2—3/20/2003	
1997-7 Pennsylvania Human Resources Investment Council .....	Rescinded by EO2000-2—2/14/2000	
1998-1 Governor's Green Government Council .....	3/25/1998	
1998-2 Governor's Census 2000 Advisory Panel .....	Terminated 3/1/2001	
1998-3 The Pennsylvania Greenways Partnership Commission .....	8/16/2001	
1998-4 Interagency Committee to Coordinate Services Provided to Individuals with Disabilities .....	Terminated 12/31/1999	
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1999-2 Pennsylvania Rural Development Council .....	Rescinded by EO2007-09—10/2/2007	
1999-3 Prohibition of Sexual Harassment in the Commonwealth .....	Rescinded by EO2002-4—5/3/2002	
1999-4 Pennsylvania Justice Network (JNET) Governance Structure .....	6/8/1999	
1999-5 Rescission of <i>Executive Order 1980-13</i> .....	12/9/1999	
2000-1 Extension of Filing Deadline for Nomination Petitions .....	Terminated 1/26/2000	
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2001-3 The Voting Modernization Task Force .....	Terminated 12/31/2001	
2001-4 Economic and Community Development Partnership .....	6/5/2001	
2001-5 Governor's Sportsmen's Advisor, Governor's Sportsmen's Advisory Council, and the Governor's Youth Sportsmen's Advisory Council .....	Rescinded by EO2003-13—9/22/2003	
2001-6 Governor's Task Force on Security .....	Rescinded by EO2002-11—9/12/2002	
2002-1 Commonwealth Internal Operations Emergency Preparedness Steering Committee .....	Rescinded by EO2006-1—1/10/2006	
2002-2 Governor's Task Force on Early Childhood Care and Education.....	7/15/2002	
2002-3 Equal Employment Opportunity .....	Rescinded by EO2003-10—7/28/2003	
2002-4 Prohibition of Sexual Harassment in the Commonwealth .....	5/3/2002	
2002-5 Disability-Related Policy .....	5/3/2002	
2002-6 PA Open for Business .....	6/6/2002	
2002-7 Integrating Mediation Into State Government.....	6/14/2002	
2002-8 Governor's Interagency Task Force on Energy.....	7/18/2002	
2002-9 Governor's Fire and Emergency Services Task Force.....	Terminated 10/1/2002	
2002-10 Governor's Commission and Abandoned Mine Voids and Mine Safety ....	Terminated 11/15/2002	
2002-11 Pennsylvania Homeland Security Organizational Structure .....	Rescinded by EO2006-05—6/26/06	
2002-12 Rescission of Executive Order 1988-10.....	Terminated 10/15/2002	
2002-13 Proposed Keystone Opportunity Improvement Sub-zones.....	12/31/2002	
2003-1 Commonwealth's Health Care Reform Agenda .....	1/21/2003	
2003-2 Agricultural Land Preservation Policy .....	3/20/2003	

<b>Executive Orders.</b>	<b>Date of Original or Latest Amendment</b>	<b>Current Revisions</b>
2003-3 Management and Productivity Improvement Initiative . . . . .	4/30/2003	
2003-4 Workplace Policy for HIV/AIDS . . . . .	5/5/2003	
2003-5 Upper Delaware Federal Scenic River . . . . .	6/22/2003	
2003-6 Pennsylvania Commission for Women . . . . .	4/28/2008	
2003-7 Governor's Advisory Commission on African American Affairs . . . . .	6/22/2003	
2003-8 Governor's Advisory Commission on Asian American Affairs . . . . .	6/22/2003	
2003-9 Governor's Advisory Commission on Latino Affairs . . . . .	9/15/2005	
2003-10 Equal Employment Opportunity . . . . .	7/28/2003	
2003-11 Governor's Office of Housing and Community Revitalization . . . . .	9/10/2003	
2003-12 Governor's Cabinet on Children and Families . . . . .	9/18/2003	
2003-13 Governor's Advisor for Hunting, Fishing and Conservation; Governor's Advisory Council for Hunting, Fishing and Conservation; Governor's Youth Council for Hunting, Fishing and Conservation . . . . .	9/22/2003 . . . . .	1
2004-1 Governor's Invasive Species Council . . . . .	9/18/2006	
2004-2 Utilization of Commonwealth-Owned and Leased Space . . . . .	2/18/2004	
2004-3 Pennsylvania Business Tax Reform Commission . . . . .	3/4/2004 . . . . .	1
2004-4 Anti-Sweatshop Procurement Policy . . . . .	3/18/2004	
2004-5 Pennsylvania Energy Development Authority . . . . .	4/8/2004	
2004-6 Minority and Women-Owned Business Opportunities . . . . .	4/15/2004	
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2004-8 Enterprise Information Technology Governance Board . . . . .	5/9/2007	
2004-9 Economic Development Committee of the Cabinet . . . . .	6/15/2004	
2004-10 Proposed Economic Development District . . . . .	Rescinded by EO2005-3—5/18/2005	
2004-11 Pennsylvania Election Reform Task Force . . . . .	12/13/2004	
2004-12 Energy Management and Conservation in Commonwealth Facilities . . . . .	12/15/2004	
2005-1 Transportation Funding and Reform Commission . . . . .	2/28/2005	
2005-2 Commission to Address Gun Violence . . . . .	4/22/2005 . . . . .	1
2005-3 Proposed Economic Development District . . . . .	Rescinded by EO2005-4—7/14/2005	
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2006-1 Commonwealth Continuity of Government Steering Committee . . . . .	1/10/2006	
2006-2 Contract Compliance . . . . .	1/31/2006	
2006-3 Commonwealth Business License Information Exchange Program . . . . .	4/12/2006	
2006-4 Pennsylvania 2020 Vision Project . . . . .	6/16/2006	
2006-5 Pennsylvania Homeland Security and Emergency Preparedness Organization structure . . . . .	Rescinded by EO2007-10—12/4/2007	
2006-6 The Pennsylvania Abraham Lincoln Bicentennial Commission . . . . .	6/30/2006	
2006-7 Governor's Pandemic Advisory Council . . . . .	7/27/2006	
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2006-9 Governor's Cabinet for People with Disabilities—Governor's Advisory Committee for People with Disabilities . . . . .	11/21/2006	
2006-10 Strategic Development Areas . . . . .	12/22/2006	
2006-11 Governor's Dog Law Advice Group . . . . .	12/22/2006	
2007-01 Strategic Development Area, Butler County . . . . .	4/24/2007	

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2007-03	Commonwealth Automotive Fleet Efficiency Initiative .....	5/9/2007	
2007-04	Office of Health Equity .....	5/21/2007	
2007-05	Chronic Care Management, Reimbursement and Cost Reduction Commission .....	5/21/2007	
2007-06	Registered Family Child Care Providers .....	6/14/2007	
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2007-08	Strategic Development Area, Lehigh County .....	9/6/2007	
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2008-01	Extension of Filing Deadline for Nomination Petitions .....	2/12/2008	
2008-02	Sustainable Water Infrastructure Task Force .....	4/28/2008	
2008-03	Pennsylvania Health Information Exchange (PHIX) Governance Structure .....	3/26/2008	
2008-04	Pennsylvania All-Hazard Incident Management (PA-IMT3) .....	5/13/2008	
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105.3	Block Grants .....	Rescinded/Obsolete 2/10/2006	
105.4	Allocation and Allotment of Funds for Non-ICS Transactions .....	10/22/1984	
105.5	Use of the Determination of Tax-Exempt Category for Capital Projects Form .....	9/12/1991	

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110.2	Request for Approval of Federal Funds .....	1/14/1985	
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205.9 Implementation of Financial Disclosure Provisions of the Governor's Code of Conduct .....	4/17/2007	
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205-10AB Abridged Version of MD205.10 .....	4/17/2007	
205.12 Financial Disclosures Required of Former Employees by the <i>Public Official and Employee Ethics Act, 65 Pa.C.S. §§ 1101—1113</i> .....	4/17/2007	
205.14 Prohibition of Activities Not Specifically or Directly Connected With the Official Business of the Commonwealth on Commonwealth Property ....	2/2/1988	
205.15 Memberships in Associations, Organizations, or Societies .....	2/9/2006	
205.16 Compliance With the <i>Whistleblower Law, Act 1986-169</i> .....	11/22/1995	
205.17 1987 Chesapeake Bay Agreement .....	Rescinded/Obsolete 5/9/2007	
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205.18 Ballot Question Advocacy by Executive Branch Employees, Appointees and Officials .....	4/11/1988	
205.19 Smoking in Commonwealth Buildings and Facilities .....	7/1/1997	
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205.21 Commonwealth Child Care Program .....	9/12/2001.....	1
205.22 Recycling, Waste Reduction and Procurement of Environmentally Preferable Products .....	8/29/2007	
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205.24 Display of Flags on Commonwealth Grounds and Buildings and Other Locations within the Commonwealth .....	3/24/2008	
205.25 Disability-Related Employment Policy .....	2/13/2009	
205.26 <i>The Americans With Disabilities Act of 1990, Title II, Subtitle A, Nondiscrimination in State and Local Government Services</i> .....	7/22/1992	
205.27 Implementation of <i>Act 194-1990, Asbestos Occupations Accreditation and Certification Act</i> .....	12/2/2008	
205.28 Purchase of Recycled Content Products by State Agencies .....	Rescinded by MD205.22—8/29/2007	
205.29 Commonwealth Internet Access .....	Rescinded/Obsolete 8/21/2007	
205.30 Personal Use of Promotions and Offers .....	10/23/1997	
205.31 Pro Bono Publico Legal Services .....	2/11/1999	
205.32 Hiring Sign Language Interpreters/Translitterators .....	6/16/1999.....	1
205.33 Workplace Violence .....	6/22/1999	
205.34 Commonwealth of Pennsylvania Information Technology Acceptable Use Policy .....	3/28/2007	
205.35 Information Reporting From the Commonwealth's Enterprise SAP Business Information Warehouse System .....	7/5/2002	
205.36 <i>Right-to-Know Law</i> .....	11/20/2008	
205.37 Role Assignment, Security, and Internal Control Maintenance .....	6/13/2005	
205.38 Procedures for Safe Assembly of Commonwealth Employees During Emergency Evacuation of Commonwealth Facilities .....	7/5/2007	
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210.6 Selection, Acquisition and Use of Filing Equipment.....	9/16/2002	
210.8 Micrographics Procedures to be Used in Conjunction With Central Microfilm Management.....	11/18/2002	
210.9 Electronic Imaging Systems Procedures Relating to the Management of Records.....	Rescinded by MD210.5—5/22/2006	
210.10 Electronic Records Management.....	Rescinded by MD210.5—5/22/2006	
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210.13 Retention and Disposition of Records Created on Electronic Mail (E-mail) Systems.....	Rescinded by MD210.5—12/30/2008	
210.14 Retention and Disposition of Records Upon Departure of Senior Management Employees.....	Rescinded by MD210.5—12/30/2008	
210.15 Instant Messaging.....	11/29/2004	
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M210.1 Guide to Efficient Filing.....	7/21/1976	
M210.3 Index of Issuances.....	7/21/2009	
M210.4 Forms Management.....	8/16/1983.....	1-2
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M210.6 Publications Management.....	8/1/1984.....	1
M210.7 State Records Management Manual.....	6/8/2004	
M210.8 Vital Records Disaster Planning.....	5/9/1995	
M210.9 General Administrative Records Retention and Disposition Schedule for Records Common to Most Agencies.....	2/27/2008	
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215.6 Contract Management.....	Rescinded by M215.3—8/20/99	
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215.8 Contractor Integrity Provisions for Commonwealth Contracts.....	12/20/1991	
215.9 Contractor Responsibility Program.....	4/16/1999	
215.10 Offset Provision for Commonwealth Contracts.....	Rescinded MD215.9—4/16/1999	
215.11 Contractor Responsibility Provisions for Commonwealth Contracts.....	Rescinded by MD215.9—4/16/1999	
215.12 Provisions for Commonwealth Contracts Concerning The Americans With Disabilities Act.....	1/16/2001	
215.13 Contract Provision for Donation of Excess Prepared Food.....	6/21/1994	
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215.14 Recycled Content Products Provision for Commonwealth Contracts for Services.....	Rescinded by M215.3—8/20/1999	
215.15 Statewide Contracts for the Purchase of Services.....	Rescinded by M215.3—8/20/1999	
215.16 Contract Compliance Program.....	6/30/1999	
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M215.1 Contracting for Services.....	Rescinded by M215.3—8/20/1999	
M215.2 Commonwealth Contract Compliance Program Guidelines.....	Rescinded by M210.3—4/8/1997	

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M215.3	Field Procurement Handbook . . . . .	
	(Current publication available at: <a href="http://www.portal.state.pa.us/portal/server.pt/community/procurement_handbook/1277">http://www.portal.state.pa.us/portal/server.pt/community/procurement_handbook/1277</a> )	
<b>Central Services</b>		
220.1	Commonwealth Media Services . . . . .	1/14/2008
220.3	Mail Delivery Between Harrisburg and the Philadelphia and Pittsburgh State Office Buildings . . . . .	1/10/2006
220.5	Payment of Interagency Billings for Centralized Services . . . . .	Rescinded by MD310.25—12/5/2002
220.9	Graphic Design, Typesetting, Reproduction, and Printing Services . . . . .	6/4/1987
220.10	Processing Automated Mail . . . . .	Rescinded/Obsolete 5/8/2006
220.11	Preservation of Commonwealth Deeds . . . . .	5/3/2006
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M220.3	Computer Printing . . . . .	Rescinded/Obsolete 5/25/2005
<b>Travel and Expenses</b>		
230.6	Travel Expenses of Job Applicants . . . . .	4/30/1997
230.7	Remittance of Witness Fees . . . . .	5/24/2007
230.9	Acquisition and Payment of Travel Services . . . . .	Rescinded by MD230.10—7/1/2009
230.10	Travel and Subsistence Allowances . . . . .	6/17/2009—Effective 7/1/2009
230.11	Use of Pittsburgh and Erie Convention Centers by State Agencies . . . . .	Rescinded/Obsolete 2/10/2006
230.13	Commonwealth Corporate Card Program . . . . .	Rescinded by MD230.10—7/1/2009
230.14	Foreign Areas Subsistence Allowances . . . . .	Rescinded by MD230.10—7/1/2009
230.15	Continental United States High Cost Subsistence Allowances . . . . .	Rescinded by MD230.10—7/1/2009
230.16	Using E-ZPass in Commonwealth Vehicles . . . . .	Rescinded/Obsolete 2/10/2006
230.17	Commonwealth Office of Travel Operations . . . . .	3/28/2007
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M230.1	Commonwealth Travel Procedures Manual . . . . .	6/17/2009—Effective 7/1/2009
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240.7	Submission of Changes to the Commonwealth Telephone Directory . . . . .	8/18/2008
240.11	Commonwealth Wireless Communication Policy . . . . .	10/8/2004
240.12	Commonwealth of Pennsylvania Mobile Devices Security Policy . . . . .	12/29/2008
245.12	Implementation of the Data Center Project Plan . . . . .	7/1/1997
245.13	Strategic Direction for Information Technology Investments . . . . .	2/8/2006
245.14	Wireless Antenna Tower Management . . . . .	3/8/2006
245.15	Statewide Public Safety Radio System . . . . .	3/7/2006
245.16	Pennsylvania Justice Network (JNET) Governance Structure . . . . .	3/7/2006
245.17	Commonwealth of Pennsylvania Public Safety Communications Council . . . . .	12/19/2006
245.18	IT Administrator Acceptable Use, Auditing and Monitoring, Incident Notification, and Response Policies and Procedures . . . . .	2/7/2006
245.19	Enterprise Technology Security Council . . . . .	5/3/2006
<b>Manuals.</b>		
M245.2	State Computer Maintenance Contract for Terminals, Microcomputers Printers, and Other Related Peripheral Equipment . . . . .	Rescinded/Obsolete 10/18/2005
M245.4	Policy for Personal Computers and Networks (PCs/LANs) . . . . .	Rescinded/Obsolete 11/2/2005

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250.3	State Contracts Information Document .....	Rescinded by M215.3 Rev. 2—10/5/2001	
<b>Organization and Space Management</b>			
260.1	Organization Requests .....	10/17/2005	
260.2	Reorganization Plans for Transfers of Functions Between Agencies .....	11/16/1987	
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M260.1	Manual For Space Utilization.....	3/11/2004	
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305.3	Responsibilities of Comptroller Operations.....	3/19/1997	
305.4	Payments to Counties .....	5/24/2000	
305.5	Cash Management .....	5/22/2009	
305.6	Withholding Payments to Municipalities ( <i>Act No. 166 of 1978</i> ) .....	5/1/1997	
305.7	Interest Penalties for Late Payments.....	5/11/2009	
305.8	Commonwealth Bank Accounts and Special Banking Services .....	6/11/1997	
305.9	Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Unaccompanied by Remittances .....	Rescinded by MD305.11—5/22/2009	
305.10	Receipt of Federal Funds by Wire Transfer .....	1/23/1989	
305.11	Depositing Checks, Money Orders and Cash .....	5/22/2009	
305.12	Accounting, Reporting, and Cash Management of Federal Grants and Contracts .....	1/25/1999	
305.13	Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Accompanied by Remittances .....	Rescinded by MD305.11—5/22/2009	
305.14	Identifying Payments to Local Governments and Other Subrecipients... ..	Rescinded by MD305.21—6/13/2003	
305.15	Processing and Distributing Returned Checks.....	8/30/1989	
305.16	Lobbying Certification and Disclosure .....	7/3/2003	
305.17	Preparation and Use of Form STD-417, Adjustment Memorandum From Department of Revenue to Treasury Department .....	Rescinded by MD305.11—5/22/2009	
305.18	Obtaining Authority for Electronic Approval of Commonwealth Voucher Transmittals.....	Rescinded/Obsolete—8/24/2006	
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305.20	Grant Administration .....	5/26/2000	
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305.22	Commonwealth Business License Information Exchange Program .....	4/13/2006	
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310.1	Fiscal Guidelines for Federal Reimbursement of Disaster Related Expenditures .....	1/5/1983	
310.3	Encumbering and Lapsing of Appropriations .....	5/4/1998.....	1
310.7	Report of Lapse (STD-292).....	Rescinded/Obsolete 2/10/2006	
310.8	Postage Due Procedures .....	1/8/1987	
310.9	Purpose and Use of Restricted Receipt and Restricted Revenue Accounts .....	11/20/1978	
310.10	Collection, Requests for Compromise, and Write-Off of Delinquent Claims .....	8/29/1996	

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310.11	Payment and Financial Reporting Requirements for Non-Preferred Appropriations.....	1/19/1982.....	1
310.12	Refunding Erroneously Collected Fees and Charges .....	4/30/1982	
310.13	Generally Accepted Accounting Principles (GAAP).....	6/13/1995	
310.14	Fixed Asset Accounting and Reporting.....	Rescinded/Obsolete	2/10/2006
310.14	General Capital Asset and Other Fixed Asset Accounting and Reporting in SAP.....	2/3/2003	
310.15	Agency Federal ID Numbers.....	6/7/1996	
310.16	Advancement Account Balances.....	8/21/1987	
310.17	Accounting for Payments of Federal Funds to Subrecipients.....	Rescinded by MD305.21—6/13/2003	
310.18	Reporting of Pending or Threatened Claims.....	Rev. 1—5/27/1999	
310.19	Accounting for Disbursement of Funds for Interagency Agreements, Memorandums of Understanding, and Notifications of Subgrant; Accounting for the Subgranting of Federal, Federal Matching Funds, or State Funds Between Commonwealth Agencies .....	9/4/1997	
310.20	Charging Equipment Expenditures to Federal Programs.....	8/31/1994	
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310.22	Central Vendor Information System .....	Rescinded/Obsolete	6/17/2006
310.23	Commonwealth Purchasing Card Program.....	5/11/2009	
310.24	Accepting Debit/Credit Cards for Commonwealth Revenues .....	9/3/2008	
310.25	Transfers of Revenue or Expenses in SAP.....	12/5/2002	
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310.27	Month-End Closing Processes.....	12/14/2005	
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M310.2	Definitions of Major and Minor Objects of Expenditures .....	8/26/1998.....	1
M310.3	Manual of Accounting .....	7/17/1996	
M310.4	Fixed Asset Accounting System .....	Rescinded/Obsolete	2/10/2006
M310.10	Revenue and Receipts Accounting Subsystem .....	Rescinded/Obsolete	2/10/2006
M310.11	Budget Control Subsystem .....	Rescinded/Obsolete	2/10/2006
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M310.15	Commitment and Expenditure Control Subsystem.....	Rescinded/Obsolete	2/10/2006
M310.16	ICS Information System (IIS) Terminal Operators Manual.....	Rescinded/Obsolete	2/10/2006
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315.6	Employees' Requests for Additional State or Federal Income Tax Withholding .....	1/6/1981	
315.7	Employee Payroll Deductions for Credit Unions .....	6/1/1989.....	1-2-3
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315.9	Withholding of Delinquent Local Taxes from Employees' Paychecks.....	11/4/1996	



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315.10 Recording and Reporting of Wage, Overtime, Shift Differential, and Short-Term Leave Without Pay .....	Rescinded/Obsolete	2/10/2006
315.11 Distribution and Retention of Payroll Deduction Authorization Documents .....	4/24/1980	
315.13 Payments of Wages, Salary, Benefits, and Travel Expenses to Survivors of Deceased Employees .....	8/19/1996	
315.14 Charges for State Employees Residing or Subsisting in Commonwealth Facilities .....	5/29/1997	
315.15 Withholding of Pennsylvania Higher Education Assistance Agency Loans from Employee Paychecks .....	8/28/2008	
315.16 Payment of Annuitant Medical and Hospital Benefits .....	9/10/1997	
315.17 Direct Deposit of Pay Program .....	10/20/2000	..... 1
315.18 Delivery of Payroll Checks to Employees .....	11/28/1990	
315.19 Check Distribution Codes .....	9/20/1993	
315.20 Taxability of the Use of State-Provided Vehicles .....	11/17/2008	
315.21 Deductions for U.S. Savings Bonds .....	11/7/1985	
315.22 Preparation and Filing of Federal Forms 1099 and 1096 .....	1/3/1995	
315.23 Processing Employee's Withholding Allowance Certificate (W-4) .....	2/9/1988	
315.25 Pennsylvania Personal Income Tax .....	9/12/1988	
315.26 Backup Withholding on Missing and/or Incorrect Taxpayer Identification Numbers .....	1/24/1994	..... 1
315.27 Recoupment of Conversion Pay Amounts .....	5/4/1992	
315.28 Taxability of State-Provided Parking .....	6/18/2008	
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325.4	Agency Annual Audit Plan .....	6/11/2001
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325.6	Auditing Computer Based Systems .....	6/12/1987
325.7	Implementation of the Commonwealth's State Level Single Audit .....	7/13/1998
325.8	Remedies for Recipient Noncompliance with Audit Requirements .....	6/11/1999
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410.9	Personnel Procedures for Affirmative Action Analysts, Affirmative Action Directors, and Compliance Specialists .....	Rescinded by M210.3—4/8/1997
410.10	Guidelines for Investigating and Resolving Internal Discrimination Complaints .....	2/21/2008
410.11	Commonwealth's Equal Employment, Outreach, and Employment Counseling Program .....	5/8/1997

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M410.3	Guidelines for Equal Employment Opportunity Plans and Programs . . . .	12/18/2007	
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505.1	Employee Furlough Policy . . . . .	2/16/2006	
505.2	Salaried Complement Management System . . . . .	12/1/2006	
505.4	Salaried Complement Control . . . . .	2/18/1982 . . . . .	1
505.7	Personnel Rules . . . . .	10/9/2008	
505.8	Transmittal of Personnel Action Notifications . . . . .	4/2/1998	
505.9	Standard Abbreviations for Use With the Compensation Plan and SAP R/3 System . . . . .	3/11/2004	
505.11	Emergency Assignments of Employees During Emergencies . . . . .	6/17/1998	
505.12	Annual List of Employees . . . . .	6/26/2001	
505.15	Employee Mobility Information Program . . . . .	10/3/2007	
505.17	Furlough of Employees on Work-Related Disability Leave . . . . .	Rescinded/Obsolete	2/1/2008
505.18	Maintenance, Access, and Release of Employee Information . . . . .	2/14/2003	
505.20	Wage Complement Management and Control . . . . .	11/10/1999	
505.21	Office Hours . . . . .	1/19/2000	
505.22	State Employee Assistance Program . . . . .	4/2/2003	
505.23	Employee Recognition Program . . . . .	1/23/2007	
505.25	Substance Abuse in the Workplace . . . . .	11/29/2004	
505.26	HIV/AIDS and Other Bloodborne Infections/Diseases in the Workplace . . . . .	3/18/2005	
505.27	<i>The Worker and Community Right to Know Act (P. L. 734, No. 159)</i> . . . . .	8/3/1993	
505.28	Family Care Account Program . . . . .	10/11/2005	
505.29	Commercial Driver License Drug and Alcohol Testing Requirements . . . . .	Rescinded by M505.5—11/5/1999	
505.30	Prohibition of Sexual Harassment in Commonwealth Work Settings . . . . .	6/19/2002 . . . . .	1
505.31	Domestic Violence and the Workplace . . . . .	5/31/2004	
505.32	Governor's Awards for Excellence . . . . .	11/12/2008	
505.33	Working From Home During Emergencies Including a Pandemic Influenza Event . . . . .	8/20/2007	
<b>Manuals.</b>			
M505.2	Personnel Management Review . . . . .	7/9/1997	
M505.3	State Employee Assistance Program . . . . .	11/29/2004	
M505.4	Personnel Records Retention and Disposition Schedule . . . . .	12/7/1998	
M505.5	Commercial Driver License Drug and Alcohol Testing and Licensing Requirements Administrative Manual . . . . .	5/30/2002	
M505.6	An Agency Guide to Workplace Violence Prevention and Response . . . . .	5/28/2002	
<b>Employment</b>			
515.2	Transfer of Employees From One Agency to Another . . . . .	6/16/2000	
515.3	Classified Service Emergency Appointments . . . . .	9/3/2008	
515.4	Seniority Rights of Commonwealth Employees . . . . .	7/12/2006	
515.10	Selection and Appointment to Non-Civil Service Positions . . . . .	2/16/2006	
515.12	Confidential Employees . . . . .	9/28/2004	
515.15	Identification, Employment, and Education Verification Checks . . . . .	6/13/1997	
515.16	Appointment to Senior Level Positions . . . . .	2/14/2006	
515.17	Computer Systems Intern Program . . . . .	8/29/1989	
515.18	Supplementary Employment . . . . .	7/7/1998	

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515.19	Accounting Intern Program . . . . .	10/7/1985	
515.20	Reemployment of Commonwealth Annuitants . . . . .	2/21/2002	
515.21	Commonwealth School-to-Work Program . . . . .	2/14/2006	
<b>Classification</b>			
520.3	Unclassified Codes and Titles . . . . .	6/16/2003	
520.4	Position Classification Post-Audits . . . . .	11/16/1999	
520.5	Centralized Job Control System . . . . .	12/1/2006	
520.6	Processing of Reclassification Actions . . . . .	1/23/2007	
520.7	Development and Validation of Job Standards . . . . .	10/16/2006	
520.8	Pay Action Effective Dates for Changes to Position Classifications and the Classification Plan . . . . .	1/23/2007	
520.9	Appointments Above the Minimum . . . . .	3/5/1998	
<b>Pay</b>			
525.4	Temporary Assignment in Higher Classification . . . . .	4/20/2004	
525.6	Advances on Salaries or Wages Earned . . . . .	8/29/1996	
525.8	Processing of Pay Increments . . . . .	Rescinded by M210.3—4/8/1997	
525.11	Dual Employment . . . . .	2/10/1997	
525.12	Reinstatement of Discharged Employees . . . . .	9/21/1979	
525.13	Maintenance of Weighted Salaries . . . . .	9/28/2001	
525.15	Overtime . . . . .	2/10/1997	
525.16	Physicians and Related Occupations Quality Assurance Program . . . . .	2/14/2006	
525.17	Internal Revenue Service Levies on Wages, Salary, and Other Income of Payments . . . . .	6/28/1991	
525.20	Implementation & Maintenance of Local Service Tax . . . . .	10/10/2008	
<b>Manual.</b>			
M525.2	Commonwealth Pay Plan . . . . .	Rescinded by M210.3—3/12/2004	
<b>Benefits</b>			
530.1	Agency Employee Services Coordinators . . . . .	5/16/2006	
530.2	Sick Leave Without Pay, Parental Leave Without Pay, and Family Care Leave Without Pay . . . . .	3/12/2008	
530.3	State Employee Combined Appeal for New Employees and Employees on Inter-Agency Transfers . . . . .	1/18/1996	
530.4	State Paid Benefits While on Sick, Parental, or Family Care Leave Without Pay . . . . .	3/11/2008	
530.8	<i>Motor Vehicle Financial Responsibility Law</i> . . . . .	7/22/1997	
530.9	Social Security Records . . . . .	10/9/1997	
530.10	Administrative Leave to Compete in International and World Championships . . . . .	7/23/1996	
530.11	Benefit Rights of Permanent and Temporary Employees . . . . .	7/25/2006	
530.14	Payment for Leave . . . . .	Rescinded by MD530.14 Rev. 1 M210.3—10/3/1999	
530.15	Disability Benefits, Related Pay Status Options, and Retired Employee Health Program (REHP) Effective Dates . . . . .	7/8/1997	
530.17	Partial and Full Day Closings of State Offices . . . . .	11/13/2007	
530.18	Benefit Rights of Furloughed Employees . . . . .	2/24/1997	
530.20	State Paid Benefits While on Cyclical Leave Without Pay . . . . .	7/8/1997	
530.21	Paid Leave for Blood Donation . . . . .	5/13/1997	

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530.22	Unemployment Compensation, Noncovered Employment—"Major Nontenured Policymaking or Advisory Positions" .....	11/20/1996	
530.23	State Employee Combined Appeal .....	2/1/2008	
530.24	Retired Employees Health Program Eligibility Requirements. ....	4/7/2009	
530.26	Military Leaves of Absence .....	9/3/2008	
530.27	Leave Related Policies for Employees Excluded From Earning Leave and Leave Service Credit .....	2/7/1997	
530.28	Pennsylvania Employees Benefit Trust Fund (PEBTF).....	9/14/2004	
530.29	Commuter Benefits Program.....	5/20/2009	
530.30	Sick, Parental and Family Care Absence Policy .....	12/14/2007	
530.31	Workplace Safety and Health Program .....	9/29/2008	
<b>Manuals.</b>			
M530.2	Injury Leave Manual.....	11/29/2001.....	1
M530.3	Group Life Insurance Program Administrative Manual .....	6/26/2001	
M530.4	Commonwealth of Pennsylvania Highlights of State Employee Benefits .....	8/1/2004	
M530.7	Absence Program .....	4/23/2009	
M530.9	Unemployment Compensation Insurance .....	12/7/1998	
M530.14	Unemployment Compensation and the Supervisor.....	3/1/1982	
M530.15	State Police Health Program/State Police Supplemental Benefits Program Administrative Manual .....	6/5/2001.....	1-2
M530.16	Temporary Clerical Pool Agency User Manual.....	10/1/1999	
M530.17	Temporary Clerical Pool Employee Handbook .....	10/1/1999	
M530.18	The Benefits of a "Healthy" Sick Leave Balance .....	11/1/1997	
M530.19	Leave Without Pay and Injury Leave Processing Instructions .....	Rescinded/Obsolete	2/1/2008
M530.20	Commonwealth of Pennsylvania Employee Benefits .....	Rescinded by M210.3—03/18/2005	
<b>Training</b>			
535.1	Employee Training and Development.....	2/9/2000	
535.2	Physicians and Related Occupations Specialty Board Certification Payments .....	2/21/2006	
535.3	Out-Service Training.....	11/16/1999	
535.4	Use of State Work Program and Public Services Trainee Classes .....	2/16/1984	
535.5	Use of Trainee Classes in the Classified Service .....	10/8/2004	
535.6	Commonwealth Management Development Program.....	2/9/2000	
535.7	Annual Agency Training Plan and Report.....	7/8/1999	
535.9	Physical and Information Security Awareness Training .....	10/3/2006	
<b>Performance Evaluations</b>			
540.7	Employee Performance Review.....	3/5/2002	
<b>Retirement</b>			
570.1	State Employees' Retirement System, Duties of Departments and Agencies .....	5/8/2006	
570.2	Use of Form SERS-147 to Elect Membership in Full Coverage Retirement Group.....	Rescinded/Obsolete	11/28/2005
570.5	Employer Contributions Required on the Purchase of Previously Uncredited State Service .....	4/9/2006	
570.6	Optional Membership in State Employees' Retirement System .....	2/22/2006	
570.7	Credited State Service .....	Rescinded/Obsolete	11/28/2005

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570.8 Reinstatement of Dismissed or Furloughed Employees' Into the State Employees' Retirement System .....	4/3/2006	
570.9 Reinstatement Into the State Employees' Retirement System of Employees Furloughed or Otherwise Terminated and Reemployed .....	2/17/2006	
570.10 Final Average Salary—Part-Time Service, State Employees' Retirement System.....	Rescinded/Obsolete	11/28/2005
570.11 Changes to Retirement and Personnel/Payroll System and Collection of Arrears Balances .....	3/23/2006	
570.12 Refusal of Recall From Furlough—Termination of Interest on Retirement Contributions .....	2/17/2006	
570.13 State Employees' Retirement System, Regional Field Offices .....	5/30/2007	
570.14 Deferred Compensation Program.....	3/25/2005	
570.15 Public Employee Pension Forfeiture Act No. 1978-140 .....	6/6/2006	
<b>Manual.</b>		
M570.3 State Employees' Retirement System Counselors' Manual.....	Rescinded/Obsolete	1/31/2001
<b>Civil Service</b>		
580.2 Civil Service Availability Survey/Interview Notice .....	1/21/2009	
580.6 Tabulation of Classified Service Employees .....	6/16/2006	
580.8 Classified Service Probationary Periods.....	10/5/2004	
580.10 Rights of Certified Eligibles in the Classified Service .....	5/16/1986	
580.11 Documentation of Classified Service Personnel Actions .....	6/27/2006	
580.12 Recruitment for Classified Service Positions .....	3/28/2007	
580.13* Report of Personnel Transactions for Non-State Employees .....	8/18/1987	
580.15 Selective Certification of Classified Service Eligibles.....	6/26/1990	
580.16 Provisional Employment in the Classified Service .....	11/16/2006	
580.17 Performance Evaluations to Determine Order of Furlough for Classified Service Employees .....	Rescinded by M580.2—	10/16/1997
580.18 Pennsylvania Residency Requirements for the Classified Service .....	2/15/2005	
580.19 Promotion in the Classified Service Without Examination.....	12/4/2001	
580.20 Classified Service Furlough and Reemployment .....	Rescinded by M580.2—	10/16/1997
580.21 Veterans' Preference on Classified Service Employment Lists.....	5/5/2008	
580.23 Resignation From and Reinstatement to the Classified Service .....	3/12/1990	
580.24 Promotion of Employees in Unskilled Positions Into the Classified Service.....	9/14/2006	
580.25 Political Activities of Classified Service Employees .....	9/30/1992	
580.26 Transfer or Reassignment of Classified Service Employees .....	2/28/1990	
580.27 Limited Appointments to Positions Exempted from the Classified Service Pursuant to <i>Section 3(c)(4), Civil Service Act</i> .....	2/18/1988	
580.28 Reallocation to a Lower Class in the Classified Service .....	2/27/1990	
580.29 Rapid Promotion Examinations in the Classified Service.....	Rescinded/Obsolete	5/17/2006
580.30 Classified Service Leave Without Pay and Return Rights .....	3/24/1986	
580.31 Classified Service Temporary Appointments.....	8/14/2006	
<b>*Special Distribution</b>		
<b>Civil Service</b>		
580.32 Substitute Employment in the Classified Service .....	10/24/2006	
580.33 Reproductions of Documents for Classified Service Personnel Actions ...	4/30/2009	
580.34 Removal of Eligibles for Certification or Appointment in the Classified Service.....	5/20/2002	

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580.35	Employees Placed in the Classified Service by Position Reallocation . . . .	3/29/1988	
580.36	Engineering Intern Program . . . . .	1/14/1994	
580.37	Promotion by Appointment of Unclassified Service Employees Into the Classified Service . . . . .	5/5/2008	
580.38	Use of Intern Job Titles in the Classified Service . . . . .	10/8/2004	
<b>Manuals.</b>			
M580.1	Certification of Eligibles for the Classified Service . . . . .	4/7/1997	
M580.2	Furlough of Classified Service Employees Not Covered by Labor Agreements . . . . .	6/22/2007	
<b>Labor Relations</b>			
590.1	Labor Relations . . . . .	11/27/2007	
590.2	Confidential Positions and Employees . . . . .	3/8/2006	
590.3	Deduction of Union Dues/Fair Share Fees . . . . .	5/22/2006	
590.5	Guidelines to be Followed During Legal or Illegal Strikes . . . . .	5/25/2006	
590.6	Information Needed to Obtain Injunctions Against Illegal Strikes . . . . .	Rescinded by MD590.5—5/13/1997	
590.7	Labor Relations—Grievance Administration . . . . .	6/8/2006	
590.8	Classification Grievance Processing . . . . .	3/30/2006	
<b>Manual.</b>			
M590.2	Digest of Commonwealth Employee Classification Arbitration Cases . . . .	Rescinded/Obsolete	11/25/2005
<b>SUPPLIES, SERVICES, AND EQUIPMENT</b>			
<b>Supplies and Equipment Acquisition/Disposition</b>			
610.2	Release and Receipt of Surplus State Property . . . . .	Rescinded by M215.3—8/20/1999	
610.3	Transfer or Sale of Surplus State Property . . . . .	Rescinded by M215.3—8/20/1999	
610.4	Procedures for Purchasing Goods and Services Not Exceeding \$1,500 Through Advancement Accounts . . . . .	11/17/1983	
610.5	Disposition of Personal Property and Equipment Purchased with GSA Bond Moneys . . . . .	Rescinded M215.3—8/20/1999	
610.7	Acquisition of Surplus Federal Personal Property . . . . .	Rescinded by M215.3—8/20/1999	
610.9	Recovery of Precious Metals . . . . .	Rescinded by M215.3—8/20/1999	
610.11	Equipment Lease Renewals . . . . .	Rescinded by M215.3—8/20/1999	
610.12	Renewal of Multiyear Equipment Leases Containing Purchase Options . .	Rescinded by M215.3—8/20/1999	
610.13	Local Bids and Local Awards for Goods Costing \$1,500 to \$10,000 . . . . .	Rescinded by M215.3—8/20/1999	
610.14	Review of Sole Source Purchase Requisitions for Equipment and Supplies . . . . .	Rescinded by M215.3—8/20/1999	
610.15	Master Lease Program . . . . .	Rescinded by MD610.15 Rev. 1—7/26/2004	
(Revision No. 1 to 610.15 is rescinded upon publication of M210.3, Index of Issuances dated 3/18/2005.)			
<b>Manuals.</b>			
M610.1	General Services Commodity Distribution Center Catalog . . . . .	Rescinded/Obsolete 7/14/2005	
M610.5	Field Purchasing Manual . . . . .	Rescinded by M215.3—8/20/1999	
<b>Automotive Services</b>			
615.1	Temporary Assignment of Commonwealth Automotive Fleet Vehicles . . . .	1/6/2006	
615.2	Motor Vehicle Liability Insurance and Accident Reporting . . . . .	6/17/1996	
615.3	Rates and Billing for Motor Vehicles of the Commonwealth Automotive Fleet . . . . .	10/12/2005	
615.6	License Plates for Commonwealth-Owned Vehicles . . . . .	6/30/1997	
615.7	Repairs, Maintenance, and Payment for Services . . . . .	10/12/2005	
615.8	Use of State Automobiles . . . . .	3/26/1980	

<b>Management Directives and Manuals.</b>		<b>Date of Original or Latest Amendment</b>	<b>Current Revisions</b>
615.9	Permanent Assignment of Commonwealth Automotive Fleet Vehicles . . .	10/12/2005	
615.11	Use and Condition Inspections of Commonwealth-Owned Motor Vehicles . . . . .	Rescinded/Obsolete	04/28/2006
615.12	Motor Vehicle Authorization List . . . . .	5/1/2006	
615.13	Emission Control Program—Commonwealth Automotive Fleet Vehicles .	9/26/1997	
615.14	Repairs and Maintenance, Commonwealth Automotive Fleet . . . . .	Rescinded/Obsolete	10/13/2005
615.15	Vehicle Parking License Agreements . . . . .	10/26/2006	

**Commodity Standards**

620.1	Coal Sampling and Reporting . . . . .	10/4/2005	
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625.1	Repairs, Alterations, and Improvements to Commonwealth Buildings Under the Direct Supervision of the Department of General Services . . .	10/4/2004	
625.2	Inventory of Commonwealth Real Property . . . . .	9/16/2008	
625.3	Moving Employee Household Goods and Commonwealth Property . . . . .	3/14/1996	
625.4	Enforcement of Fire and Panic Regulations . . . . .	3/27/1991	
625.5	Reporting Surplus Real Property . . . . .	5/6/1996	
625.6	Leasehold Improvements . . . . .	5/1/2009	
625.7	Use of Form STD-291, Request for Lease Action and Budget Approval . .	11/6/1997	
625.8	Contracting for Bargaining Unit Work . . . . .	2/25/1994	
625.9	Payment of Contractors and Design Professionals for Agency-Funded Construction Projects Undertaken by the Department of General Services . . . . .	3/9/2001	
625.10	Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings . . . . .	1/30/2008	

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630.1	Agency Insurance Coordinators . . . . .	10/2/1987	
630.2	Reporting of Employee Liability Claims . . . . .	4/28/1998	

**COMMONWEALTH PROGRAMS**

**Protection and Safety**

720.2	Wage Standards Picketing . . . . .	2/3/1977	
720.3	Emergency Evacuation Plans at Commonwealth Facilities . . . . .	12/3/2004	
720.4	Safety and Loss Prevention Program . . . . .	10/2/1987	
720.5	Energy Conservation and Electrical Devices in Commonwealth-Owned or Leased Buildings . . . . .	7/25/2008	
720.6	Call Trace Procedures for Threatening, Harassing, and Nuisance Telephone Calls . . . . .	9/28/2005	
720.7	Bomb Threats and Suspicious Packages . . . . .	11/1/2004	

[Pa.B. Doc. No. 09-1418. Filed for public inspection August 7, 2009, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Order of Quarantine; Emerald Ash Borer

#### Recitals

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

B. EAB has killed over 40 million ash trees during the short time it has been present in North America. Typically, trees are killed within 3 years of the initial attack by this beetle. EAB presents a clear threat to the Commonwealth's forest and horticultural resources.

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

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

E. EAB has recently been detected in Armstrong and Washington Counties—counties outside of the current quarantined area—making it necessary to expand the quarantined area to include those counties.

#### Order

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

#### 1. Confirmation of Quarantine; Addition of Armstrong and Washington Counties to the Quarantined Area.

a. The quarantine established by Orders of June 27, 2007, July 16, 2007, June 27, 2008, March 1, 2009 and June 10, 2009 with respect to Allegheny, Beaver, Butler, Lawrence, Mercer, Mifflin and Westmoreland Counties (collectively, the quarantined area) remains in effect, subject to the conditions set forth in this Order.

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

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

a. The Emerald Ash Borer in any living stage of development;

b. Ash trees of any size;

c. Ash limbs, branches, stumps and roots;

d. Any cut, nonconiferous (hardwood) firewood;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



a. The article is either of the following:

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

ii. The article is to be moved to a specified destination for specific processing, handling or utilization (the destination and other conditions to be listed on the advance written permission), and this movement will not result in the spread of EAB because EAB will be destroyed by the specific processing, handling or utilization; and

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

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

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

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

7. *Documentation to Accompany Articles in Intrastate Movement from the Quarantined Area.* If an article described in Paragraph No. 2 of this Order is to be moved intrastate from the quarantined area, the article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have a copy of the applicable Department-issued or Department-authorized (by compliance agreement as described in Paragraph No. 6) certificate or limited permit securely attached at all times during intrastate movement attached to the article itself, or to the container carrying the article, or to the consignee's copy of the accompanying waybill: Provided, that the description of the article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article. The carrier must furnish the certificate or limited permit authorizing the intrastate movement of the article to the consignee at the destination of the shipment.

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

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

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

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

12. *Effective Date.* This quarantine is effective as of July 15, 2009, and shall remain in effect until rescinded by subsequent order.

DENNIS C WOLFF,  
Secretary

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## 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 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending July 28, 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.

## NOTICES

## BANKING INSTITUTIONS

## Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-22-2009	<i>From:</i> Continental Bank Plymouth Meeting Montgomery County <i>To:</i> Continental Bank Plymouth Meeting Montgomery County	Plymouth Meeting	Withdrawn
Application for conversion from a Federally-chartered stock savings bank to a Pennsylvania State-chartered stock savings bank.			

## Section 112 Applications

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
7-20-2009	Black River BancVenture, Inc., Memphis, TN, to acquire up to 24.9% of the voting securities of Allegiance Bank of North America, Bala Cynwyd, PA	Bala Cynwyd	Filed
7-22-2009	George G. Levin to acquire up to 24.4% of the common stock of NOVA Financial Holdings, Inc., Berwyn	Berwyn	Filed
7-23-2009	Kenneth B. and Moira F. Mumma to acquire up to 25.3% of the common stock of New Century Bank, Phoenixville	Phoenixville	Approved

## Branch Applications

## De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-27-2009	Commercial Bank & Trust of PA Latrobe Westmoreland County	West Point Plaza, Suite 1 100 West Point Drive Greensburg Westmoreland County	Filed
7-27-2009	Fleetwood Bank Fleetwood Berks County	455 Main Street Shoemakersville Berks County	Filed

## Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-22-2009	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	<i>Into:</i> 338 North Washington Avenue Scranton Lackawanna County  <i>From:</i> 139 Wyoming Avenue Scranton Lackawanna County	Approved and Effective

## SAVINGS INSTITUTIONS

No activity.

## CREDIT UNIONS

No activity.

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.STEVEN KAPLAN,  
*Secretary*

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

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### APPLICATIONS

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#### 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.

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#### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0061727 (Sewage)	St. Gabriel's Monastery 631 Griffin Pond Road Clarks Summit, PA 18411-8828	Lackawanna County South Abington Township	Wet Weather Channel to Leggetts Creek 5A	Y

Chesapeake Bay nutrient monitoring requirements for Ammonia Nitrogen, Kjeldahl Nitrogen, Nitrite-Nitrate as N, Total Nitrogen and Total Phosphorus are being added to this permit.

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0111830 IW	Emporium Specialties Company, Inc. P. O. Box 65 Austin, PA 16720	Potter County Austin Borough	Freeman Run 8A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0239461	Jeremy E. Weiland 887 Ekastown Road Sarver, PA 16055-1207	Clinton Township Butler County	UNT to Sarver Run 18-F	Y
PA0221601	Sherman Properties, LLC P. O. Box 138 Tionesta, PA 16353	Tionesta Township Forest County	Allegheny River 16-E	Y
PA0001988	INDSPEC Chemical Corporation 133 Main Street Petrolia, PA 16050-0307	Petrolia Borough Butler County	South Branch Bear Creek 17-C	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.*

**PA0026786**, Sewage, SIC 4952, **Pottstown Borough Authority**, 100 High Street, Pottstown, PA 19464. The facility is located in Pottstown Borough, **Montgomery County**.

Description of Activity: Discharge of 12.85 mgd of treated sewage from Pottstown Borough STP into Schuylkill River in Pottstown Borough, Montgomery County.

The receiving stream, Schuylkill River, is in the State Water Plan Watershed 3E and is classified for WWF. The nearest downstream public water supply intake for Suburban Water Company is located on Schuylkill River and is approximately 6 miles below the point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 12.85 mgd, are as follows:

<i>Parameter</i>	<i>Mass (lbs/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 <sub>5</sub> (5-1 to 10-31)	2,143	3,215	20	30	40
(11-1 to 4-30)	2,679	4,287	25	40	50
Total Suspended Solids	3,215	4,823	30	45	60
Ammonia as N (5-1 to 10-31)	857		8.0		16.0
(11-1 to 4-30)	1,714		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 (Issuance—Year 2)			Monitor	Monitor Daily Maximum	Monitor
Total Dissolved Solids (Year 3—Expiration)			1,000	2,000 Daily Maximum	2,500
Total Residual Chlorine			0.5		1.6
Copper, Total			0.040		0.074
Zinc, Total			Monitor		
Mercury, Total			Monitor		
Aluminum, Total			Monitor		
Benzidine			Monitor		

\* Shall not exceed in more than 10% samples.

The proposed effluent limits for Outfall 002, based on an average storm event, are as follows:

Parameter	Concentration (mg/l)		
	Average Monthly	Average Weekly	Daily Maximum
CBOD <sub>5</sub>			Monitor and Report
COD			Monitor and Report
Total Suspended Solids			Monitor and Report
Oil and Grease			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
Total Phosphorus			Monitor and Report
Fecal Coliform			Monitor and Report
Iron, Dissolved			Monitor and Report
pH (Standard Units)			Monitor and Report

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.*

**PA0026107-A1**, Sewage, **Wyoming Valley Sanitation Authority**, P. O. Box 33A, Wilkes-Barre, PA 18703-1333. This proposed facility is located in Hanover Township, **Luzerne County**.

Description of Proposed Activity: Amendment of NPDES Permit to received 150,000 gpd of Oil and Gas Drilling Wastewater.

The receiving stream, North Branch Susquehanna River, is in the State Water Plan Watershed 5B and is classified for: WWF. The nearest downstream public water supply intake for Danville Borough Water Company is located on the North Branch Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of 32.0 mgd.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
Fecal Coliform	200/100 ml as a Geometric Mean		
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean		
(10-1 to 4-30)	6.0 to 9.0 Standard Units at all times.		
pH	0.50		
Total Residual Chlorine	1.20		

## NOTICES

*Limits from issuance until December 31, 2010*

	<i>Monthly Average (lbs/Day)</i>	<i>Daily Maximum (lbs/Day)</i>
TDS—January	Report	411,585
TDS—February	Report	511,698
TDS—March	Report	880,228
TDS—April	Report	1,194,399
TDS—May	Report	529,023
TDS—June	Report	254,089
TDS—July	Report	156,383
TDS—August	Report	111,062
TDS—September	Report	96,765
TDS—October	Report	140,356
TDS—November	Report	235,920
TDS—December	Report	469,896
Chlorides	Report	Report
Sulfate	Report	Report

*Limits from January 1, 2011, until Expiration (February 28, 2013)*

	<i>Monthly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum (mg/l)</i>
TDS	500 mg/l	1,000 mg/l	1,250
Chlorides	250 mg/l	500 mg/l	625
Sulfates	250 mg/l	500 mg/l	625

*Limits from issuance until Expiration (February 28, 2013)*

	<i>Monthly Average mg/l</i>	<i>Daily Maximum mg/l</i>
Copper	0.76	0.86
Zinc	0.42	0.50
Acetone	7.97	30.2
Acetophenone	0.06	0.11
2-Butanone	1.85	4.81
o-Cresol	0.56	1.92
p-Cresol	0.2	0.7
Phenol	1.08	3.65
Pyridine	0.18	0.37
2,4,6-Trichlorophenol	0.11	0.16
Cadmium	0.005	0.008
Mercury	0.00090	0.0014
Cyanide, Free	Report	Report
Lead	Report	Report
Selenium	Report	Report
Silver	Report	Report
Thalium	Report	Report
Iron, Total	1.5	3.0
Manganese, Total	1.0	2.0
Aluminum, Total	0.75	1.5
Oil and Grease	15	30
Ammonia	25	50
Barium, Total	10	20
Strontium, Total	10	20

## 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	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen		Report	584,467*
Net Total Phosphorus		Report	77,929*

\* 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 compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMRs—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMRs—Annual Nutrient Summary by November 28, 2011.

*Outfalls 059 and 060 (Stormwater)\*:*

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

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

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

Point Sources 002—58 (except 014, 027, 041, 047, 048 and 050) serve as combined sewer reliefs necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or treatment plant. In accordance with the Department's Environmental Protection Agency approved CSO strategy, a special permit requirement is included in Part C of this Permit.

*Other Conditions:* Sludge disposal, Pretreatment Operating and Reporting Requirements, Combined Sewer Overflows, WETT, the Chesapeake Bay Tributary Nutrient Strategy, Stormwater and Residual Waste.

The EPA waiver is not in effect.

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

**Application No. PA 0085502**, Sewage, **DeAnn Corporation (Manada Creek Mobile Home Park)**, 1000 North Front Street, Wormleysburg, PA 17043. This facility is located in East Hanover Township, **Dauphin County**.

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

The receiving stream, UNT Manada Creek, is in Watershed 7-D, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for PA American Water Company is located on the Manada Creek, approximately 8.5 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.012 mgd are:

Parameter	Average	Average	Instantaneous
	Monthly (mg/l)	Weekly (mg/l)	Maximum (mg/l)
CBOD <sub>5</sub>			
(5-1 to 10-31)	10		20
(11-1 to 4-30)	20		40
Total Suspended Solids	10		20
NH <sub>3</sub> -N			
(5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12
Total Residual Chlorine	0.06		0.18
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 in effect.

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

**PA0002062-A2**, Industrial Waste, SIC 4911, **RRI Energy Northeast Management Company**, 121 Champion Way, Canonsburg, PA 15317.

The Department is amending the NPDES permit to include two new internal outfalls from the proposed gypsum storage area stormwater settling basin as well as modify existing Outfall 006.

The following effluent limitations are proposed for discharge to the receiving waters Crooked Creek (Outfall 006 and Internal Outfalls 106 and 206), classified as WWF, with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority located in Freeport, PA, approximately 40 miles below the discharge point on the Allegheny River.

*Outfall 006:* Existing stormwater discharge to Crooked Creek, variable flow.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			Monitor and Report		
Oil and Grease			Monitor and Report		
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Chromium			Monitor and Report		
Nickel			Monitor and Report		
Titanium			Monitor and Report		
Zinc			Monitor and Report		
pH			Monitor and Report		

*Internal Outfall 106:* New discharge to Crooked Creek, maximum discharge flow of 0.18 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			30		60
Oil and Grease			15		30
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Chromium			Monitor and Report		
Nickel			Monitor and Report		
Titanium			Monitor and Report		
Zinc			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

*Internal Outfall 206:* New discharge to Crooked Creek, variable flow.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Suspended Solids			30		60
Oil and Grease			15		30
Iron			Monitor and Report		
Aluminum			Monitor and Report		
Manganese			Monitor and Report		
Chromium			Monitor and Report		
Nickel			Monitor and Report		
Titanium			Monitor and Report		
Zinc			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0 Standard Units				

The EPA waiver is not in effect.

**PA0041289**, Sewage, **Uniontown Area School District**, 23 East Church Street, Uniontown, PA 15401-3578. This application is for renewal of an NPDES permit to discharge treated sewage from Franklin Elementary School STP in Franklin Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Virgin Run Lake, which are classified as a HQ-TSF 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 McKeesport Municipal Water Authority.



*Outfall 001*: existing discharge, design flow of 0.0039 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(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)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
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	0.017			0.04
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0090557**, Sewage, **Extencicare Health Services, Inc.**, 257 Georgetown Road, Beaver Falls, PA 15010. This application is for renewal of an NPDES permit to discharge treated sewage from Beaver Valley Nursing and Rehabilitation Center STP in South Beaver Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Swale of Painter Run, which are classified as a HQ-CWF 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 East Liverpool Water Works.

*Outfall 001*: existing discharge, design flow of 0.015 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
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
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0253901**, Sewage, **Borough of Dale, Dale Borough**, 810 Bedford Street, Johnstown, PA 15902. This application is for issuance of an NPDES permit to discharge combined sewage from combined sewer outfalls in Dale Borough, **Cambria County**.

The Outfalls in the Borough serve as a combined sewer overflows which may discharge to the Solomon River receiving water. Discharges from these outfalls are necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant and are permitted to discharge only for such reason. At this time, there are no specific numeric effluent limitations on the outfall's discharges. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

*Other Conditions*: Dale Borough has proposed a plan to control its combined sewer overflow (CSO) discharges through; the construction of a new sanitary-only collector sewer system, the exclusion of all wet weather flow related inflow sources from the new collector sewer system and property lateral sewer systems and the cessation of all wet weather related sanitary sewage discharges upon completion of the sewer separation project. The existing sewer collection system will be converted to a strictly stormwater-only conveyance system. In a letter dated July 10, 2008, the Department of Environmental Protection has approved the Borough of Dale's long-term CSO management plan (LTCP). A task identification and implementation schedule and post-construction compliance monitoring requirement is included in this permit with the proposed LTCP completion required within forty months following the permit effective date.

The EPA waiver is in effect.

**PA0032425**, Sewage, **Department of Conservation and Natural Resources, Bureau of State Parks, Ohioypyle State Park**, P. O. Box 105, Ohioypyle, PA 15470-0105. This application is for renewal of an NPDES permit to discharge treated sewage from Ohioypyle State Park Campground Sewage Treatment Plant in Stewart Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Youghiogheny River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the North Fayette County Municipal Authority located on the Youghiogheny River.

*Outfall 001:* existing discharge, design flow of 0.04 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	2.5			5.0
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	0.01			0.02
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.

**PA0204285**, Sewage, **Waynesburg, LLP**, 3101 Homestead Duquesne Boulevard, West Mifflin, PA 15122. This application is for renewal of an NPDES permit to discharge treated sewage from Reesman Mobile Home Park STP in Morgan Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of South Fork Tenmile 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 Tri-County Joint Municipal Authority.

*Outfall 001:* existing discharge, design flow of 0.034 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	3.0			6.0
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	0.02			0.05
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.

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

**PA0002135**, Industrial Waste, **Calumet Penreco, LLC**, 138 Petrolia Street, Karns City, PA 16041. The existing facility is located in Karns City Borough, **Butler County**.

Description of Proposed Activity: an NPDES Permit for an existing discharge of treated industrial waste, treated stormwater and untreated stormwater.

The receiving water is South Branch Bear Creek (SBBC) for Outfall Nos. 001, 002, 005—009, 013, 014, 020, 022, 023, 031, 033 and 034; and UNTs to SBBC for Outfall Nos. 004, 010—012 and 032. The receiving stream is in State Water Plan 17-C and is classified for the following uses: WWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, PA Water Company—East Brady, is located on Allegheny River and is approximately 21.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.356 mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
CBOD <sub>5</sub>					
(5-1 to 10-31)	47.5	95	16	32	40
(11-1 to 4-30)	95	190	32	64	80
Total Suspended Solids	XX	XX	45	135	135
Oil and Grease	XX		15		30
NH <sub>3</sub> -N					
(5-1 to 10-31)	4	8	1.3	2.6	3.25
(11-1 to 4-30)	11.5	23	3.9	7.8	9.75
Dissolved Oxygen			Greater than 5.0 mg/l at all times		
Aluminum	1.43	2.86	0.48	0.96	1.2
Total Iron #	4.61+	9.22+	1.56	3.12	3.9
Manganese	2.3	4.6	0.77	1.54	1.93
Copper	0.065	0.13	0.022	0.044	0.055
Lead	0.032	0.065	0.011	0.022	0.027
Acetone	14.2	28.5	4.8	9.6	12.0
Zinc	XX	XX	0.058	0.15	0.15
Temperature			Daily Average		
January 1—31			44		
February 1—29			41.3		
March 1—31			58.1		
April 1—15			75.2		
April 16—30			93.1		
May 1—15			94.9		
May 16—30			110		
June 1—15			101.8		
June 16—30			110		
July 1—31			90.8		
August 1—15			87		
August 16—31			87		
September 1—15			84		
September 16—30			78		
October 1—15			72		
October 16—31			66		
November 1—15			60.9		
November 16—30			51.3		
December 1—31			44.2		
Fecal Coliform (5-1 to 9-30)			200/100 ml as a Geometric Average		
pH			6.0 to 9.0 Standard Units at all times		

XX—Monitor and report on monthly DMRs.

+—Total loading for Outfall 001 and 004.

#—See Special Condition No. 6.

The proposed effluent limits for Outfall 002 based on a design flow of varies mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
TSS			XX		
TOC			XX		
Ammonia as Nitrogen			XX		
Nitrate-Nitrite Nitrogen			XX		
Oil and Grease			15		30
Aluminum			XX		
Total Iron			XX		
Manganese			XX		
Zinc			XX		
pH			XX		

XX—Monitor and report on monthly DMRs.

The proposed effluent limits for Outfall 004 based on a design flow of varies 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>
Flow (mgd)	XX	XX			
TSS			30		50
Oil and Grease			15		30
Total Iron #	4.61+	9.22+	2	4	5
Manganese			1.0	2.0	2.5
pH	Within limits of 6.0 to 9.0 Standard Units at all times.				

XX—Monitor and report on monthly DMRs.

+—Total Loading for Outfall 001 and 004.

#—See Special Condition No. 6.

The proposed effluent limits for Outfall 005 based on a design flow of varies 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>
Flow (mgd)	XX				
CBOD <sub>5</sub>			XX		
TSS			XX		
TOC			XX		
Ammonia as Nitrogen			XX		
Nitrate-Nitrite Nitrogen			XX		
Aluminum			XX		
Total Iron			XX		
Manganese			XX		
Copper			XX		
Zinc			XX		
pH			XX		

XX—Monitor and report on monthly DMRs.

The proposed effluent limits for Outfall 006 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 007 based on a design flow of varies mgd.

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

The proposed effluent limits for Outfall 009 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 010 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 011 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 012 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 013 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 014 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 031 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 032 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 033 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 034 based on a design flow of varies 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>
Flow (mgd)	XX				
TSS			XX		
TOC			XX		
Ammonia as Nitrogen			XX		
Nitrate-Nitrite Nitrogen			XX		
Oil and Grease			XX		
Aluminum			XX		
Total Iron			XX		
Manganese			XX		
Zinc			XX		
pH			XX		

XX—Monitor and report on monthly DMRs.

The proposed effluent limits for Outfall 020 based on a design flow of varies mgd.

The proposed effluent limits for Outfall 022 based on a design flow of varies mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
TSS			XX		
TOC			XX		
Ammonia as Nitrogen			XX		
Nitrate-Nitrite Nitrogen			XX		
Oil and Grease			XX		
Aluminum			XX		
Total Iron			XX		
Manganese			XX		
Copper			XX		
Zinc			XX		
pH			XX		

XX—Monitor and report on monthly DMRs.

The proposed effluent limits for Outfall 023 based on a design flow of varies mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
TSS			XX		
TOC			XX		
Ammonia as Nitrogen			XX		
Nitrate-Nitrite Nitrogen			XX		
Oil and Grease			15		30
Aluminum			XX		
Total Iron			XX		
Manganese			XX		
Copper			XX		
Zinc			XX		
pH			XX		

XX—Monitor and report on monthly DMRs.

The EPA Waiver is not 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. WQG02090909**, Sewerage, **Richland Meadows**, 1590 Canary Road, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a manufactured home community with privately operated sewage collection treatment facilities. Pump station.

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

**WQM Permit No. 6409402**, Sewerage, **Western Wayne School District**, 2132 Easton Turnpike, Box 220, South Canaan, PA 18459. This proposed facility is located in Salem Township, **Wayne County**.

Description of Proposed Action/Activity: This project is for construction of a 5,600 gpd sewage treatment system to serve the Western Wayne Southern Elementary School. Tertiary treated wastewater water from the facility will be spray irrigated and also reused for landscape irrigation and toilet flushing.

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

**WQM Permit No. 3809401**, Sewerage, **South Annville Township Authority**, 829 South Spruce Street, Annville, PA 17003. This proposed facility is located in South Annville Township, **Lebanon County**.

Description of Proposed Action/Activity: Construction/Operation of the Mayapple Woods pump station to serve a proposed 154 lot residential subdivision and 33 existing lots.

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


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


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


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

*Lehigh County Conservation District: Lehigh Agriculture Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PA1023909009(1)	Lehigh Carbon Community College Attn: Donald Synder 4525 Education Park Drive Schnecksville, PA 18078	Lehigh	North Whitehall Township	Tributary to Jordan Creek HQ-CWF, MF Jordan Creek TSF, MF Little Lehigh Creek HQ-CWF

*Northampton County Conservation District: Greystone Building, 14 Gracedale Avenue, Nazareth, PA 18064-9211, (610) 746-1971.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024809008	Abraham Atiyeh 1177 Sixth Street Whitehall, PA 18052	Northampton	East Allen Township	Monocacy Creek HQ-CWF

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**VII. List of NOIs for NPDES and/or Other General Permit Types**


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PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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**CAFO Notices of Intent Received**


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

**PAG124807-Renewal**, CAFO, SIC 213, **Hamilton Farm, LLC**, 10049 Ferguson Valley Road, Lewistown, PA 17044. This proposed facility is located in Adams Township, **Snyder County**.

Description of Size and Scope of Proposed Operation/Activity: Renewal of General Permit. The facility is a one barn, 5,600 head, feeder-to-finishing swine operation. Manure produced on this operation is stored in a 2 million gallon HDPE lined manure storage structure. Some of the manure is used on the farm and some is exported to neighboring farms.

The receiving stream, North Branch Middle Creek, is in Watershed 6A Penns Creek and classified for: TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

## 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](http://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>
Wingert Dairy William Wingert 5497 Shade Lane Alexandria, PA 16611	Huntingdon	940.87	1,489.3	Dairy	HQ	New

**PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Application No. 4809505, Public Water Supply.**

Applicant	<b>Easton Suburban Water Authority</b> 3700 Hartley Avenue Easton, PA 18043  City of Easton <b>Northampton County</b>
Responsible Official	Roy White Easton Suburban Water Authority 3700 Hartley Avenue Easton, PA 18043
Type of Facility	PWS
Consulting Engineer	David E. Marks, P. E. Gannett Fleming, Inc. P. O. Box 67100 Harrisburg, PA 17106
Application Received Date	July 10, 2009
Description of Action	Application proposes the construction of a replacement booster pumping station for the existing Davis Street Pump Station which will then be removed from service.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 1109502, Public Water Supply.**

Applicant	<b>Greater Johnstown Water Authority</b> 640 Franklin Street P. O. Box 1407 Johnstown, PA 15907
Township or Borough	Upper Yoder Township

Responsible Official Edward Cernic  
Chairperson  
Greater Johnstown Water  
Authority  
640 Franklin Street  
P. O. Box 1407  
Johnstown, PA 15907

Type of Facility Interconnection

Consulting Engineer Gibson-Thomas Engineering Co.,  
Inc.  
1004 Ligonier Street  
P. O. Box 853  
Latrobe, PA 15650

Application Received Date July 9, 2009

Description of Action Construction of an  
interconnection between the  
Greater Johnstown Water  
Authority and the Municipal  
Authority of Westmoreland  
County's Ligonier system. This  
includes the construction of a  
pump station and two 1.5 million  
gallon water storage tanks.

**Permit No. 0209516**, Public Water Supply.

Applicant **Findlay Township Municipal  
Authority**  
1271 Route 30  
P. O. Box 409  
Clinton, PA 15026

Township or Borough Findlay Township

Responsible Official Jason Orsini, Manager  
Findlay Township Municipal  
Authority  
1271 Route 30  
P. O. Box 409  
Clinton, PA 15026

Type of Facility Water supply system

Consulting Engineer NIRA Consulting Engineers, Inc.  
950 Fifth Avenue  
Coraopolis, PA 15108

Application Received Date June 8, 2009

Description of Action Construction of water  
transmission line for the Potato  
Garden Phase II project.

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

**Application No. 4309502**, Public Water Supply.

Applicant **Liberty Township**

Township or Borough Liberty Township  
**Mercer County**

Responsible Official Ronald Faull  
Chairperson

Consulting Engineer Daniel J. Goncz, P. E.  
Gannett Fleming, Inc.  
554 South Erie Street  
Mercer, PA 16137

Application Received Date July 24, 2009

Description of Action Water mainline extension project  
to provide service to the Legends  
of Grove City Housing  
Development.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

**Acknowledgment of Notices of Intent to Remediate  
Submitted under the Land Recycling and Envi-  
ronmental Remediation Standards Act (35 P. S.  
§§ 6026.101—6026.908).**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.



The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Lemon Substation**, Valley Township, **Chester County**. Bruce Middleman, P.G., Stantee Consulting Services, Inc., 400 David Drive, Suite 400, Plymouth Meeting, PA 19462, Audra Crocetti, Stantee Consulting Services, Inc., 400 David Drive, Suite 400, Plymouth Meeting, PA 19462 on behalf of Ben A. Lepage, Ph.D., Peco Energy, 2301 Market Street, S7-1, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of PCB. The future use of the site will remain the same.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Stratz Property**, 3225 West Highland Street, South Whitehall Township, **Lehigh County**. Iain Barton and Jeremy Fox have submitted a Notice of Intent to Remediate (on behalf of their client, Irene Statz, 3225 West Highland Street, Allentown, PA 18104), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a 275-gallon, aboveground storage tank during delivery. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended future use of the property will be residential. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on June 3, 2009. A Final Report was simultaneously submitted.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Allen and Rebecca Hollenbach Residence**, Muhleberg Township, **Berks County**. Dorson Environmental Management, Inc., 45 Knollwood Road, Elmsford, NY 10523, on behalf of Allen and Rebecca Hollenbach, 818 Floret Avenue, Reading, PA 19605, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The site will be remediated to a Residential Statewide Health Standard and will remain residential.

## 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.**

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.*

**63-00936B: MarkWest Liberty Midstream & Resources, LLC** (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202) for installation of propane and ethane removal systems at Houston Gas Plant in Chartiers Township, **Washington County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**24-166A: National Fuel Gas—Bowen Compressor Station** (1.33 miles north of Highland Corners directly east of SR 4009, Highland Township, PA 16365) for construction of a new gas compressor station in Highland Township, **Elk County**. This is a State-only facility.

**27-038A: Catalyst Energy, Inc.—Watson Farm** (SR 66, Sheffield, PA 16347) for operation of a gas stripping plant consisting of a gas compressor engine, refrigerant compressor, condenser and reboiler at their facility in the Township of Howe, **Forest County**.

**42-004F: American Refining Group** (77 North Kendall Avenue, Bradford, PA 16701) to replace the refinery flare tip system associated with the Refinery Flare (FL No. 301) at their Bradford facility in Bradford City, **McKean County**. This is a Title V facility, Permit No. 42-0004.

**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.*

**15-0090C: National Service Industries** (303 Eagleview Boulevard, Exton, PA 19341) for installation of flexographic printing heads on an existing unit at an envelope manufacturing and printing facility in Uwchlan Township, **Chester County**. The plan approval is for a non-Title V (State-only) facility. The process will potentially increase VOC and total HAP emissions by 2.1 and 1.4 tons per annum, respectively. The plan approval will include 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.*

**54-308-025: SAPA Extrusions, Inc.** (53 Pottsville Street, Cressona, PA 17929) for modification of their existing M8 and M9 Melting Furnaces to include oxygen injection and a charging machine. SAPA Extrusion is a major facility subject to Title V permitting requirements in Cressona Borough, **Schuylkill County**. The company currently has a Title V Permit 54-00022. The company will be installing a new cyclone/baghouse with dry sorbent injection to control emissions. The current production limit for the furnaces will remain unchanged along with the fuel usage limitations. The furnaces are subject to 40 CFR Part 63, Subpart RRR, National Emission Standards for HAPs—Secondary Aluminum Production, and shall comply with all applicable requirements of this Subpart. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the furnaces operating within all applicable air quality requirements. The Plan Approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date. For further details, contact Ray Kempa at (570) 826-2511 within 30 days after publication date.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**61-210C: Glenn O. Hawbaker, Inc.—Barkeyville Plant** (711 East College Avenue, Bellefonte, PA 16823) to change existing emission limits for NOx and CO and to establish a SOx limit when combusting coal in the counter flow drum; to permit RAP system additions/modifications associated with the asphalt plant; and to permit three portable nonmetallic mineral processing plants with associated generators at their Barkeyville Plant in Barkeyville Borough, **Venango County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval to change existing emission limits for NOx and CO and to establish a SOx limit when combusting coal in the counter flow drum; to permit RAP system additions/modifications associated with the asphalt plant; and to permit three portable nonmetallic mineral processing plants with asso-

ciated generators at Glenn O. Hawbaker, Inc. Barkeyville Plant in Barkeyville Borough, Venango County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only Operating Permit through an administrative amendment at a later date.

As a general summary, the following requirements are applicable to this plan approval:

1. The annual emissions from baghouse exhaust (S101) for the following pollutants shall not exceed:

- (a) PM 9.24 tpy
- (b) CO 58.24 tpy
- (c) NOx 56.0 tpy
- (d) VOC 8.96 tpy
- (e) SOx 41.02 tpy

2. Emission rates from the baghouse exhaust (S101) for the following pollutants:

(a) The CO emissions from the source while using any fuel except coal and biodiesel shall not exceed 0.13 lbs/ton.

(b) The CO emissions from the source while using coal shall not exceed 0.16 lbs/ton.

(c) The CO emissions from the source while using biodiesel shall not exceed 0.208 lbs/ton.

(d) The NOx emissions (measured as NO<sub>2</sub>) from the source while using any fuel except coal or biodiesel shall not exceed 0.055 lbs/ton.

(e) The NOx emissions (measured as NO<sub>2</sub>) from the source while using Biodiesel Fuel shall not exceed 0.131 lbs/ton.

(f) The NOx emissions (measured as NO<sub>2</sub>) from the source while using coal shall not exceed 0.2 lbs/ton.

(g) The VOC emissions (measured as propane) from the source while using any fuel shall not exceed 0.032 lbs/ton.

(h) The SOx emissions (measured as SO<sub>2</sub>) from the source while using coal shall not exceed 0.10 lbs/ton.

(i) The portable analyzer shall be used to determine NOx and CO emissions once a month when combusting coal. The Department may alter the frequency of conducting portable analyzer tests based on the results.

3. The following conditions apply to the RAP system.

(a) The operation of the RAP system shall not cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10% opacity.

(b) The operation of the RAP system shall not cause to be discharged into the atmosphere from any crusher fugitive emissions which exhibit greater than 15% opacity.

(c) The operation of a portable nonmetallic mineral processing plant shall not at any time result in the emission of fugitive air contaminants in excess of the limitations specified in 25 Pa. Code §§ 123.1 and 123.2.

4. The following conditions apply to the portable nonmetallic crushing and screening plants which include the Kohlberg FT 4250 Crusher, Nordberg LT 1213 Crusher and the Warrior 1800 Screening:

(a) The operation of nonmetallic mineral processing equipment shall not cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10% opacity.

(b) The operation of a nonmetallic mineral processing plant shall not cause to be discharged into the atmosphere from any crusher fugitive emissions which exhibit greater than 15% opacity.

(c) The crushing and screening plants shall be operated a maximum of 250 hours each on a 12-month rolling total.

5. Diesel-fired Generators used to power the portable plants:

Cummins QSL Diesel Engine 661 CID	400 hP (Kolberg Plant)
C-12 DITA Diesel Engine	425 hP (Nordberg Plant)
CAT 3052 Diesel Engine	99 hP (Warrior Plant)

The following conditions apply to the diesel engines:

(a) The engines shall, at a minimum, comply with a Total Hydrocarbon (THC) emission standard of 1.0 gm/bhp/hr.

(b) The engines shall at a minimum comply with the NOx emission standard of 6.9 gms/hp/hr.

(c) The engines shall at a minimum comply with CO emission standard of 2.0 gms/bhp/hr.

(d) The PM emissions from each engine shall not exceed 0.4 gms/bhp/hr.

(e) Visible emissions from diesel engines stacks shall not exceed the following limitations:

(i) Equal to or greater than 10% for a period or periods aggregating more than 3 minutes in any 1 hour;

(ii) Equal to or greater than 30% at any time.

(f) The operation of a portable nonmetallic mineral processing plant shall not at any time result in the emission of fugitive air contaminants in excess of the limitations specified in 25 Pa. Code §§ 123.1 and 123.2.

(g) The sulfur content in diesel fuel shall not, at any time exceed 0.3% (by weight).

(h) The diesel engines shall be operated a maximum of 250 hours each on a 12-month rolling total.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. Appointments for scheduling a review may be made by calling the Department at (814) 332-6340.

Any persons wishing to provide the Department with additional information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department at the address shown in the preceding paragraph. A 30 day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (No. 61-210C).
- Concise statements regarding the relevancy of the information or objections to the issuance of the Plan Approval. Written comments should be directed to:

John F. Guth  
Regional Air Quality Program Manager  
Commonwealth of Pennsylvania  
Department of Environmental Protection  
Northwest Region—Field Operations  
230 Chestnut Street  
Meadville, PA 16335

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. The persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Cary Cooper, P. E., New Source Review Section, Department of Environmental Protection, Air Quality Program, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact the Department or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

*Department of Public Health, Air Management Services:  
321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.*

**AMS 09139: SunGard Availability Services, Inc.** (401 North Broad Street, Philadelphia, PA 19108) for installation and modification of the following sources in the City of Philadelphia, **Philadelphia County**:

(1) Installation of two 2,000 kilowatt diesel emergency generators (Units 8 and 9), each equipped with a Selective Catalytic Reduction (SCR) control device for NOx.

(2) Installation of NOx SCR control devices on six (Units 2—7) of the seven existing emergency at the facility. NOx SCR control devices shall be installed on Units 2 and 3 within 60 days of the initial start-up of Units 8 and 9 or by December 31, 2009, whichever is earlier. NOx SCR control devices shall be installed on Units 4 and 5 within 24 months of Plan Approval issuance date or by December 31, 2010, whichever is earlier. NOx SCR control devices shall be installed on Units 6 and 7 within 36 months of Plan Approval issuance date or by December 31, 2011, whichever is earlier.

The installation and modification will result in the following potential annual emission increase for the facility: (1) 0 tons of NOx. NOx emissions from the facility is limited to less than 25 tons per rolling 12-month; (2) 5.7 tons of SOx; (3) 8.3 tons of total PM; and (4) 25 tons of CO. The Plan Approval will contain operating, testing, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

**AMS 09069: Thermal Drying System** (7800 Penrose Ferry Road, Philadelphia, PA 19153) for installation of the following processes in the City of Philadelphia, **Philadelphia County**:

a) Thermal Drying System consisting of two Biosolids Drying Trains (ES-1 and ES-2). Each Biosolids Drying Train contains a Rotary Drum Dryer (firing natural gas, mixture of natural gas and digester gas, or No. 2 fuel oil) with drying air recirculation loop and an air pollution control system consisting of a venturi scrubber, followed by a regenerative thermal oxidizer (burning natural gas or No. 2 fuel oil).

b) Odor Control Scrubber (ES-3) that primarily services the existing Dewatering Facilities, as well as three fugitive dust baghouses utilized on dried material handling equipment from the Thermal Drying Facilities.

The facility will be subject to NO<sub>x</sub> synthetic minor limits of 25 tons per rolling 12-months. The facility will be limited to 25 tons of VOCs per rolling 12-months. The plan approval will contain operating, testing, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

A public hearing will be conducted to address any comments about the previous project. The hearing will take place at 6 p.m. on September 10, 2009, at the following address:

1st Floor Conference Room  
Medical Examiner Office  
Spelman Building  
321 University Avenue  
Philadelphia, PA 19104

Copies of all documents and information concerning this plan approval are available for review in the offices of AMS, room 218, 321 University Avenue, Philadelphia, PA 19104-4543 during normal business hours. Persons wishing to review these documents or to submit written comments should contact Karol Bowman (215) 685-7572 at the previous address. All written comments must be received by September 9, 2009. Comments received by facsimile will not be accepted.

#### 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.*

**09-00027: Fres Co Systems, USA, LLC** (3005 State Road, Telford, PA 18969) for operation of Flexographic and Rotogravure presses in West Rockhill Township, **Bucks County**. The permit is being reopened and reissued for cause in accordance with 25 Pa. Code § 127.542(a)(3). The Department of Environmental Protection (Department) has determined that a mistake was made to condition No. 002 and No. 006, Section D, Testing and Recordkeeping for Source 703 and 704 of Title V operating permit 09-00027. Testing of the pressure relief valve is not applicable in accordance with 25 Pa. Code § 129.57. The Department will remove and revise the language from the condition and reissue the Title V operating permit. This change shall affect only parts of the permit for which cause to revise exists.

**15-00005: West Chester University of PA** (201 Carter Drive, Suite 100, West Chester, PA 19383) for renewal of the Title V Operating Permit in West Chester Borough, **Chester County**. The existing permit was reissued on July 7, 2004. The facility is a university campus that operates boilers and emergency generators. As a result of potential emissions of NO<sub>x</sub> and SO<sub>x</sub>, 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 includes any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring (CAM) under 40 CFR Part 64.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.*

**35-00008: Gentex Corp.** (P. O. Box 315, Carbondale, PA 18407) for manufacturer of ophthalmic goods in Fell Township, **Lackawanna County**. This is a renewal of a Title V Operating Permit. This Title V Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

##### **Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**09-00125: Naceville Materials—Plumsteadville** (5031 Point Pleasant Pike, Doylestown, PA 18901) for a renewal of the State-only (Natural Minor) Operating Permit in Plumstead Township, **Bucks County**. Naceville Materials operates and maintains a stone crushing plant, from which the main pollutant emitted is PM. No changes have occurred to the stone crushing plant since the permit was originally issued on July 2, 2004. The renewed permit will include monitoring, recordkeeping and work practice 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.*

**35-00053: Metkote Laminated Products, Inc.** (1151 Union Street, Taylor, PA 18517-1605) for operation of a vinyl to metal laminating operation in Taylor Borough, **Lackawanna County**. This is a renewal of a State-only Operating Permit.

**35-00061: Polarized Meats, Inc.** (107 Keystone Industrial Park, P. O. Box 172, Dunmore, PA 18512) for a meat products manufacturing facility in Dunmore Borough, **Lackawanna County**. The facility has potential to emit PM, VOCs, HAPs, NO<sub>x</sub>, SO<sub>x</sub> and CO below the major emission thresholds. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.

**52-00005: Springbrook Enterprises, Inc.** (504 Well Road, Hawley, PA 18428-6021) for operation of a nonmetallic mineral crushing and screening process located in Blooming Grove Township, **Pike County**. This is a renewal of a State-only Operating Permit.

**54-00067: Keystone Potato Products, LLC** (P. O. Box 27, 2317, Shermans Mountain Road, Hegins, PA 17938-0027) for a potato products manufacturing facility in Frailey Township Borough, **Schuylkill County**. The facility has potential to emit PM, VOCs, HAPs, NO<sub>x</sub>, SO<sub>x</sub> and CO below the major emission thresholds. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.

**54-00066: Silberline Manufacturing Co., Inc.** (130 Lincoln Drive, Tamaqua, PA 18252) for manufacture of

paste made from purchased aluminum in Rush Township, **Schuylkill County**. This is a renewal of the State-only Natural Minor operating permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.*

**03-00238: Curran-Shaffer Funeral Home and Crematory, Inc.** (100 Owens View Avenue, Apollo, PA 15613-1614) for renewal of the 2005 permit to operate a crematory at their facility in Kiskiminetas Township, **Armstrong County**.

**04-00718: Ennstone, Inc.—d/b/a Three Rivers Aggregate** (P. O. Box 6090, Falmouth, VA 22403) for sand and gravel mining and processing activities at the Palmer Plant in Darlington Township, **Beaver County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.*

**20-00037: US Bronze Foundry & Machine, Inc.** (18649 Brake Shoe Road, P. O. Box 458, Meadville, PA 16335) for re-issuance of a Natural Minor Operating Permit to operate a manufacturing process creating bearings, bushings and plates using bronze and other nonferrous metals in Woodcock Township, **Crawford County**. The primary emission sources include a mold core and drying oven, ten bronze induction furnaces, degreasing operations, a surface coating operation, a sand handling system and miscellaneous natural gas use.

## 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.

When 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 Depart-

ment considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### Coal Applications Received

*Effluent Limits*—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 mg/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**56990101 and NPDES No. PA0235008. Hoffman Mining, Inc.,** P. O. Box 130, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface-auger mine in Paint Township, **Somerset County**, affecting 54.3 acres. Receiving streams: UNT to/and Kauffman Run classified for the following use: CWF. The first downstream potable water supply intake from the point

of discharge is Cambria Somerset Authority Stonycreek SWI. Application received June 26, 2009.

*Knox District Mining Office: P .O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33813020 and NPDES Permit No. PA0603465. Leonard W. Yenzi** (P. O. Box 62, Anita, PA 15711). Transfer and revision of an existing bituminous surface strip operation in Winslow Township, **Jefferson County** affecting 298.2 acres. Receiving streams: UNTs to Trout Run and UNTs to Front Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from John R. Yenzi, Jr. and Revision to add 28.2 acres to the permit. Application received July 16, 2009.

#### Noncoal Applications Received

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	30-day Average	Daily Maximum	Instantaneous Maximum
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 mg/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.*

**50090801. Barbara Beers**, 1360 Newport Road, Duncannon, PA 17020, commencement, operation and restoration of a small Noncoal (industrial minerals) operation in Miller Township, **Perry County**, affecting 1.5 acres.

Receiving stream: UNT to Losh Run. Application received July 13, 2009.

**28092802. David H. Martin Excavating, Inc.,** 4961 Cumberland Highway, Chambersburg, PA 17202, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Hamilton Township, **Franklin County**, affecting 5.6 acres, receiving stream: UNT to Conococheague Creek. Permit received July 13, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**20900302. Frank Tucci** (25000 PA Route 99, Cambridge Springs, PA 16403). Revision to an existing sand and gravel operation in Rockdale Township, **Crawford**

County affecting 24.0 acres. Receiving streams: Kelly Run, classified for the following use: HQ-CWF. The first downstream potable water supply intake from the point of discharge is Cambridge Springs Borough. Revision to mine below the water table. Application received July 14, 2009.

**1931-20070302-E-1. W. L. Dunn Construction Company** (180 North Franklin Street, Cochran, PA 16314). Application for a stream encroachment to construct and maintain a haul road within 100 feet of UNT 2 to Little Sugar Creek in East Mead Township, **Crawford County**. Receiving streams: Little Sugar Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Playland Campgrounds. Application received July 2, 2009

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**40870810. Barry K. Reese**, (P. O. Box 157, Dallas, PA 18612), Stages I and II bond release from a quarry operation in Franklin Township, **Luzerne County** affecting 1.0 acre on property owned by John and Judy Curtis. Application received July 27, 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 Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E09-939. SEPTA**, 1234 Market Street, Philadelphia, PA 19107, New Britain Township, **Bucks County**, United States Corps of Engineers, Philadelphia District.

To extend the existing 14-foot wide by 14-foot rise railroad bridge, across the UNT to Neshaminy Creek (WWF/MP) by 16 feet on the upstream side, impacting approximately 0.04 acre of wetlands associated with the proposed siding of SEPTA's Doylestown R5 line.

The site is located 800 feet east of the intersection of County Line Road and Walnut Street (Doylestown and Telford, PA USGS Quadrangle N: 4.75 inches; W: 16.5 inches).

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E45-526. Shawnee Holding, Inc.**, Attn: Steve Taggart, P. O. Box 67, 1 River Road, Shawnee, PA 18356, in Smithfield Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a timber truss suspension golf cart bridge having a span of approximately 250 feet and an underclearance of 26 feet across the Delaware River (WWF, MF). The project is located 0.5 mile southeast of the intersection of Shawnee on Delaware Ldg. and SR 2028 (Bushkill, PA Quadrangle Latitude: 41° 00' 20"; Longitude: 75° 07' 00").

**E39-482. K&M Associates, Inc.**, 496 Lone Lane, Allentown, PA 18104, in Upper Macungie Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a roadway crossing of a tributary to Cedar Creek (HQ-CWF) consisting of two 5.5-foot high by 8-foot wide concrete box culverts and to fill a de minimis area of PEM wetland equal to 0.03 acre. The project also includes the installation of three outfall structures and an infiltration basin berm in the floodway of a tributary to Cedar Creek. These activities are associated with the Rabenold Farms residential subdivision. The project is located on the north side of Schantz Road at the intersection of Schantz (T-527) and Crocks Roads (T-498) (Allentown West, PA Quadrangle Latitude: 40° 34' 50"; Longitude: 75° 34' 13").

**E54-341. Michele Mattera**, 601 Walnut Street, Port Carbon, PA 17965, in West Brunswick Township, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a stream enclosure of a tributary to Mahannon Creek (CWF) consisting of a 72-foot long 60-inch diameter pipe. The project is located at 1038 Centre Turnpike in the municipality of Orwigsburg (Orwigsburg, PA Quadrangle Latitude: 40° 38' 27.7"; Longitude: 76° 06' 3.9").

**E40-700. CAN DO, Inc.**, One South Church Street, Hazleton, PA 18201, in Hazle Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To place fill within 17 separate wetland areas (PEM, PSS, PSO), totaling 0.7 acre of permanent wetland impact, for the purpose of constructing a 550,000 sf industrial building and a 150,000 sf building, along with associated parking and access facilities. The project is located on Lots 103 and 104 within the Humboldt Industrial Park East, approximately 0.73 mile south west of the intersection of SR 924 (Conyngham, PA Quadrangle Latitude: 40° 55' 59"; Longitude: 76° 1' 48").

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

**E22-546: Hershey Entertainment, Kent Bachmann,** 300 Park Boulevard, Hershey, PA 17033, Derry Township, **Dauphin County**, United States Corps of Engineers, Baltimore District.

To expand an existing 1.2-acre offline pond to 4.1-acres in size (Hershey, PA Quadrangle N: 12.6 inches; W: 2.6 inches, Latitude: 40° 18' 00"; Longitude: 76° 37' 47") for the purpose of improving an existing golf course in Derry Township, Dauphin County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E12-170. Game Commission,** 2001 Elmerton Avenue, Harrisburg, PA 17110. State Game Lands No. 14 Bridge Across East Hicks Run, Shippen Township, **Cameron County**, United States Corps of Engineers, Baltimore District (West Creek, PA Quadrangle Latitude: 41° 26' 20.2"; Longitude: 78° 19' 46.6", Latitude: 41° 07' 5.48"; Longitude: 78° 45' 12.58").

The Game Commission proposes to construct, operate and maintain steel I-beam and timber deck bridge across East Branch, Hick Run (HQ-CWF) for public access to State Game Lands No. 14. The bridge across East Branch, Hicks Run shall be constructed as a single span structure having a minimum span of 30-feet, underclearance of 7-feet, and width of 14-feet. The bridge project is located along the western right-of-way of East Branch, Hick Run Road approximately 1.3-miles south of east of West Branch, Hicks Run Road and East Branch, Hicks Run Road intersection. This permit application was submitted under section 105.13(e) "Small Projects." A permit issued for this application will also include section 401(a) Water Quality Certification.

**E57-116. Department of Transportation, Engineering District 3-0,** 715 Jordan Avenue, Montoursville, PA 17754. SR 4007, Section 002 Bridge Replacement, in Elkland Township, **Sullivan County**, United States Corps of Engineers, Baltimore District (Williamsport, PA Quadrangle N: 41° 33' 22"; W: 76° 37' 20").

Department of Transportation, Engineering District 3-0 proposes to completely replace the SR 4007 Section 002 bridge. The existing structure is currently a single span, concrete T-beam bridge, with a skew of 45°. The existing structure has a normal span of 16.5 ft with an underclearance of 8 ft. It will be replaced with a single span prestressed concrete box culvert with a 50° skew. The proposed structure will have a normal span of 16 ft and an underclearance of 8 ft. The box culvert will be depressed one foot with baffles in accordance with the BD-632M. The bridge replacement will permanently impact 0.04 acre of jurisdictional wetlands. Kings Creek is classified as a HQ-CWF by 25 Pa. Code Chapter 93 Water Quality Standards, and is classified as a Wild Trout Stream by the Fish and Boat Commission.

*Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E02-1616. Borough of Bridgeville,** 425 Bower Hill Road, Bridgeville, PA 15017. To construct stream rehabilitation in the channel of McLaughlin Run in the Borough of Bridgeville, **Allegheny County**, United States Corps of Engineers, Pittsburgh District (Bridgeville, PA Quadrangle N: 19.0 inches; W: 13.8 inches, Latitude: 40° 20' 43"; Longitude: 80° 05' 19"). The applicant proposes to construct and maintain a stream rehabilitation project in and along the channel of McLaughlin Run (WWF) for a distance of approximately 480.0 linear feet for the purpose of improving the channel characteristics and habitat of said stream. The project will consist of constructing Rock Vanes and J-Hook Rock Vanes on the left bank of said stream and cutting and placing fill on both banks of said stream. The project is located on the east side of McLaughlin Run Road, approximately 1,000.0 feet east from the intersection of McLaughlin Run Road and Coolidge Street and will impact approximately 480.0 linear feet of stream channel.

*Department of Environmental Protection, Bureau of Waterways Engineering, Water Management Program Manager, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**E3514-002. City of Carbondale,** 1 North Main Street, Carbondale, PA 18407. The project proposes restoration of approximately 280 feet of the Racket Brook (CWF) stream channel located behind the Ben-Mar restaurant. The restoration will include repair to the existing four rock structures within the channel, channel grading and realignment, and slope stabilization and seeding. The work will begin at the existing upstream rock structure and end at the existing engineered channel (Carbondale, PA Quadrangle Latitude: 41° 34' 34"; Longitude: 75° 30' 00"), City of Carbondale, **Lackawanna County**.

#### ENVIRONMENTAL ASSESSMENTS

*Cambria District: Environmental Program Manager, 286 Industrial Pike Road, Ebensburg, PA 15931-4119.*

**EA1009-014. Department of Environmental Protection,** Bureau of Abandoned Mine Reclamation, Division of Mine Hazards, P. O. Box 8476, Harrisburg, PA 17105. Abandoned Mine Land Reclamation Project, in Muddy Creek Township, **Butler County**, United States Corps of Engineers, Pittsburgh District.

The applicant proposes to backfill an abandoned surface mine, which includes the backfilling of a 3,300 linear foot dangerous highwall. The project will include the elimination of a 1.59 acre nonjurisdictional open waterbody and a 0.14 acre PEM wetland that have developed within the open surface mine pit (Prospect Quadrangle N: 9.5 inches; W: 16.5 inches).

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D13-108EA. Towamensing Trails Property Owners Association,** Towamensing Trails Property Owners Association c/o Patrick Anderson, P. O. Box 100, Albrightsville, PA 18210. To modify the Towamensing Trails Dam across a tributary to Wolf Run (HQ-CWF), permanently impacting 0.03 acre of wetlands and 109 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**. This project was originally advertised as a dam permit application (D13-108A), however, rehabilitation qualifies for approval by means of Letter of Authorization.

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## ACTIONS

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### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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.

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#### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAG2003604068-R	Dean M. Stoltzfus Stoltzfus Feed & Supply P. O. Box 427 Gap, PA 17527	Lancaster County Sadsbury Township	UNT Williams Run WWF	Y

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**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**


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

**NPDES Permit No. PA0061051**, Sewage, **Farda Realty Associates, LP**, P. O. Box 130, Tannersville, PA 18372. This proposed facility is located in Pocono Township, **Monroe County**.

Description of Proposed Action: Issuance of NPDES Permit.

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

**NPDES Permit No. PA0101320**, Sewage, **Keith DeRose**, 21321 Campbell Road, Titusville, PA 16354. This proposed facility is located in Oil Creek Township, **Crawford County**.

Description of Proposed Action/Activity: Issuance of a New NPDES permit to discharge treated sewage from an existing mobile home park.

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**III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)**


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

**WQM Permit No. WQG02360902**, Sewage, **Salisbury Township**, 5581 Old Philadelphia Pike, Gap, PA 17527. This proposed facility is located in Salisbury Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of sewer extension and pump station to serve Lime Quarry Homes.

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

**WQM Permit No. 1409401**, Sewerage, SIC 4952, **Potter Township**, 124 Short Road, Spring Mills, PA 16875. This proposed facility will be located in Potter Township, **Centre County**.

Description of Proposed Action/Activity: Permit issued approving upgrades to the existing Country Club Park STP and the connection of the Meadows Psychiatric Facility to the STP by means of a new force main.

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

**WQM Permit No. 2599409**, Sewerage, **McKean Township Sewer Authority**, P. O. Box 88, McKean, PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a permit to construct four sludge reed beds at their existing WWTP.

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**IV. NPDES Stormwater Discharges from MS4 Permit Actions**


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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**


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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 0909004	James L. Herman Enterprises 2371 Old Post Road Coplay, PA 18037	Bucks	Springfield Township	UNT Cooks Creek EV
PAI01 1503114-R	Telvil Corporation 527 Main Street Harleysville, PA 19438	Chester	North Coventry Township	UNT Schuylkill River HQ-TSF
PAI01 1509006	Hopewell Village, LP 722 Yorklyn Road Suite 350 Hockessin, DE 19707	Chester	Elverson Borough	East Branch Conestoga River UNT South Branch French Creek WWF-EV
PAI01 1509010	Michael Hires 1289 Yellow Springs Road Malvern, PA 19355	Chester	Tredyffrin Township	Valley Creek EV
PAI01 1509011	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Chester	Tredyffrin Township	Valley Creek EV
PAI01 1509013	The Hankin Group 707 Eagleview Boulevard Exton, PA 19341	Chester	Uwchlan Township	Shamona Creek HQ-TSF-MF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1509017	Chester County Parks and Recreation Department 601 Westtown Road Suite 160 P. O. Box 2747 West Chester, PA 19380-0990	Chester	Wallace, Warwick, West Brandywine, West Caln and West Nottingham Townships	French Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909009	Lehigh Carbon Community College 4525 Education Park Drive Schnecksville, PA 18078	Lehigh	North Whitehall Township	Tributary to Jordan Creek HQ-CWF, MF Jordan Creek TSF, MF Little Lehigh Creek HQ-CWF Lehigh River TSF

## 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 Ground Water 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 &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Northampton Township Bucks County	PAG200 0909066	Northampton, Bucks County, Municipal Authority 111 Township Road Richboro, PA 18954-1550	Springfield Lake WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG200 0906136-1	Summit Square Associates, LP 43 Summit Square Suite 200 Langhorne, PA 19047	UNT Lake Luxembourg CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Newtown Township Bucks County	PAG200 0909063	LMC Properties, Inc. 100 Campus Drive Newtown, PA 18940	Core Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Falls Township Bucks County	PAG200 0909069	Falls Township 188 Lincoln Highway Suite 100 Fairless Hills, PA 19030	Delaware River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warrington Township Bucks County	PAG200 0909043	Gavin J. Lingo 1170 Timber Lane Chalfont, PA 18914	UNT Neshaminy Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG200 0909067	Warminster Municipal Authority P. O. Box 2279 415 Gibson Avenue Warminster, PA 18974	Blair Mill Run Tributary TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Marlborough Township Chester County	PAG200 1509021	Longwood Gardens P. O. Box 501 Kennett Square, PA 19348	East Branch Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Easttown Township Chester County	PAG200 1509022	Delaware County Christian School 462 Malin Road Newtown Square, PA 19073	UNT Darby Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Goshen Township Chester County	PAG200 1509019	Dash Enterprises, LP 706 Autopark Boulevard West Chester, PA 19382	UNT Goose Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Goshen Township Chester County	PAG200 1509018	Drury Group, Inc. P. O. Box 3125 West Chester, PA 19380	UNT East Branch Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Delaware County	PAG200 2309014	Marple Newtown School District 40 Media Line Road Newtown Square, PA 19073	Crum Creek Hunter Run CWF; Crum Creek Trout Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Delaware County	PAG200 2303032-R	S&S Development Company 1155 Lancaster Avenue Berwyn, PA 19312	Chester Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bethel Township Delaware County	PAG200 2308039	Joel Templin 1101 Saint Anne's Way West Chester, PA 19382	UNT Brandywine Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plymouth and Whitpain Townships Montgomery County	PAG200 4607100-1	Turnpike Commission 700 South Eisenhower Boulevard P. O. Box 676 Harrisburg, PA 17106	Plymouth Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG200 4609039	Madison Apartment Group 3000 Centre Square West Philadelphia, PA 19102	West Branch Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG200 4608053	Jarrettown Village Associates, LP 2836 Mt. Carmel Avenue Glenside, PA 19038	Rapp Run Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Worcester Township Montgomery County	PAG200 4609012	Montgomery Presbyterian Church 3260 Morris Road Lansdale, PA 19446	Towamencin Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Borough of Catasauqua Lehigh County	PAG2003908007	Catasauqua Area School District Attn: Robert Spengler 201 North 14th Street Catasauqua, PA 18032	Catasauqua Creek CWF	Lehigh County Conservation District (610) 391-9583
Tioga County Charleston Township	PAG2005909006	Gary Butters 54 Railroad Street Mansfield, PA 16933	UNT North Elk Run CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 3
Jefferson County Punxsutawney Borough	PAG2003309001	Shady Side Estates, LLC Kevin Gilligan 255 South Gilpin Street Punxsutawney, PA 15767	Mahoning Creek WWF	Jefferson County Conservation District (814) 849-7463
Mercer County Grove City Borough	PAG2004309003	Grove City Area School District Dr. Robert Post 428 East Main Street Grove City, PA 16127	UNT Wolf Creek Wolf Creek CWF	Mercer County Conservation District (724) 662-2242

*General Permit Type—PAG-3*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Wilkes-Barre City Luzerne County	PAR202238	Inter Metro Industries 651 North Washington Street Wilkes-Barre, PA 18705	Mill Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Plains Township Luzerne County	PAR202239	Inter Metro Industries 651 North Washington Street Wilkes-Barre, PA 18705	Mill Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Dauphin County Berrysburg Borough	PAR213558	Marstellar Concrete, Inc. Berrysburg Batch Plant P. O. Box 210 Port Royal, PA 17082	UNT Wiconisco Creek WWF 6C	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Lancaster City	PAR803673	Norfolk Southern Railroad Company— Lancaster Yard 110 Franklin Road, S.E. Box 13 Roanoke, VA 24042-0013	UNT Little Conestoga Creek WWF 7J	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Blair County Logan Township	PAR803614	Norfolk Southern Railroad Company— Locomotive Shop 110 Franklin Road, S.E. Box 13 Roanoke, VA 24042-0013	Little Juniata River TSF 11-A	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*Facility Location:  
Municipality &  
County*Blair County  
Logan TownshipPermit No.  
PAR803615*Applicant Name &  
Address*  
Norfolk Southern  
Railroad Company—  
Altoona Rose Yard  
110 Franklin Road, S.E.  
Box 13  
Roanoke, VA 24042-0013*Receiving  
Water/Use*  
Little Juniata River  
TSF  
11-A*Contact Office &  
Phone No.*  
DEP—SCRO—WQ  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4707West Perry  
Township  
Snyder CountyPermit No.  
PA0113913*Applicant Name &  
Address*  
Irvin's Country Tinware  
115 Cedar Lane  
Mt. Pleasant Mills, PA  
17853*Receiving  
Water/Use*  
UNT to North Branch  
Mahatango Creek  
CWF*Contact Office &  
Phone No.*  
Water Management  
Program Manager  
208 West Third Street  
Williamsport, PA 17701  
(570) 327-3664*General Permit Type—PAG-5**Facility Location:  
Municipality &  
County*City of Washington  
Washington CountyPermit No.  
PAG056237*Applicant Name &  
Address*  
Zappi Oil and Gas  
Company, Inc.  
44 Bridge Street  
Washington, PA 15301*Receiving  
Water/Use*  
Catfish Creek*Contact Office &  
Phone No.*  
Southwest Regional Office  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000*General Permit Type—PAG-8**Facility Location:  
Municipality &  
County*South Woodbury  
Township  
Bedford CountyPermit No.  
PAG083604*Applicant Name &  
Address*  
South Woodbury  
Township  
1401 Woodbury Pike  
Loysburg, PA 16659*Site Name &  
Location*  
South Woodbury  
WWTF  
1401 Woodbury Pike  
Loysburg, PA 16659*Contact Office &  
Phone No.*  
DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
(717) 705-4707*General Permit Type—PAG-8 (SSN)**Facility Location:  
Municipality &  
County*Salem Township  
Indiana County*Applicant Name &  
Address*  
Synagro  
3239 Route 981  
New Alexandria, PA 15670*Site Name*  
J. Steele Farm*Contact Office &  
Phone No.*  
Southwest Regional Office  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745  
(412) 442-4000Loyalhanna Township  
Westmoreland County*Applicant Name &  
Address*  
Synagro  
3239 Route 981  
New Alexandria, PA 15670*Site Name*  
Cleary Farm*Contact Office &  
Phone No.*  
Southwest Regional Office  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745  
(412) 442-4000*General Permit Type—PAG-12**Facility Location:  
Municipality &  
County*Lancaster County  
Rapho TownshipPermit No.  
PAG123666  
Amendment No. 1*Applicant Name &  
Address*  
Harold Weaver  
Greiner & Weaver  
Poultry and Heifer Farm  
15 Alice Avenue  
Lititz, PA 17543*Receiving  
Water/Use*  
Brubaker Run  
TSF  
7G*Contact Office &  
Phone No.*  
DEP—SCRO  
Watershed Management  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4802

## 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. 3480006, Operations Permit, Public Water Supply.**

Applicant	<b>Green Acres Park, LLC</b> 125 South Delaware Drive Easton, PA 18042
Municipality	Williams Township
County	<b>Northampton</b>
Type of Facility	PWS
Consulting Engineer	N/A
Permit to Operate Issued	July 21, 2009

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

**Permit No. MA (6760-W)—Construction, Public Water Supply.**

Applicant	<b>Williamsport Municipal Water Authority</b>
Borough	Duboistown Borough
County	<b>Lycoming</b>

Responsible Official	<b>LaRue S. VanZile, P. E., P. L.S.</b> Director of Engineering Williamsport Municipal Water Authority 253 West Fourth Street Williamsport, PA 17701
Type of Facility	Public Water Supply—Construction
Consulting Engineer	N/A
Permit Issued Date	July 22, 2009
Description of Action	Construction of a new underground booster pump station on Arlington Street in Duboistown Borough to replace the existing old, deteriorated pump station at the same location.

**Permit No. MA 4189510—Operation, Public Water Supply.**

Applicant	<b>Williamsport Municipal Water Authority</b>
Township	Armstrong
County	<b>Lycoming</b>
Responsible Official	<b>LaRue S. VanZile, P. E., P.L.S.</b> Director of Engineering Williamsport Municipal Water Authority 253 West Fourth Street Williamsport, PA 17701

Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	July 22, 2009
Description of Action	Operation of the sandblasted and painted finished water storage tank, East T-2, at the water filtration plant.

**Permit No. 1407501—Operation, Public Water Supply.**

Applicant	<b>College Township Water Authority</b>
Township or Borough	College Township
County	<b>Centre</b>
Responsible Official	Martin McGann, Chairperson College Township Water Authority 1481 East College Avenue State College, PA 16801
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Douglas E. Berg, P. E. Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603
Permit Issued Date	July 23, 2009
Description of Action	Operation of an interconnection with Bellefonte Borough.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 4566559—Denial, Public Water Supply.**

Applicant **Cooper Springs Trout Hatchery**  
1146 Shaffer Run Road  
Somerset, PA 15501

Township Jefferson Township

County **Somerset**

Type of Facility Well

Consulting Engineer Jeff Evers  
4000 Hempfield Park Boulevard  
Suite 914  
Greensburg, PA 15601

Permit Denied July 27, 2009

**Operations Permit** issued to **Latrobe Municipal Authority**, 104 Guerrier Road, Latrobe, PA 15650, (PWSID No. 5650060) Derry Township, **Westmoreland County** on July 17, 2009, for the operation of facilities approved under Construction Permit No. 6507503A1.

**Operations Permit** issued to **Ligonier Township Municipal Authority**, 18 Old Lincoln Highway West, Ligonier, PA 15658, (PWSID No. 5650080) Ligonier Township, **Westmoreland County** on July 25, 2009, for the operation of facilities approved under Construction Permit No. 6501502.

**Permit No. 6509504MA, Minor Amendment, Public Water Supply.**

Applicant **Municipal Authority of Westmoreland County**  
124 Park and Pool Road  
New Stanton, PA 15672

Township Allegheny

County **Westmoreland**

Type of Facility Vandergrift No. 1 water storage tank

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
1004 Ligonier Street  
P. O. Box 853  
Latrobe, PA 15650

Permit to Construct Issued July 23, 2009

**Permit No. 5609502MA, Minor Amendment, Public Water Supply.**

Applicant **Indian Lake Borough**  
1301 Causeway Drive  
Central City, PA 15926

Borough Indian Lake

County **Somerset**

Type of Facility Peninsula tank painting

Consulting Engineer GAI Consultants  
385 East Waterfront Drive  
Homestead, PA 15120

Permit to Construct Issued July 22, 2009

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

**Permit No. 1092502-T1-MA2, Public Water Supply.**

Applicant **Adams Township Municipal Water Authority**

Township Adams

County **Butler County**

Type of Facility Public Water Supply

Consulting Engineer Rick Barnett, P.E.

Permit to Construct Issued July 22, 2009

**Permit No. 6109501, Public Water Supply.**

Applicant **Borough of Pleasantville**

Borough Pleasantville

County **Venango County**

Type of Facility Public Water Supply

Consulting Engineer Arthur Kuholski, P. E.

Permit to Construct Issued July 23, 2009

**Transfer and Consolidation of Operations Permits** issued to **Dennis Riley, d/b/a Penn Lake Village**, PWSID No. 6200013, Sadsbury Township, **Crawford County**, July 22, 2009, for water supply facilities including Well No. 1; chlorine contact tanks and a sequestration facility, as permitted by construction permits 2088505, issued April 26, 1994, and 2088505-MA1, issued May 21, 2007. All historic information, including applications and reviews are now incorporated into Permit No. 2088505-MA1-T1.

**Operations Permits** issued to **Southwest Warren County Municipal Authority**, PWSID No. 6620032, Deerfield Township, **Warren County**, July 28, 2009, for the operation of the 24-inch diameter transmission line that will be used to meet the necessary 1-log and 3-log inactivation of Giardia Lamblia cysts., as permitted by construction Permit 6279501-MA1, issued January 23, 2009.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Clarion Borough	1400 East Main Street Clarion, PA 16258	Clarion

*Plan Description:* The approved plan provides information on the identification of existing and future sewage needs within Clarion Borough to enable Pennsylvania American Water Company to prepare a comprehensive Act 537 Plan. This is in response to the October 30, 2008, Consent Order and Agreement with the Department of Environmental Protection.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Clarion Township	17382 Route 322 P. O. Box 270 Strattanville, PA 16258	Clarion

*Plan Description:* The approved plan provides information on the identification of existing and future sewage needs within Clarion Township to enable Pennsylvania



American Water Company to prepare a comprehensive Act 537 Plan. This is in response to the October 30, 2008, Consent Order and Agreement with the Department of Environmental Protection.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**2181 Bennett Road Property**, City of Philadelphia, **Philadelphia County**. Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440, Darryl Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Harold Janow, 2181 Bennett Road, Inc., 203 Albon Road, Hewlett, NY 11557 has submitted a Cleanup Plan and Remedial Investigation 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.

**Montgomery County Community College**, Pottstown Borough, **Montgomery County**. Grey Firely, Malcom Pirnie, Inc., 640 Freedom Business Center, Suite 310, King of Prussia, PA 19406 on behalf of Michael Billetta, Montgomery County Community College, 101 College Drive, Pottstown, PA 19464, Dean Foster, Montgomery County Community College, 101 College Drive, Pottstown, PA 19464 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with lead and inorganic. The report is intended to document remediation of the site to meet the Statewide Health Standard.

*Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Stratz Property**, 3225 West Highland Street, South Whitehall Township, **Lehigh County**. Iain Barton and Jeremy Fox have submitted a Final Report (on behalf of their client, Irene Statz, 3225 West Highland Street, Allentown, PA 18104), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a 275-gallon aboveground storage tank during delivery. The report was submitted to document attainment of the Statewide Health Standard. A Notice of Intent to Remediate was simultaneously submitted.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Former Eureka Packaging Plant**, City of Williamsport, **Lycoming County**. Alternative Environmental Solutions, 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602 on behalf of Henry Perciballi, Gunga Enterprises, LLC, 429 Market Street, Williamsport, PA 17701 has submitted a Final Report concerning remediation of site groundwater contaminated with tetrachloroethylene and Trichloroethylene. 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:

*Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Bethlehem Commerce Center—Lots 6 and 7**, City of Bethlehem, **Northampton County**. Kenneth G. Robins, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 submitted a Cleanup Plan (on behalf of his client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning the remediation of soils found to have been impacted by lead contamination as a result of historical operations at the former Bethlehem Steel Plant. The Cleanup Plan met the requirements of the Site-Specific Standard for soils and was approved by Central Office on July 20, 2008.

**Myck Property**, 115 Windwards Lane, Delaware Township, **Pike County**. David A. Everitt, III and Mark W. Ellis, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 submitted a Final Report (on behalf of their client, Phillip Myck, 115 Windwards Lane, Dingmans Ferry, PA 18328), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from a 275-gallon aboveground storage tank as the result of a cracked fuel line. The report documented attainment of the Statewide Health Standard for soils and was approved on July 23, 2009.

*Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Corning Frequency Control Plant 1**, Mount Holly Springs Borough, **Cumberland County**. Weston Solutions, Inc., 1400 Weston Way, P.O. Box 2653, West Chester, PA 19380, on behalf of Corning Incorporated, HP-ME-03-079, Corning, NY 14831, submitted a Remedial Investigation and Risk Assessment Report concerning remediation of groundwater contaminated with solvents. The Department of Environmental Protection approved

the Remedial Investigation and Risk Assessment Report on July 21, 2009. Groundwater will be remediated to the Site-Specific Standard.

**Yuasa Battery, Inc.**, Laureldale Borough, **Berks County**. Liberty Environmental, Inc., 50 North Fifth Street, 5th Floor, Reading, PA 19601, on behalf of Yuasa Battery, Inc., 2901 Montrose Avenue, Laureldale, PA 19605, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with No. 6 fuel oil. The combined report demonstrated attainment of the Site-Specific Standard, and was approved by the Department of Environmental Protection on July 24, 2009.

#### REGISTRATION FOR GENERAL PERMIT—MUNICIPAL WASTE

**Registration Withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities.**

**General Permit Registration No. WMGM020SE004. SPC Corporation**, 2600 Penrose Avenue, Philadelphia PA 19145-5902, City of Philadelphia, **Philadelphia County**. Registration to operate under General Permit No. WMGM020SE004 for the processing and beneficial use of ferrous/nonferrous metal coated with ash residue at the existing SPC Corporation site located at 2600 Penrose Avenue in the City of Philadelphia. The registration was considered withdrawn by the Southeast Regional Office on July 20, 2009.

#### REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

**Registration Withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

**General Permit Registration No. WMGR038SE007. SPC Corporation**, 2600 Penrose Avenue, Philadelphia, PA 19145-5902, City of Philadelphia, **Philadelphia County**. Registration to operate under General Permit No. WMGR038SE007 for the processing and beneficial use of waste tires at the existing SPC Corporation site located at 2600 Penrose Avenue in the City of Philadelphia. The registration was considered withdrawn by the Southeast Regional Office on July 20, 2009.

#### 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.*

**66-329-001GP9: Haines & Kibblehouse** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on July 1,

2009, to install and operate a Diesel I/C engine at the P&G Gas Well Pad site in Washington Township, **Wyoming County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**GP1-67-03072: Coyne Textile Services** (140 Cortland Avenue, Syracuse, NY 13221) on July 21, 2009, for a Small Gas and No. 2 Oil Fired Combustion Unit under GP1 in West Manchester Township, **York County**. This is a renewal of the GP1 permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.*

**GP5-26-00544: Keyrock Energy, LLC** (417 Oxford Court, Kingsport, TN 37663-4214) on July 21, 2009, to operate a natural gas compressor station consisting of a single compressor at the Connellsville Facility located in Dunbar Township, **Fayette County**.

**GP-32-00319B: Keyrock Energy, LLC** (417 Oxford Court, Kingsport, TN 37663-4214) on July 27, 2009, to operate a natural gas compressor station consisting of one Waukesha F18GL compressor engine and one Natco 5GR-100-40KR dehydrator at the Clawson Compressor Station in Blacklick Township, **Indiana County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**GP-24-123A: Veolia ES Greentree Landfill, LLC** (635 Toby Road, Kersey, PA 15846) on July 21, 2009, to operate a portable nonmetallic mineral processing plant (BAQ-GPA/GP-3) at their facility in Fox Township, **Elk County**.

**GP-24-123B: Veolia ES Greentree Landfill, LLC** (635 Toby Road, Kersey, PA 15846) July 21, 2009, to operate nonroad engines (BAQ-GPA/GP-11) at their facility in Fox Township, **Elk County**.

**GP-61-216A: Glenn O. Hawbaker, Inc.—Nectarine Mine** (1001 Georgetown Road, Harrisville, PA 16038) on July 23, 2009, to operate a portable limestone crushing unit (BAQ-GPA/GP-3) at their facility in Irwin Township, **Venango County**.

**GP-61-216B: Glenn O. Hawbaker, Inc.—Nectarine Mine** (1001 Georgetown Road, Harrisville, PA 16038) on July 23, 2009, to operate a portable nonmetallic mineral processing plant (BAQ-GPA/GP-11) at their facility in Irwin Township, **Venango County**.

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**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**28-05011B: Waste Management Disposal Services of PA, Inc.** (9446 Letzburg Road, Greencastle, PA 17225-9317) on July 22, 2009, to expand the existing landfill and the landfill gas collection system at their existing Mountain View Reclamation facility in Antrim Township, **Franklin 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.*

**26-00586A: Highland Coaters, LLC** (2241 Industrial Drive, Connellsville, PA 15425) on July 21, 2009, to install a paint booth, which includes two HVLP paint guns and a solvent still, at their facility in Bullskin Township, **Fayette County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.*

**20-301A: Universal Well Services, Inc.** (13549 South Mosiertown Road, Meadville, PA 16335) on July 21, 2009, to install a spray paint booth at their Meadville Fabrication Shop in the City of Meadville, **Crawford County**.

**20-0250: GE Transportation-Erie** (2901 East Lake Road, Erie, PA 16531) on July 24, 2009, to modify plan approval 25-025M to modify their facility's construction schedule for the installation date of three new engine test cells in Building 63 and the modification date of three engine test cells in Building 4E in **Erie County**.

**62-176A: Allegheny Pellet Corp.** (1055 Matthews Run Road, Youngsville, PA 16371) on July 17, 2009, to install a 22 mmBtu/hr wood-fired pellet drying operation at their facility in Brokenstraw Township, **Warren County**.

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**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.*

**09-0203: AE Polysilicon Corp.** (150 Roebling Road, Fairless Hills, PA 19030) on July 24, 2009, for the minor modification of the Plan Approval No. 09-0203 to remove stack testing conditions for overall removal of hydrogen chloride gases in the Process Scrubber System (Source ID No. C100), addition of language limiting the level of scrubber solution in the separator tank associated with the Process Scrubber System with conditions for monitoring and recording the liquid level in the tank, and the change of allowable pH values from 13 to 13.4 to assure the concentration of sodium hydroxide in the scrubber solution is greater than 1% by weight. The facility is currently under construction and is in Falls Township, **Bucks County**.

**09-0003B: Superpac, Inc.** (1220 Industrial Boulevard, Southampton, PA 18966) on July 24, 2009, for the installation of a flexographic printing press at the Superpac facility located in Upper Southampton Township, **Bucks County**. The facility is a manufacturing-commercial printing processor, which operates other flexographic printing presses, numerous space heaters and various miscellaneous sources associated with printing and manufacturing. Superpac is a Title V Facility, currently operating under TVOP-09-00003. The new source is an 8-station, 41-inch web width, central-impression flexographic printing press manufactured by Paper Converting Machine Company. The source is designated as Source ID 132 Flexo Printing Press CI-16. The plan approval will include monitoring, testing,

recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**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.*

**67-05133: Separation Technologies, Inc.** (101 Hampton Avenue, Needham, MA 02494-2628) on July 21, 2009, to operate a fly ash processing facility at the Brunner Island Steam Electric Station in East Manchester Township, **York 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.*

**15-00132: Cephalon, Inc.** (145 Brandywine Parkway, West Chester, PA 19380) on July 23, 2009, for a non-Title V, State-only, Synthetic Minor Operating Permit in West Goshen Township, **Chester County**. Cephalon, Inc. operates a pharmaceutical research and development facility where a number of boilers and electric generators operated and have the potential to exceed major source thresholds of NOx. The facility has elected to take appropriate operating and emission restrictions to restrict NOx emissions to below 25 tpy and maintain a minor operating status. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.*

**40-00025: Sunoco Partners Marketing & Terminals LP—Kingston Terminals** (525 Fritztown Road, Sinking Spring, PA 19608) on July 21, 2009, to operate a bulk petroleum storage and distribution terminal in Edwardsville Borough, **Luzerne County**. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. 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.*

**01-05021: Knouse Foods Cooperative, Inc.** (P. O. Box 807, Biglerville, PA 17307-0807) on July 14, 2009, to operate their fruit processing facility at their Gardners Plant in Tyrone Township, **Adams County**. This is a renewal of the State-only operating permit.

**01-05022: Knouse Foods Cooperative, Inc.** (P. O. Box 807, Biglerville, PA 17307-0807) on July 14, 2009, to operate their Orrtanna fruit processing facility in Hamiltonban Township, **Adams County**. This is a renewal of the State-only operating permit.

**06-03025: Reading Plating & Polishing Works, Inc.** (1833 Cotton Street, Reading, PA 19606-1712) on July 22, 2009, for operation of their existing decorative chrome

plating facility in the City of Reading, **Berks 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.*

**25-00970: Wire Weld, Inc.** (12069 East Main Road, North East, PA 16428-3641) on July 21, 2009, for a Natural Minor Permit to operate a metal coating and allied services in North East Township and **Erie County**. The significant sources included: 1) Fluidized bed sand stripper with afterburner and cyclone separator; 2) Burn off oven; and 3) Miscellaneous natural gas usage. The facility is natural minor because the emissions are less than the Title V threshold limits.

**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.*

**09-00004: Oliver-Tolas Health Care Packaging** (905 Pennsylvania Boulevard, Feasterville, PA 19053) on July 22, 2009, to amend the operating permit in accordance with 25 Pa. Code § 127.450(a)(2) to change the name and phone number of the responsible official as well as the name change of the facility in Lower Southampton Township, **Bucks County**. Administrative Amendment of State-only Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.*

**67-05098: Kinsley Construction, Inc.** (P. O. Box 2886, York, PA 17405-2886) on July 16, 2009, to operate their limestone crushing plant in West Manchester Township, **York County**. This State-only operating permit was administratively amended due to a change of ownership. 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.*

**32051301 and NPDES Permit No. 0235857, AMFIRE Mining Company, LLC**, (One Energy Place, Latrobe, PA 15650), to operate the Barrett Deep Mine in Buffington Township, **Indiana County** a new underground mine and for discharge of treated mine drainage. Surface Acres Proposed 24.4, Underground Acres Proposed 706.8, Subsidence Control Plan Acres Proposed 706.8. Receiving stream: Little Yellow Creek, classified for the following uses: HQ and CWF. The first downstream potable water supply intake from the point of discharge is Central Indiana Water Authority and Yellow Creek. Application received July 6, 2005. Permit issued July 24, 2009.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**32830113 and NPDES No. PA0605778. Beilchick Brothers**, P. O. Box 7, Heilwood, PA 15745, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Buffington Township, **Indiana County**, affecting 410.5 acres. Receiving streams: UNT to/and Mardis Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 6, 2009. Permit issued July 21, 2009.

**11793025 and NPDES No. PA0089524. E. P. Bender Coal Company**, South Main Street, P. O. Box 565-566, Carrolltown, PA 15722, permit renewal for reclamation only of a bituminous surface mine in Dean Township, **Cambria County**, affecting 400.0 acres. Receiving streams: UNT to Brubaker Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 24, 2009. Permit issued July 21, 2009.

**32980112 and NPDES No. PA0234893. Alverda Enterprises, Inc.**, P. O. Box 245, Alverda, PA 15710, permit renewal for reclamation only of a bituminous surface mine in Pine and Green Townships, **Indiana County**, affecting 54.7 acres. Receiving stream: UNTs to Yellow Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Central Indiana County Water Authority Yellow Creek SWI. Application received May 1, 2009. Permit issued July 21, 2009.

**56070111 and PA0262510. Mountaineer Mining Corporation**, 1010 Garrett Shortcut Road, Berlin, PA 15530 commencement, operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 115.0 acres. Receiving streams: UNTs to Swamp Creek and UNT to Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 6, 2007. Permit issued July 23, 2009.

**32080103 and NPDES No. PA0262676. KMP Associates, Inc.**, 3756 SR 981, Saltsburg, PA 15681, commencement, operation and restoration of a bituminous surface and auger mine in Young Township, **Indiana County**, affecting 93.0 acres. Receiving stream: UNTs to/and Harpers Run, UNT to Blacklegs Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 31, 2008. Permit issued July 23, 2009.

*Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.*

**26080103 and NPDES Permit No. PA0251402. Amerikohl Mining, Inc.** (1384 SR 711, Stahlstown, PA 15687). Permit for commencement, operation and reclamation of a bituminous surface mine, located in Wharton Township, **Fayette County**, affecting 94.1 acres. Receiving streams: UNTs to Mill Run and McIntyre Run. Application received May 20, 2008. Permit issued July 21, 2009.

**03940113 and NPDES Permit No. PA0201031. Thomas J. Smith, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774). Permit renewal issued for reclamation only of a bituminous surface/auger mining site located in Washington Township, **Armstrong County**, affecting 68.7 acres. Receiving streams: UNTs to Huling Run. Application received June 17, 2009. Reclamation-only renewal issued July 24, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**16940103 and NPDES Permit No. PA0211974. RFI Energy, Inc.** (P. O. Box 162, Sligo, PA 16255) Renewal of an existing bituminous strip, tippel refuse disposal and coal ash placement operation in Perry Township, **Clarion County** affecting 764.0 acres. Receiving streams: UNTs to the Allegheny River, UNT to the Clarion River. Application received May 22, 2009. Permit Issued July 15, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17020112 and NPDES No. PA0243337. Junior Coal Contracting, Inc.** (2330 Six Mile Road, Philipsburg, PA 16866), permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Decatur Township, **Clearfield County**, affecting 228.0 acres. Receiving streams: Big Run and Shimel Run and UNT "A," all to Moshannon Creek, classified for the following use: CWF. Application received June 2, 2009. Permit issued July 22, 2009.

*Pottsville District Mining Office: West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**19000201R and NPDES Permit No. PA0224103. Mid-Valley Coal Sales, Inc.**, (1380 Tioga Street, Coal Township, PA 17866), renewal of an existing anthracite coal refuse reprocessing operation and NPDES Permit for discharge of treated mine drainage in Conyngham Township, **Columbia County** affecting 343.0 acres, receiving stream: North Branch Shamokin Creek. Application received March 12, 2007. Renewal issued July 22, 2009.

*Noncoal Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**56920301 and NPDES Permit No. PA0599417, New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES Permit, Ogle Township, **Somerset County**. Receiving streams: UNT to Shade Creek classified for the following use: EV. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Stonycreek SWW. NPDES renewal application received April 29, 2009. Permit issued July 21, 2009.

**4274SM11 and NPDES Permit No. PA0212512, New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES Permit, Taylor Township, **Blair County**. Receiving stream: Plum and Halter Creeks classified for the following use: CWF. There are no potable water supply intakes within 10

miles downstream. NPDES renewal application received April 29, 2009. Permit issued July 21, 2009.

**28990301 and NPDES No. PA0223981. Fayetteville Contractors Inc.**, P. O. Box 610, Fayetteville, PA 17222, renewal of NPDES permit in Antrim Township, **Franklin County**, affecting 20.9 acres. Receiving streams: UNTs to/and Muddy Run, classified for the following uses: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 30, 2009. Permit issued July 23, 2009.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33090805. Edward B. Hoffman** (2376 Egypt Road, Brockway, PA 15824) Commencement, operation and restoration of a small noncoal operation in Warsaw Township, **Jefferson County** affecting 5.0 acres. Receiving stream: Bushley Run. Application received June 22, 2009. Permit Issued July 24, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**4773SM4 and NPDES No. PA0115461. Hanson Aggregates PA** (7660 Imperial Way, Allentown, PA 18195), renewal of NPDES Permit, in Liberty Township, **Tioga County**. Receiving streams: Blacks Creek and Bellman Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received June 26, 2009. Permit issued July 15, 2009.

**08080808. Gregg Trecoske** (R. R. 3, Box 1395, Montrose, PA 18801). Commencement, operation and restoration of a bluestone quarry operation in Warren Township, **Bradford County**, affecting 5.0 acres. This permit includes a stream crossing of a UNT to Corbin Creek approximately 5,500 feet North of Warren Center. Receiving stream: Corbin Creek, Tributary to Wappasening Creek. Application received August 8, 2008. Permit issued July 17, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**7475SM4C6 and NPDES Permit No. PA0121592. Essroc Cement Corp.**, (Route 248 and Easton Road, Nazareth, PA 18064), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Upper and Lower Nazareth Townships, **Northampton County**, receiving stream: UNT to East Branch Monocacy Creek. Application received May 27, 2009. Correction issued July 23, 2009.

**PA0224197. Stoudt's Ferry Preparation Co., Inc.**, (P. O. Box 279, St. Clair, PA 17970), renewal of NPDES Permit for the Commonwealth of Pennsylvania, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Schuylkill River Project in Upper Providence Township, **Montgomery County**, receiving stream: Schuylkill River. Application received May 28, 2009. Renewal issued July 23, 2009.

**36080301T and NPDES Permit No. PA0224651. Pierson Rheems, LLC**, (P. O. Box 430, Woodstown, NJ 08098), transfer of an existing quarry operation in Mt. Joy and West Donegal Townships, **Lancaster County** affecting 102.64 acres, receiving stream: UNT to Donegal Creek. Application received April 10, 2009. Transfer issued July 27, 2009.

**7175SM1A1C11 and NPDES Permit No. PA0613827. Penny Supply, Inc.**, (P. O. Box 3331, Harrisburg, PA 17105), correction to an existing quarry operation to

increase the discharge rate for NPDES Permit for discharge of treated mine drainage in South Hanover Township, **Dauphin County**, receiving stream: Swatara Creek. Application received February 15, 2008. Correction issued July 27, 2009.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

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**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.**

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##### *Blasting Permits Actions*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.*

**28094109. Newville Construction Services, Inc.**, 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for single dwelling development in Antrim Township, **Franklin County**. Blasting activity permit end date is July 10, 2010. Permit issued July 14, 2009.

**28094108. Geological Tech, Inc.**, P. O. Box 70, Falling Waters, WV 25419-0070, blasting activity permit issued for commercial development in Southampton Township, **Franklin County**. Blasting activity permit end date is July 10, 2010. Permit issued July 15, 2009.

**21094125. M & J Explosives, Inc.**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for convenience store development in Middlesex Township, **Cumberland County**. Blasting activity permit end date is July 31, 2010. Permit issued July 15, 2009.

**21094126. Warrens Excavating & Drilling, Inc.**, P. O. Box 214, Myerstown, PA 17067-0214, blasting activity permit issued for residential development in Hampden Township, **Cumberland County**. Blasting activity permit end date is July 13, 2010. Permit issued July 15, 2009.

**28094107. David H. Martin Excavating, Inc.**, 4961 Cumberland Highway, Chambersburg, PA 17201-9655, blasting activity permit issued for commercial development in Chambersburg Borough, **Franklin County**. Blasting activity permit end date is July 2, 2010. Permit issued July 15, 2009.

**21094128. J. Roys, Inc.**, P. O. Box 125, Bowmansville, PA 17507-0125, blasting activity permit issued for commercial development in Silver Spring Township, **Cumberland County**. Blasting activity permit end date is July 15, 2010. Permit issued July 17, 2009.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08094005. Meshoppen Blasting, Inc.** (P. O. Box 127, Meshoppen, PA 18630), blasting for the Palmer Site—East Resources located in Canton Township, **Bradford County**. Permit issued July 21, 2009. Permit expires August 20, 2009.

**08094006. John Brainard** (3978 SR 2073, Kingsley, PA 18826), blasting for the Lampman Road widening located in West Burlington Township, **Bradford County**. Permit issued July 21, 2009. Permit expires July 31, 2009.

**41094004. Demtech, Inc.** (65 Bald Mountain Road, Dubois, WY 82513), blasting for a new bridge abutment, Lower Pine Botton Run, located in Cummings Township, **Lycoming County**. Permit issued July 21, 2009. Permit expires September 8, 2009.

**53094004. Penna. General Energy**, (120 Market Street, Warren, PA 16365), blasting for a stone pit for well and road located in Sylvania Township, **Potter County**. Permit issued July 22, 2009. Permit expires December 31, 2009.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**22094108. John W. Gleim, Jr., Inc.**, (625 Hamilton Street, Carlisle, PA 17013), construction blasting for Hershey Medical Rehab in Derry Township, **Dauphin County** with an expiration date of December 15, 2009. Permit issued July 21, 2009.

**38094116. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Heritage Commons in North Cornwall Township, **Lebanon County** with an expiration date of December 30, 2010. Permit issued July 21, 2009.

**38094117. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Fieldcrest Development in North Cornwall Township, **Lebanon County** with an expiration date of December 31, 2010. Permit issued July 21, 2009.

**06094107. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for Highlands at Wyomissing in Wyomissing Borough, **Berks County** with an expiration date of August 1, 2010. Permit issued July 23, 2009.

**36094145. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for Reamstown Church of God in East Cocalico Township, **Lancaster County** with an expiration date of August 1, 2010. Permit issued July 24, 2009.

**36094149. Brubacher Excavating, Inc.**, (P. O. Box 528, Bowmansville, PA 17507), construction blasting for a single dwelling in East Earl Township, **Lancaster County** with an expiration date of December 31, 2009. Permit issued July 24, 2009.

**39094113. Warren's Excavating & Drilling, Inc.**, (P. O. Box 214, Myerstown, PA 17067), construction blasting for Wacker Chemical in Upper Macungie Township, **Lehigh County** with an expiration date of August 1, 2010. Permit issued July 24, 2009.

**39094114. American Rock Mechanics, Inc.**, (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Trexler Field in Upper Macungie Township, **Lehigh County** with an expiration date of July 23, 2010. Permit issued July 24, 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.

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**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).**

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*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-790. 505 Eagleview Boulevard Associates, LP**, 707 Eagleview Boulevard, P. O. Box 562, Exton, PA 19341, Uwchlan Township, **Chester County**, United States Army Corps of Engineers, Philadelphia District.

To amend the Permit No. E15-602 to include the construction and maintenance of the proposed 45-foot long, 14-foot span, and 4-foot rise (Conspan Arch) bridge across a UNT to Shamona Creek (HQ-TSF) associated with access to the proposed development. The project is located approximately 3,000 feet southwest of the Pottstown Pike (SR 0100) Interchange of the Pennsylvania Turnpike (Downingtown, PA USGS Quadrangle North: 11.5 inches; West: 7.1 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

*Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E39-495. Lower Milford Township**, 7607 Chestnut Hill Church Road, Cooperburg, PA 18036-3712, Limeport, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a wastewater treatment plant outfall in the floodway of Saucon Creek (HQ-CWF) consisting of a 6-inch diameter PVC pipe, concrete endwall, and an approximately 2.5-foot wide, 12-inch deep lined outfall channel. The outfall will be constructed as part of the proposed Limeport Wastewater Treatment Facility and Sewerage System. Four utility line stream crossings associated with this project were previously authorized by General Permits GP053909401, GP053909402, GP053909403 and GP053909404. The project is located along Limeport Pike near its intersection with Emmaus Road in Lower Milford Township Lehigh County (Allentown East Quadrangle Latitude: 40° 30' 41"; Longitude: 75° 26' 53").

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

**E22-534: Thomas B. Richey, Blue Mountain Commons HOP**, Cedar Shopping Center, Inc., 3307 Trindle Road, Camp Hill, PA 17011, Susquehanna Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 16.0-foot long single span pedestrian bridge; extend an existing 50.0-foot long 10.0-foot 8.0-inch by 6.0-foot 11.0-inch corrugated metal arch culvert a total of 32.0 feet, 12.0 feet downstream and 20.0 feet upstream in a UNT to Paxton Creek (WWF); to extend an existing 38.0-inch by 60.0-inch stormwater pipe outfall 14.0 feet discharging to a UNT to Paxton Creek (WWF); to place approximately 646.0 cubic yards of fill associated with the road widening and culvert extension in the floodway of a UNT to Paxton Creek (WWF). The project is located north of Linglestown Road (SR 0039) approximately 1,000.0 feet west of its intersection with North Progress Avenue (Harrisburg East, PA Quadrangle N: 14.4 inches, W: 15.5 inches; Latitude: 40° 19' 44", Longitude: 76° 51' 40") in Susquehanna Township, Dauphin County. The purpose of the project is to increase the road width for turning lanes.

**E36-844: Charles Lefever**, East Lampeter Sewer Authority, 2250 Old Philadelphia Pike, Lancaster, PA, East Lampeter Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

To: (1) construct and maintain a 12.0-foot by 18.0-foot building addition, and a 9.0-foot by 12.0-foot concrete pad addition to an existing 28.0-foot by 30.0-foot pump station building in the floodway of a UNT to Mill Creek (WWF); (2) construct and maintain a temporary aerial utility line crossing of three 12.0-inch diameter HPDE sanitary sewer lines, and a 1.5-inch diameter water utility line crossing in an existing 4.0-inch conduit crossing in a UNT to Mill Creek (WWF); (3) remove 275.0 linear feet of chain link fence, and an and existing 3.0-foot by 5.0-foot fuel tank shed; (4) construct and maintain 57.0 linear feet of vinyl privacy fence in the floodway of a UNT to Mill Creek (WWF); and (5) replace and maintain an existing 3.0-foot by 3.0-foot grate and sewage grinder access area in the floodway of a UNT Mill creek (WWF), all for the purpose of improving the Fertility Pump Station at a point just northeast of the intersection of Mill Creek and Strasburg Pike (Leola, PA Quadrangle N: 1.56 inches, W: 5.08 inches; Latitude: 40° 1' 45.1", Longitude: 76° 14' 36.2") in East Lampeter Township, Lancaster County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E08-455. Bradford County Conservation District**, R. R. 5, Box 5030C, Towanda, PA 18848. Water Obstruction and Encroachment Joint Permit, in Litchfield Township, **Bradford County**, United States Army Corps of Engineers, Baltimore District (Litchfield, PA Quadrangle N: 41° 57' 15"; W: 76° 26' 6").

To construct, operate and maintain 5,000 linear feet of stream stabilization consisting of 1,500 linear feet of rock rip-rap toe, 25 rock barbs, seven rock weirs, six single log cross vane deflectors and two log cross vanes within the Satterlee Creek Watershed (CWF) centered at the intersection of SR 1056 and SR 1067 intersection in Litchfield Township, Bradford County. Construction of the stream stabilization project with not impact any jurisdictional wetlands.

**E18-445. Galen L. Donmoyer**, 8978 Jacksonville Road, Mill Hall, PA 17751-1701. Water Obstruction and Encroachment Joint Permit, in Lamar Township, **Clinton County**, United States Army Corps of Engineers, Susquehanna River Basin District (Beech Creek, PA Quadrangle N: 41° 04' 23.6"; W: 77° 29' 44.5").

To construct and maintain a prefabricated steel structure across Cedar Run (HQ-CWF). The bridge will replace an existing ford crossing at the same location. The steel structure consists of a flat steel deck, 42-feet long and 10-feet wide. The purpose of this project is to enable access across Cedar Run for agricultural operations. The bridge will also be utilized as a cattle crossing in lieu of the existing ford. Total area of disturbance will be approximately 0.20 acre. This project is located in Cedar Run, 1.0-mile southwest of the intersection of SR 2018 and SR 0064, (Beech Creek, PA Quadrangle N: 41° 04' 23.6"; W: 77° 29' 44.5") in Lamar Township, Clinton County. This project proposes to have a minimal impact to Cedar Run, which is designated a HQ-CWF, and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects."

**E55-222. Scullin Oil Company**, 900 Spruce Street, Sunbury, PA 17801. Flood Zone Car Wash, in Selinsgrove Borough, **Snyder County**, United States Army Corps of Engineers, Baltimore District (Sunbury, PA Quadrangle Latitude: 40° 48' 35"; Longitude: 76° 51' 22").

To remove an addition to the existing structure and to construct, operate and maintain three new vacuum islands that measure 10 feet by 3 feet and will displace 100 cubic feet of volume. The work is intended to only disturb 935 square feet of area and is located less than 1 mile from the SR 522 and Market Street interchange. This permit was issued under Section 105.13(e) "Small Projects."

#### ENVIRONMENTAL ASSESSMENTS

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**EA67-015: J.J. Two LP, Steamboat Landing Development**, East Manchester Township, **York County**, United States Army Corps of Engineers, Baltimore District.

The applicant proposes to remove a 0.91 acre on-stream pond and restore 300.0 linear feet of a UNT to Hartman Run to facilitate a 64-lot residential subdivision known as Steamboat Landing. The applicant proposes to create PEM wetlands in the existing pond footprint and create a



vegetated riparian corridor along the newly created channel. The project is located along Steamboat Boulevard, just east of its intersection with North George Street (York Haven, PA Quadrangle N: 6.7 inches W: 12.6 inches Latitude: 40° 2' 11.9" N Longitude: 76° 42' 54.2" W) in East Manchester Township, York County.

#### 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 may 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.

*Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

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07/15/09

ESCGP-1 No.: ESX09-051-0019

Applicant Name: Eastern American Energy Corp.

Contact Person: Barbara A. Chambers

Address: 1380 Route 286 Highway E, Suite 221

City: Indiana State: PA Zip Code: 15701

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: Frosty Run and Dutch Creek, Other

07/17/09

ESCGP-1 No.: ESX09-059-0024

Applicant Name: Atlas Energy Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: Muddy Creek, Other

07/17/09

ESCGP-1 No.: ESX09-051-0022

Applicant Name: Atlas Energy Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Fayette Township(s): Springhill

Receiving Stream(s) and Classifications: UNT to Grassy Run, Other

07/17/09

ESCGP-1 No.: ESX09-125-0020

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township(s): Chartiers

Receiving Stream(s) and Classifications: UNT to Plum Run, Other

07/21/09

ESCGP-1 No.: ESX09-125-0021

Applicant Name: Atlas Energy Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Washington Township(s): Deemston/North Bethlehem

Receiving Stream(s) and Classifications: UNT to Plum Run, Other

07/22/09

ESCGP-1 No.: ESX09-059-0025

Applicant Name: Eastern American Energy Corp

Contact Person: Barbara Chambers

Address: 1380 Route 286 Highway E, Suite 221

City: Indiana State: PA Zip Code: 15701

County: Greene Township(s): Cumberland

Receiving Stream(s) and Classifications: Ohio Basin, Subbasin Number 19, Watershed B, Other

07/22/09

ESCGP-1 No.: ESX09-063-0005

Applicant Name: XTO Energy, Inc.

Contact Person: Scott Huntington

Address: 395 Airport Road

City: Indiana State: PA Zip Code: 15701

County: Indiana Township(s): Center/Black Lick

Receiving Stream(s) and Classifications: Cherry Run, Other

07/23/09

ESCGP-1 No.: ESX09-063-0006

Applicant Name: PC Exploration, Inc.

Contact Person: Gary Clark

Address: 502 Keystone Drive

City: Warrendale State: PA Zip Code: 15086

County: Indiana Township(s): Black Lick

Receiving Stream(s) and Classifications: Stewart Run—CWF &amp; Black Lick Creek—CWF, Other

07/23/09

ESCGP-1 No.: ESX09-059-0026

Applicant Name: Coal Gas Recovery, LLC

Contact Person: Joanne Reilly

Address: 158 Portal Road, P. O. Box 1020

City: Waynesburg State: PA Zip Code: 15370

County: Greene Township(s): Whiteley, Franklin, Wayne

Receiving Stream(s) and Classifications: Roberts Run, Smith Creek, Whiteley Creek, Other

*Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-1 # ESG09-081-0004

Applicant Name Chief Gathering, LLC

Contact Person Ted Wurfel

Address 6051 Wallace Road Extension

City, State, Zip Wexford, PA 15090

County Lycoming

Township(s) Penn and Franklin Townships

Receiving Stream(s) and Classification(s) Sugar, Greys, Big and Beaver Runs

ESCGP-1 # ESX09-015-0019

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address P. O. Box 18496

City, State, Zip Oklahoma City, OK 73154-0496

County Bradford

Township(s) Asylum

Receiving Stream(s) and Classification(s) UNT to Durell Creek

ESCGP-1 # ESX09-015-0021

Applicant Name Chesapeake Appalachia, LLC

Contact Person Eric Haskins

Address P. O. Box 18496

City, State, Zip Oklahoma City, OK 73154-0496

County Bradford

Township(s) Ulster Township

Receiving Stream(s) and Classification(s) UNT to Hemlock Run

ESCGP-1 # ESX09-117-0009

Applicant Name Seneca Resources Corp.

Contact Person Doug Kepler

Address 51 Zents Bovelvard

City, State, Zip Brookville, PA 15825

County Tioga

Township(s) Covington Township

Receiving Stream(s) and Classification(s) UNT to Elk Run

ESCGP-1 # ESX09-015-0023

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins or Tal Oden  
Address P. O. Box 18496  
City, State, Zip Oklahoma City, OK 73154-0496  
County Bradford  
Township(s) Granville Township  
Receiving Stream(s) and Classification(s) UNT to North Branch Towanda Creek

ESCGP-1 # ESX09-033-0003

Applicant Name EQT Production Company  
Contact Person Shari Hodges  
Address 225 North Shore Drive  
City, State, Zip Pittsburgh, PA 15212-5861  
County Clearfield  
Township(s) Ferguson Township  
Receiving Stream(s) and Classification(s) Chest Creek

ESCGP-1 # ESX09-117-0010

Applicant Name Fortuna Energy, Inc.  
Contact Person Tracy Gregory  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Tioga  
Township(s) Sullivan and Ward Townships  
Receiving Stream(s) and Classification(s) Tioga River/ Tribs to Fall Brook and Fellows Creek

ESCGP-1 # 5809801

Applicant Name Epsilon Energy USA, Inc.  
Contact Person Richard Collins  
Address 3766 US 31 South  
City, State, Zip Traverse City MI 49684  
County Susquehanna  
Township(s) Auburn, Jessup and Rush Townships  
Receiving Stream(s) and Classification(s) Deer Lick Creek

ESCGP-1 # ESX09-015-0025

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins/Tal Oden  
Address P. O. Box 18496  
City, State, Zip Oklahoma City, OK 73154-0496  
County Bradford  
Township(s) Terry Township  
Receiving Stream(s) and Classification(s) Susquehanna River Basin

ESCGP-1 # ESX09-015-0029

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins/Tal Oden  
Address P. O. Box 18496  
City, State, Zip Oklahoma City, OK 73154-0496  
County Bradford  
Township(s) West Burlington Township  
Receiving Stream(s) and Classification(s) UNT to Sugar Creek

ESCGP-1 # ESX09-015-0030

Applicant Name Chesapeake Appalachia, LLC  
Contact Person Eric Haskins/Tal Oden  
Address P. O. Box 18496  
City, State, Zip Oklahoma City, OK 73154-0496  
County Bradford  
Township(s) West Burlington Township  
Receiving Stream(s) and Classification(s) UNT to Sugar Creek

ESCGP-1 # ESX09-117-0007

Applicant Name Midstream Covington, LLC  
Contact Person Bruce Clark  
Address 1100 State Street  
City, State, Zip Erie, PA, 16512  
County Tioga  
Townships Richmond, Covington, Bloss and Charleston Township  
Receiving Stream(s) and Classification(s) Tan Creek, Boone Run, Tributary 31467 to Johnson Creek, Tributary 31466 to Johnson Creek, Johnson Creek

ESCGP-1 # ESX09-037-0003  
 Applicant Name Citrus Energy Corp.  
 Contact Person Jeffrey Searfoss  
 Address 5601 Democracy Drive, Suite 190  
 City, State, Zip Plano, TX 75024  
 County Columbia  
 Township(s) Benton and Sugarloaf Townships  
 Receiving Stream(s) and Classification(s) Raven Creek

ESCGP-1 # ESX09-131-0002  
 Applicant Name Citrus Energy Corp.  
 Contact Person Randy Holt  
 Address 5601 Democracy Drive, Suite 190  
 City, State, Zip Plano, TX 75024  
 County Wyoming  
 Township(s) Washington Township  
 Receiving Stream(s) and Classification(s) Susquehanna River, UNTs

ESCGP-1 # 58-09-802  
 Applicant Name Cabot Oil & Gas Corporation  
 Contact Person Jeffrey Keim  
 Address 900 Lee Street East, Suite 1100  
 City, State, Zip Charleston, WV 25301  
 County Susquehanna  
 Township(s) Dimock Township  
 Receiving Stream(s) and Classification(s) Thomas Creek

ESCGP-1 # 5909803  
 Applicant Name Fortuna Energy, Inc.  
 Contact Person Eric Potter  
 Address 337 Daniel Zenker Drive  
 City, State, Zip Horseheads, NY 14845  
 County Tioga  
 Township(s) Ward Township  
 Receiving Stream(s) and Classification(s) UNT to Tioga River, UNT to Fall Brook

ESCGP-1 # ESCP 08-09-11-08  
 Applicant Name Fortuna Energy, Inc.  
 Contact Person  
 Address 337 Daniel Zenker Drive  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) Troy Township  
 Receiving Stream(s) and Classification(s) UNT to North Branch Towanda Creek

**STORAGE TANKS**

**SITE-SPECIFIC INSTALLATION PERMITS**

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
09-42-008	American Refining Group, Inc. 77 North Kendall Avenue Bradford, PA 16701 Attn: Steve Sherk	McKean	Bradford City	4 ASTs storing petroleum products	1,270,164 gallons total

**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, Act 101, P. L. 556,

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 pollu-

tion 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 monies 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,  
*Secretary*

**Act 101, Section 901 Planning Grant**

Region	County	Applicant	Project Description	Grant Award
Southeast				
Northeast				
Southcentral				
Northcentral	Mifflin	Mifflin County	Revenue Study	\$200,000
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.**

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

*Project Location:*

Applicant	Applicant Address	County
BCI Municipal Authority	P. O. Box 388 Irvona, PA 16656	Clearfield

*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. BCI Municipal Authority proposes to construct a waterline extension project between Glen Hope and Tubbs Crossing. The Department of Environment 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. 09-1421. Filed for public inspection August 7, 2009, 9:00 a.m.]

**Bid Opportunity**

**OSM 17(0109)101.1, Abandoned Mine Reclamation Project, Lake Street, Bradford Township, Clearfield County.** The principal items of work and approximate quantities include mobilization and demobilization, clear-

ing and grubbing, demolition, removal and disposal of mine facilities, diversion and care of water, 135 cubic yards of channel excavation, 105 square yards of rock lining with filter fabric, 835 cubic yards of trench excavation, 290 linear feet of pipe culvert smooth-interior corrugated polyethylene, one each of concrete collar and seeding. This project issues on August 7, 2009, and bids will be opened on September 3, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-1422. Filed for public inspection August 7, 2009, 9:00 a.m.]

**DEPARTMENT OF  
PUBLIC WELFARE**

**Additional Class of Disproportionate Share Payments for Critical Access Hospitals and Qualifying Rural Hospitals**

The Department of Public Welfare (Department) is providing final notice of the establishment of an additional class of disproportionate share hospital (DSH) payments for qualifying hospitals based on the designation as a Critical Access Hospital (CAH) or as a qualifying rural hospital.

The Department previously published notice of its intent to establish this additional class of DSH payment for qualifying hospitals based on the designation as a CAH or as a qualifying rural hospital at 39 Pa.B. 1594 (March 28, 2009). The Department received written comments from three hospitals located in counties of the 5th class during the public comment period. The comments were very similar and requested that the Department extend eligibility for this DSH payment to qualifying rural hospitals located in counties of the 5th class. The commenting hospitals stated that such an expansion would assist additional safety net hospitals and have only a limited impact on other qualifying hospitals.

The Commonwealth is dedicated to ensuring the availability of quality care to individuals in rural areas across the Commonwealth. To maintain the system for rural health services, the Department proposed the establishment of an additional class of DSH payments for CAHs and qualifying rural hospitals. CAHs are defined as any hospital that has qualified under section 1861(mm)(1) of the Social Security Act (42 U.S.C. § 1395x(mm)(1)) (relating to definitions) as a "critical access hospital" under Medicare. The Department proposed to define a qualifying rural hospital as an acute care general hospital that is licensed as a hospital under the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b) that meets all of the following criteria:

- (a) Located in a county of the 6th, 7th or 8th class that has no more than two Medical Assistance (MA)-enrolled acute care general hospitals.

(b) Located in a county that has greater than 17% of its population that are eligible for MA or has greater than 10,000 persons eligible for MA.

(c) Has no more than 200 licensed and staffed beds.

(d) Does not qualify as a CAH under section 1861(mm)(1) of the Social Security Act (42 U.S.C. § 1395x(mm)(1)).

Although the Department understands the issues that hospitals located in counties of the 5th class may face, it is unable to expand the criteria for qualifying rural hospitals at this time. Under its proposed payment methodology, the Department will pay CAHs 101% of allowable inpatient and outpatient MA costs after deducting all other MA payments. After making payments to CAHs, the Department will distribute any remaining funds to qualifying rural hospitals. The Department will distribute the remaining funds to qualifying rural hospitals with 50% of the funds being divided equally among all qualifying rural hospitals and with 50% of the funds being distributed based on each qualifying hospital's percentage of MA Fee-for-Service (FFS) discharges as compared to all qualifying hospitals' total MA FFS discharges.

For the 2008-2009 Fiscal Year (FY), 12 hospitals located in counties of the 6th, 7th and 8th class are eligible for this limited funding allocated in the Commonwealth budget. There are 22 acute care general hospitals located in the nine counties classified as counties of the 5th class and 7 acute care general hospitals would qualify for this additional class of DSH payment if eligibility were extended to counties of the 5th class. Given the limited amount of funding available for this DSH payment, the Department has determined to limit the payment to those hospitals located in the most rural areas of the Commonwealth. The Department accordingly will implement the payment methodology for the DSH payment described in its notice of intent published at 39 Pa.B. 1594.

*Fiscal Impact*

The FY 2008-2009 fiscal impact, as a result of this additional class of DSH payments is \$10.748 million (\$4.888 million in State General Funds and \$5.860 million in Federal Funds upon approval by the Centers for Medicare and Medicaid Services). These payments are provided for in the FY 2008-2009 Critical Access Hospital appropriation.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-614. (1) General Fund; (2) Implementing Year 2008-09 is \$4.888M; (3) 1st Succeeding Year 2009-10 is \$0M; 2nd Succeeding Year 2010-11 is \$0M; 3rd Succeeding Year 2011-12 is \$0M; 4th Succeeding Year 2012-13 is \$0M; 5th Succeeding Year 2013-14 is \$0M; (4) 2007-08 Program—\$0; 2006-07 Program—\$0; 2005-06 Program—\$0; (7) MA—Critical Access Hospitals; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 09-1423. Filed for public inspection August 7, 2009, 9:00 a.m.]

**Inpatient Hospitals Qualifying for Medical Assistance Disproportionate Share Payments**

On July 1, 1988, the Department of Public Welfare (Department) implemented a disproportionate share payment system. The Department is required to annually publish the names of each inpatient acute care general hospital, rehabilitation hospital and private psychiatric hospital qualifying for a disproportionate share payment and their respective disproportionate share payment percentage as set forth in 55 Pa. Code §§ 1151.54(i), 1163.67(k) and 1163.459(j) (relating to disproportionate share payments).

*A. Disproportionate Share for Acute Care General Hospitals, Rehabilitation Hospitals and Private Psychiatric Hospitals.*

The following lists identify the inpatient acute care general hospitals, psychiatric units, drug and alcohol units and rehabilitation units of acute care general hospitals, rehabilitation hospitals, private psychiatric hospitals and private drug and alcohol hospitals eligible for disproportionate share payments for the period July 1, 2008, through June 30, 2009, and their respective payment percentages. For all inpatient facilities, disproportionate share payments are calculated as a percentage of projected Medical Assistance (MA) inpatient income.

Payment period July 1, 2008, to June 30, 2009, disproportionate share payment percentages:

<i>Acute Care General Hospitals</i>	
ALBERT EINSTEIN MED CTR	4.45%
ALFRED I. DUPONT INSTITUTE	9.41%
BARNES KASSON HOSPITAL	4.59%
CHARLES COLE MEMORIAL HOSPITAL	4.83%
CHILDREN'S HOSPITAL OF PHILADELPHIA	8.47%
CHILDREN'S HOSPITAL OF PITTSBURGH	9.27%
CLEARFIELD HOSPITAL	4.78%
CROZER CHESTER MEDICAL CENTER	3.33%
DUBOIS REGIONAL MED CTR	10.00%
HIGHLAND HOSPITAL	3.08%
HOSPITAL UNIVERSITY OF PA	3.76%
INDIANA HOSPITAL	3.45%
JAMESON MEMORIAL	1.00%
KENSINGTON HOSPITAL	4.66%
MAGEE WOMEN'S	6.23%
MEMORIAL HOSPITAL—TOWANDA	5.46%
MERCY HOSP OF PHILA	4.75%
NPHS—GIRARD	1.00%
NPHS—ST. JOSEPH'S	7.44%
PENN PRESBYTERIAN MED CTR OF UPHS	2.96%
PUNXSUTAWNEY AREA HOSPITAL	4.04%
TEMPLE EAST	3.99%
TEMPLE UNIVERSITY HOSPITAL	6.29%
THS—HAHNEMANN UNIV HOSPITAL	3.58%
THS—ST. CHRISTOPHER'S	14.00%
THOMAS JEFFERSON	3.00%
TITUSVILLE AREA HOSP	4.81%

UPMC—BEDFORD	9.00%
UPMC—PRESBYTERIAN—SHADYSIDE	3.66%
VALLEY FORGE	6.05%
WAYNE COUNTY MEMORIAL	5.54%
WEST VIRGINIA UNIV HOSPITALS, INC.	5.48%

*Psychiatric Units of Acute Care General Hospitals*

ALBERT EINSTEIN	2.97%
DIVINE PROVIDENCE—WILLIAMSPORT	3.83%
DUBOIS REGIONAL MEDICAL CENTER	3.02%
HIGHLAND HOSPITAL	2.19%
INDIANA HOSPITAL	2.03%
JAMESON MEMORIAL	1.65%
MERCY HOSP OF PHILADELPHIA	3.14%
NPHS—GIRARD	1.00%
PENN PRESBYTERIAN MED CNTR OF UPHS	2.12%
TEMPLE UNIVERSITY HOSP	4.02%
THS—HAHNEMANN UNIV HOSP	2.47%

*Drug and Alcohol Units of Acute Care Hospitals*

NPHS—ST JOSEPH'S	9.00%
PENN PRESBYTERIAN MED CNTR OF UPHS	2.24%
VALLEY FORGE	6.91%

*Medical Rehab Units of Acute Care Hospitals*

ALBERT EINSTEIN	4.50%
CHILDREN'S HOSPITAL OF PHILADELPHIA	10.00%
DUBOIS REGIONAL MEDICAL CENTER	4.63%
JAMESON MEMORIAL	1.00%
TEMPLE UNIVERSITY HOSP	7.26%

*Freestanding Rehab Hospitals*

CHILDRENS INSTITUTE OF PITTSBURGH	6.75%
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*Private Psychiatric Hospitals*

BELMONT CENTER	3.92%
BROOKE GLEN BEHAVIORAL HEALTH	6.51%
CLARION PSYCHIATRIC CENTER	6.33%
DEVEREAUX—MAPLETON PSYCH CTR	10.00%
FAIRMOUNT BHS	3.00%
FIRST HOSPITAL WYOMING VALLEY	5.60%
FOUNDATIONS BEHAVIORAL HEALTH	7.49%
FRIENDS HOSPITAL	2.60%
HORSHAM PSYCHIATRIC HOSPITAL	4.59%
KIDSPEACE HOSPITAL	9.00%
MEADOWS PSYCHIATRIC CENTER	7.44%
MONTGOMERY COUNTY MH/MR ER SVS	4.85%
PHILHAVEN	5.60%
SOUTHWOOD PSYCHIATRIC HOSPITAL	7.2%

*Private Drug and Alcohol Hospitals*

EAGLEVILLE HOSPITAL	3.57%
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*B. Additional Disproportionate Share Payments*

Additional disproportionate share payments are made to inpatient facilities, with a Medicaid inpatient utilization rate of not less than 1%, which have provided services to persons who have been determined to be low income by meeting the income and resource standards for the State's General Assistance Program.

The payment adjustments are paid directly proportional to the payment received for either general assistance recipients for all hospital services or Title XIX recipients, 21 years of age or older but under 65 years of age, for services rendered by institutions for mental diseases under the fee-for-service and capitation programs.

The following hospitals are eligible for this payment adjustment:

*Acute Care General Hospitals*

ABINGTON MEMORIAL HOSPITAL
ALBERT EINSTEIN MED CTR
ALFRED I. DUPONT INSTITUTE
ALLEGHENY KISKI
ALTOONA HOSPITAL
AMERICAN ONCOLOGIC
ARMSTRONG COUNTY MEMORIAL
BARNES KASSON HOSPITAL
BLOOMSBURG HOSPITAL
BRADFORD REGIONAL
BRANDYWINE HOSPITAL
BROOKVILLE HOSPITAL
BRYN MAWR HOSPITAL
BUCKTAIL MEDICAL CENTER
BUTLER COUNTY MEMORIAL
CANONSBURG GENERAL HOSPITAL
CARLISLE HOSPITAL
CENTRAL MONTGOMERY HOSP
CHAMBERSBURG HOSPITAL
CHARLES COLE MEMORIAL HOSPITAL
CHESTER COUNTY HOSPITAL
CHHS HOSP CO/CHESTNUT HILL HOSPITAL
CHILDREN'S HOSPITAL OF PHILADELPHIA
CHILDREN'S HOSPITAL OF PITTSBURGH
CHS—BERWICK HOSPITAL
CLARION HOSPITAL
CLEARFIELD HOSPITAL
COMMONWEALTH MEDICAL CENTER
COMMUNITY MED CTR—SCRANTON
CONEMAUGH VALLEY HOSP
COORDINATED HEALTH ORTHOPEDIC HOSPITAL
CORRY MEMORIAL
CROZER—CHESTER MEDICAL CENTER
DELAWARE COUNTY MEMORIAL
DIVINE PROVIDENCE—WILLIAMSPORT
DOYLESTOWN HOSPITAL
DUBOIS REGIONAL MED CTR
EASTON HOSPITAL
EDGEWOOD SURGICAL HOSPITAL
ELK REGIONAL
ELLWOOD CITY
ENDLESS MTS. HLTH SYS
EPHRATA COMMUNITY
EVANGELICAL COMMUNITY
FRANKFORD HOSPITAL
FRICK COMMUNITY
FULTON COUNTY MEDICAL CENTER
GEISINGER MEDICAL CENTER
GEISINGER SOUTH WILKES-BARRE

GEISINGER WYOMING VALLEY  
 GETTYSBURG HOSPITAL  
 GNADEN HUETTEN MEMORIAL  
 GOOD SAMARITAN—LEBANON  
 GOOD SAMARITAN—POTTSVILLE  
 GRAND VIEW HOSPITAL  
 GROVE CITY MEDICAL CENTER  
 HAMOT MED CTR  
 HANOVER HOSPITAL  
 HAZLETON GENERAL HOSPITAL  
 HEART OF LANCASTER REGIONAL MEDICAL  
 CENTER  
 HIGHLAND HOSPITAL  
 HOLY REDEEMER  
 HOLY SPIRIT HOSPITAL  
 HOSPITAL OF THE UNIVERSITY OF PENNA  
 INDIANA HOSPITAL  
 JAMESON MEMORIAL HOSPITAL  
 JC BLAIR  
 JEANES HOSPITAL  
 JEFFERSON HEALTH SERVICE  
 JENNERSVILLE REGIONAL HOSP  
 JERSEY SHORE HOSPITAL  
 KANE COMMUNITY  
 KENSINGTON HOSPITAL  
 LANCASTER GENERAL  
 LANCASTER REGIONAL MED CTR  
 LANKENAU HOSPITAL  
 LANSDALE HOSPITAL  
 LATROBE AREA  
 LEHIGH VALLEY HOSP—MUHLENBERG  
 LEHIGH VALLEY HOSPITAL  
 LEWISTOWN HOSPITAL  
 LIFECARE HOSPITALS OF PITTSBURGH  
 LOCK HAVEN HOSP  
 M S HERSHEY MEDICAL CENTER  
 MAGEE WOMEN'S  
 MARIAN COMMUNITY  
 MEADVILLE MED CTR  
 MEDICAL CENTER, BEAVER, PA  
 MEMORIAL HOSP—YORK  
 MEMORIAL HOSPITAL—TOWANDA  
 MERCY CATHOLIC FITZGERALD  
 MERCY HOSP—PGH  
 MERCY HOSP OF PHILA  
 MERCY HOSPITAL—SCRANTON  
 MERCY SPECIAL CARE  
 MERCY SUBURBAN—NORRISTOWN  
 MEYERSDALE COMMUNITY HOSPITAL  
 MID VALLEY HOSPITAL  
 MILLCREEK COMMUNITY HOSPITAL  
 MINERS HOSPITAL OF N CAMBRIA  
 MINERS MEMORIAL MEDICAL CENTER  
 MONONGAHELA VALLEY  
 MONTGOMERY HOSPITAL MED CTR  
 MOSES TAYLOR  
 MT. NITTANY MED CTR  
 MUNCY VALLEY HOSPITAL  
 NASON HOSPITAL  
 NAZARETH HOSPITAL  
 NPHS—GIRARD  
 NPHS—ST. JOSEPH'S  
 OHIO VALLEY GENERAL  
 PALMERTON HOSPITAL  
 PAOLI MEMORIAL HOSPITAL  
 PENN PRESBYTERIAN MEDICAL CENTER OF UPHS  
 PHOENIXVILLE HOSPITAL OF UPHS  
 PINNACLE HEALTH HOSPITALS  
 POCONO MED CTR  
 POTTSTOWN MEMORIAL

POTTSVILLE HOSPITAL  
 PUNXSUTAWNEY AREA HOSPITAL  
 READING HOSPITAL AND MED CTR  
 RIDDLE MEMORIAL HOSPITAL  
 ROBERT PACKER HOSP  
 ROXBOROUGH MEMORIAL  
 SACRED HEART—ALLENTOWN  
 SAINT CATHERINE HOSPITAL OF PENNSYLVANIA  
 SCHUYLKILL MEDICAL CENTER EAST  
 NORWEGIAN ST  
 SCHUYLKILL MEDICAL CENTER SOUTH  
 JACKSON ST  
 SEWICKLEY VALLEY HOSPITAL  
 SHAMOKIN AREA COMMUNITY HOSPITAL  
 SHARON REGIONAL HEALTH SYSTEM  
 SOLDIERS AND SAILORS MEMORIAL  
 SOMERSET HOSPITAL  
 SOUTHWEST REGIONAL MEDICAL CENTER  
 ST. CLAIR MEMORIAL  
 ST. JOSEPH REGIONAL HEALTH NETWORK  
 ST. LUKE'S—BETHLEHEM  
 ST. LUKE'S—QUAKERTOWN  
 ST. MARY'S—LANGHORNE  
 ST. VINCENT HLTH CTR  
 SUNBURY COMMUNITY  
 SURGICAL INSTITUTE OF READING  
 TEMPLE EAST  
 TEMPLE LOWER BUCKS HOSPITAL  
 TEMPLE UNIVERSITY HOSPITAL  
 THOMAS JEFFERSON UNIV HOSPITAL  
 THS—HAHNEMANN UNIV HOSPITAL  
 THS—ST. CHRISTOPHER'S  
 TITUSVILLE AREA HOSP  
 TROY COMMUNITY  
 TYLER MEMORIAL HOSPITAL  
 TYRONE HOSPITAL  
 UNIONTOWN HOSPITAL  
 UNIVERSITY OF PENNSYLVANIA MEDICAL  
 CENTER—PENNSYLVANIA HOSPITAL  
 UPMC—BEDFORD  
 UPMC—BRADDOCK  
 UPMC—HORIZON  
 UPMC—MCKEESPORT  
 UPMC—NORTHWEST MED CTR  
 UPMC—PASSAVANT  
 UPMC—PRESBYTERIAN—SHADYSIDE UNIV HOSP  
 UPMC—SOUTH SIDE  
 UPMC—ST. MARGARET  
 VALLEY FORGE  
 WARREN GENERAL HOSPITAL  
 WASHINGTON HOSPITAL  
 WAYNE COUNTY MEMORIAL  
 WAYNESBORO HOSPITAL  
 WEST VIRGINIA UNIV HOSPITALS, INC.  
 WEST PENN—ALLEGHENY  
 WESTERN PENN—FORBES REGIONAL CAMPUS  
 WESTERN PENNSYLVANIA  
 WESTFIELD MED CTR  
 WESTMORELAND REGIONAL  
 WILLIAMSPORT HOSPITAL & MED CTR  
 WINDBER MED CTR  
 WYOMING VALLEY HLTH CARE SYS  
 YORK HOSPITAL

*Psychiatric Units of Acute Care Hospitals*

ABINGTON MEMORIAL  
 ALBERT EINSTEIN  
 ALLEGHENY—KISKI MED CTR  
 ALTOONA  
 ARMSTRONG COUNTY MEMORIAL



BERWICK HOSP CENTER  
 BLOOMSBURG HOSP  
 BRADFORD  
 BRANDYWINE HOSPITAL  
 BRYN MAWR HOSP  
 BUTLER COUNTY MEMORIAL  
 CHAMBERSBURG HOSPITAL  
 CLEARFIELD HOSPITAL  
 COMMONWEALTH MEDICAL CENTER  
 COMMUNITY MEDICAL CENTER  
 CONEMAUGH VALLEY  
 CORRY MEMORIAL  
 CROZER—CHESTER  
 DIVINE PROVIDENCE—WMSPT  
 DUBOIS REGIONAL MED CNTR  
 EAGLEVILLE HOSPITAL  
 ELK REGIONAL CTR  
 EPHRATA COMMUNITY  
 FRANKFORD HOSP—BUCKS CO CAMPUS  
 GEISINGER MEDICAL CENTER  
 GEISINGER SOUTH WILKES-BARRE  
 GRANDVIEW  
 HIGHLAND HOSPITAL  
 HOLY SPIRIT  
 INDIANA HOSPITAL  
 J C BLAIR  
 JAMESON MEMORIAL HOSP  
 JEFFERSON HEALTH SERV  
 LANCASTER REGIONAL MED CTR  
 LANCASTER GENERAL  
 LATROBE AREA  
 LEHIGH VALLEY HOSPITAL  
 LEWISTOWN  
 MARIAN COMMUNITY HOSPITAL  
 MEADVILLE MED CNTR  
 MEDICAL CENTER, BEAVER PA, THE  
 MERCY CATHOLIC—FITZGERALD  
 MERCY HOSPITAL OF PHILADELPHIA  
 MERCY HOSPITAL—PGH  
 MERCY SPECIAL CARE HOSPITAL—NANTICOKE  
 MILLCREEK COMMUNITY HOSPITAL  
 MONONGAHELA VALLEY  
 MONTGOMERY  
 MOSES TAYLOR  
 MOUNT NITTANY MEDICAL CENTER  
 NPHS—GIRARD  
 PENN PRESBYTERIAN MED CENTER  
 POCONO HOSPITAL  
 POTTSTOWN MEMORIAL MED CTR  
 POTTSVILLE HOSPITAL  
 READING HOSPITAL  
 ROBERT PACKER  
 SACRED HEART HOSP—ALLENTOWN  
 SCHUYLKILL MEDICAL CENTER SOUTH  
 JACKSON ST  
 SEWICKLEY VALLEY HOSP  
 SHAMOKIN AREA COMM HOSP  
 SHARON REGIONAL HLTH SYST  
 SOLDIERS AND SAILORS  
 SOMERSET HOSP CNTR FOR HEALTH  
 SOUTHWEST REGIONAL MEDICAL CENTER  
 ST. CLAIR MEMORIAL  
 ST. JOSEPH REGIONAL HEALTH NETWORK  
 ST. LUKES OF BETHLEHEM  
 ST. LUKES—QUAKERTOWN  
 ST. VINCENT  
 SUNBURY COMMUNITY  
 TEMPLE UNIVERSITY HOSPITAL  
 TEMPLE—LOWER BUCKS  
 THOMAS JEFFERSON

THS—HAHNEMANN UNIV HOSP  
 UNIVERSITY OF PENNSYLVANIA MEDICAL  
 CENTER—PENNSYLVANIA  
 UNIV OF PITT MED CTR—BRADDOCK  
 UNIV OF PITT MED CTR—MCKEESPORT  
 UPMC—NORTHWEST MED CTR  
 UPMC PRESBYTERIAN SHADYSIDE  
 WARREN GENERAL  
 WASHINGTON  
 WEST PENN—ALLEGHENY  
 WESTERN PENNSYLVANIA  
 WESTERN PENN HOSPITAL—FORBES  
 REGIONAL CAMPUS  
 WESTMORELAND  
 YORK HOSPITAL

*Drug and Alcohol Units of Acute Care Hospitals*

BUTLER COUNTY MEMORIAL  
 MEADVILLE MED CTR  
 NPHS—ST. JOSEPH'S HOSP  
 PRESBY MED CTR OF UNIV OF PA HLTH SYST  
 VALLEY FORGE

*Medical Rehab Units of Acute Care Hospitals*

AI DUPONT  
 ABINGTON MEMORIAL HOSP  
 ALBERT EINSTEIN  
 ALTOONA  
 CARLISLE REGIONAL MEDICAL CENTER  
 CHAMBERSBURG HOSPITAL  
 CHARLES COLE  
 CHILDREN'S HOSPITAL OF PHILADELPHIA  
 CONEMAUGH VALLEY HOSP  
 CROZER—CHESTER MED CNTR  
 DELAWARE CNTY MEM HOSP  
 DUBOIS REG MED CNTR  
 EASTON HOSPITAL  
 GEISINGER—WYOMING VALLEY  
 GNADEN HUETTEN MEMORIAL HOSP—MRU  
 GOOD SAMARITAN HOSPITAL—LEBANON  
 GOOD SAMARITAN REGIONAL MEDICAL CENTER  
 HANOVER HOSPITAL  
 HAZELTON GENERAL HOSPITAL MRU  
 HOSP OF THE UNIV OF PA  
 INDIANA HOSPITAL  
 JAMESON MEMORIAL  
 JEFFERSON HEALTH SERVICES  
 LANCASTER GENERAL HOSP  
 LANCASTER REGIONAL MEDICAL CENTER  
 MERCY CATHOLIC—FITZGERALD  
 MERCY HOSPITAL—PITTSBURGH  
 MILTON S. HERSHEY MED CTR  
 MONONGAHELA VALLEY HOSP  
 NAZARETH  
 OHIO VALLEY  
 PINNACLE HEALTH HOSPITALS  
 POTTSVILLE HOSPITAL  
 READING HOSPITAL  
 SCHUYLKILL MEDICAL CENTER EAST  
 NORWEGIAN ST  
 SCHUYLKILL MEDICAL CENTER SOUTH  
 JACKSON ST  
 SEWICKLEY VALLEY HOSPITAL  
 ST. MARY HOSP—LANGHORNE  
 ST. VINCENT HEALTH CNTR  
 TEMPLE UNIVERSITY HOSP  
 THOMAS JEFFERSON UNIV HOSP  
 UPMC—HORIZON  
 UPMC—MCKEESPORT  
 UPMC—NORTHWEST MED CTR  
 UPMC—PASSAVANT

UPMC—PRESBYTERIAN SHADYSIDE  
 UPMC—SOUTHSIDE  
 UPMC—ST. MARGARET  
 WASHINGTON HOSPITAL  
 WESTMORELAND HOSPITAL  
 WILLIAMSPORT HOSPITAL

*Freestanding Rehab Hospitals*

ALLIED SERVICES REHAB HOSPITAL  
 BRYN MAWR REHAB HOSPITAL  
 CHILDREN'S HOME OF PITTSBURGH  
 CHILDREN'S INSTITUTE  
 GOOD SHEPHERD REHAB HOSPITAL  
 HEALTH SOUTH HARMARVILLE  
 HEALTH SOUTH LAKE ERIE INSTITUTE REHAB  
 HEALTH SOUTH MECHANICSBURG REHAB  
 HEALTH SOUTH PENN STATE GEISENGER  
 REHAB HOSP  
 HEALTH SOUTH READING REHAB HOSPITAL  
 HEALTH SOUTH REHAB HOSPITAL OF YORK  
 HEALTH SOUTH REHAB OF ALTOONA  
 HEALTH SOUTH REHAB OF NITTANY VALLEY  
 HEALTH SOUTH REHAB OF SEWICKLEY  
 JOHN HEINZ INSTITUTE  
 LANCASTER REHAB HOSP  
 PENN STATE HERSHEY  
 MAGEE MEMORIAL REHAB HOSPITAL

*Private Psychiatric Hospitals*

BELMONT CENTER FOR COMP TREATMENT  
 BERKS BEHAVIORAL HEALTH  
 BROOKE GLEN BEHAVIORAL HOSPITAL  
 CLARION PSYCHIATRIC CENTER  
 DEVEREUX—MAPLETON PSYCH CTR  
 FAIRMOUNT BHS  
 FIRST HOSPITAL  
 FOUNDATIONS BEHAVIORAL HEALTH  
 FRIENDS HOSPITAL  
 HORSHAM CLINIC  
 KIDSPEACE  
 KIRKBRIDE CENTER  
 MEADOWS PSYCHIATRIC CENTER  
 MONTGOMERY COUNTY EMERGENCY SERVICE, INC  
 PENNSYLVANIA PSYCH INSTITUTE  
 PHILHAVEN  
 ROXBURY PSYCHIATRIC  
 SOUTHWOOD PSYCH HOSPITAL

*Private Drug and Alcohol Hospitals*

EAGLEVILLE HOSPITAL

*C. Additional Class of Disproportionate Share Payments*

Effective March 1, 1998, the Department established a new class of disproportionate share payments to hospitals which render uncompensated care and which the Department has determined are experiencing significant revenue loss as a result of MA program revisions under the act of May 16, 1996 (P. L. 175, No. 35).

Effective January 15, 1999, the Department established a new class of disproportionate share payments to include a Charity Care component of the Community Access Fund. A disproportionate share payment will be made to qualifying hospitals based on each hospital's percentage of charity care cost to the total charity care costs of all qualifying hospitals. The Department also established a disproportionate share payment for those hospitals which the Department has determined advanced its goal of enhanced access to multiple types of medical care in economically distressed areas of this Commonwealth.

The following hospitals qualify for this payment:

A I DUPONT  
 ABINGTON MEMORIAL  
 ALBERT EINSTEIN  
 BARNES KASSON  
 CHARLES COLE MEMORIAL  
 CHILDRENS HOSP OF PHILA  
 CLARION  
 CLEARFIELD  
 COMMONWEALTH MEDICAL CENTER  
 CROZER—CHESTER MED CTR  
 DOYLESTOWN  
 DUBOIS REGIONAL MED CTR  
 EAGLEVILLE  
 EASTON HOSPITAL  
 EVANGELICAL COMMUNITY  
 FRANKFORD  
 FULTON COUNTY MEDICAL CTR  
 GEISINGER MEDICAL CENTER  
 HAMOT MEDICAL CENTER  
 HOSP OF THE UNIV OF PA  
 INDIANA HOSPITAL  
 J C BLAIR  
 JAMESON MEMORIAL  
 LANKENAU  
 LEHIGH VALLEY  
 LOCK HAVEN  
 MAGEE WOMENS  
 MEADVILLE MED CTR  
 MEMORIAL HOSP TOWANDA  
 MERCY CATHOLIC—FITZGERALD  
 MERCY HOSPITAL OF PHILA  
 MERCY HOSPITAL—PGH  
 MILTON S. HERSHEY MED CTR  
 NPHS—ST. JOSEPH'S  
 NPHS—GIRARD  
 PRESBYT MED CTR OF PHILA  
 PRESBYT UNIV HOSPITAL—PGH  
 PUNXSUTAWNEY  
 READING HOSPITAL  
 SOLDIERS AND SAILORS  
 ST. LUKES OF BETHLEHEM  
 TEMPLE UNIVERSITY HSP  
 THOMAS JEFFERSON  
 THS—HAHNEMANN HOSPITAL  
 TITUSVILLE  
 UPHS—PENNSYLVANIA HOSPITAL  
 UPMC BEDFORD  
 UPMC BRADDOCK MEDICAL CENTER  
 VALLEY FORGE  
 WAYNE COUNTY MEMORIAL  
 WEST PENN—ALLEGHENY  
 WEST VIRGINIA  
 WESTERN PENN  
 YORK HOSPITAL

*Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

**Fiscal Note:** 14-NOT-615. No fiscal impact; (8) recommends adoption.

ESTELLE B. RICHMAN,  
*Secretary*

[Pa.B. Doc. No. 09-1424. Filed for public inspection August 7, 2009, 9:00 a.m.]

### Notice of Public Hearing for the Early Learning Council

The purpose of this notice is to announce that on August 12, 2009, the Office of Child Development and Early Learning will hold a public hearing of the Early Learning Council to provide information and discuss the State strategic plan for Early Childhood leadership and submitting a Federal application for funding.

Interested persons are invited to attend the public hearing scheduled to begin at 2 p.m. on August 12, 2009, at the Pittsburgh PaTTAN, 3190 William Pitt Way, Pittsburgh, PA 15238. Directions and additional information can be found at <http://www.pattan.net/about/PittsburghDirectionsandAccommodations.aspx>.

Registration is required. Contact the Office of Child Development and Early Learning at RA-dpwood.net@state.pa.us or (717) 346-9320 to register.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-619. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 09-1425. Filed for public inspection August 7, 2009, 9:00 a.m.]

### Peer Groups, Peer Group Medians, and Peer Group Prices for General Nursing Facilities, County Nursing Facilities, Hospital-Based Nursing Facilities and Special Rehabilitation Facilities; Correction

The Department of Public Welfare is correcting the year stated for the peer groups, peer group medians and peer group prices of general and county nursing facilities, hospital-based and special rehabilitation nursing facilities in the notice which was published at 39 Pa.B. 2404 (May 9, 2009). The notice incorrectly stated "Year 13" as the year for peer group prices. Instead of "Year 13," the notice should have stated "Year 14" for the peer group prices.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-616. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 09-1426. Filed for public inspection August 7, 2009, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania 20X 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 20X The Money '09.

2. *Price:* The price of a Pennsylvania 20X The Money '09 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania 20X 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), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and 25 (TWYFIV). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 5X symbol (5TIMES) and a 20X symbol (20TIMES).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000 and \$100,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 10,200,000 tickets will be printed for the Pennsylvania 20X 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 any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any 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.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 20X symbol (20TIMES), and a prize symbol of \$500 (FIV HUN) appears under the

20X symbol (20TIMES), on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 20X symbol (20TIMES), and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the 20X symbol (20TIMES), on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$100 (ONE HUN) appears under the 5X symbol (5TIMES), on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 20X symbol (20TIMES), and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the 20X symbol (20TIMES), on a single ticket, shall be entitled to a prize of \$500.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 20X symbol (20TIMES), and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the 20X symbol (20TIMES), on a single ticket, shall be entitled to a prize of \$400.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the 5X symbol (5TIMES), on a single ticket, shall be entitled to a prize of \$200.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the 5X symbol (5TIMES), on a single ticket, shall be entitled to a prize of \$100.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 20X symbol (20TIMES), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the 20X symbol (20TIMES), on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the 5X symbol (5TIMES), on a single ticket, shall be entitled to a prize of \$50.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a 5X symbol (5TIMES), and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the 5X symbol (5TIMES), on a single ticket, shall be entitled to a prize of \$25.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" 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:

*When Any Of Your Numbers Match Any Of The Winning Numbers, Win With Prize(s) Of:*

\$5  
\$5 x 2  
\$10

Win:  
\$5  
\$10  
\$10

Approximate Odds Are 1 In:  
8.57  
40  
33.33

Approximate No. Of Winners Per 10,200,000 Tickets  
1,190,000  
255,000  
306,000

When Any Of Your  
Numbers Match Any Of The  
Winning Numbers, Win With  
Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 10,200,000 Tickets
\$5 × 4	\$20	200	51,000
\$10 × 2	\$20	150	68,000
\$20	\$20	150	68,000
\$5 × 5	\$25	300	34,000
\$5 w/5X	\$25	100	102,000
\$25	\$25	300	34,000
\$5 × 8	\$40	600	17,000
(\$5 w/5X) + (\$5 × 3)	\$40	600	17,000
\$10 × 4	\$40	600	17,000
\$20 × 2	\$40	600	17,000
\$40	\$40	600	17,000
\$5 × 10	\$50	600	17,000
(\$5 w/5X) + (\$5 × 5)	\$50	600	17,000
\$10 w/5X	\$50	600	17,000
\$25 × 2	\$50	600	17,000
\$50	\$50	600	17,000
\$5 w/20X	\$100	1,846	5,525
\$10 × 10	\$100	1,846	5,525
\$20 w/5X	\$100	1,846	5,525
\$25 × 4	\$100	2,000	5,100
\$50 × 2	\$100	1,967	5,185
\$100	\$100	1,846	5,525
\$20 w/20X	\$400	17,143	595
\$40 × 10	\$400	17,143	595
\$50 × 8	\$400	17,143	595
\$100 × 4	\$400	17,143	595
\$400	\$400	17,143	595
\$25 w/20X	\$500	24,000	425
(\$40 w/5X) + (\$50 × 6)	\$500	24,000	425
\$50 × 10	\$500	24,000	425
\$500	\$500	24,000	425
\$50 w/20X	\$1,000	40,000	255
(\$100 w/5X) + (\$100 × 5)	\$1,000	40,000	255
\$500 × 2	\$1,000	40,000	255
\$1,000	\$1,000	40,000	255
\$500 w/20X	\$10,000	1,020,000	10
\$10,000	\$10,000	1,020,000	10
\$100,000	\$100,000	510,000	20

5X (5TIMES) symbol = Win 5 times the prize shown under it.

20X (20TIMES) symbol = Win 20 times the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania 20X 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 20X The Money '09, prize money from winning Pennsylvania 20X 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 20X 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 20X The Money '09 or through normal communications methods.

STEPHEN H. STETLER,  
Secretary

[Pa.B. Doc. No. 09-1427. Filed for public inspection August 7, 2009, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, July 23, 2009, and announced the following:

*Regulation Deemed Approved under section 5(g) of the Regulatory Review Act—Effective July 22, 2009:*

State Employees' Retirement Board #31-6: Special Rules of Administrative Practice and Procedure (amends 4 Pa. Code Chapter 250 and adds a new Section 250.2)

*Action Taken—Regulations Approved:*

Department of Health #10-180: Supplemental Nutrition Program for Women, Infants and Children (WIC Program) (amends 28 Pa. Code Chapters 1101—1113)

State Board of Pharmacy #16A-5418: Sales of Hypodermic Needles and Syringes (amends 49 Pa. Code § 27.18)

Pennsylvania Gaming Control Board #125-96: Revised Procedures (amends 58 Pa. Code Chapters 403a, 435a, 441a, 461a and 465a)

State Board of Education #6-317: Special Education Services and Programs—General Provisions (amends 22 Pa. Code § 14.102 (a)(2))

Department of Education #6-320: General Provisions and Supervision (amends 22 Pa. Code § 711.3 (b))

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## Approval Order

Public Meeting held  
July 23, 2009

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Nancy Sabol Frantz, Esq.; John F. Mizner, Esq.

*Department of Health—Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Regulation No. 10-180 (#2718)*

On August 15, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Health (Department). This rulemaking amends 28 Pa. Code Chapters 1101 to 1113. The proposed regulation was published in the August 30, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 4, 2009.

This regulation amends existing regulations governing the authorization and management of stores participating in the Special Supplemental Nutrition for Women, Infants and Children (WIC) Program.

We have determined this regulation is consistent with the statutory authority of the Department (71 P.S. § 532(g), *implementing the Federal Child Nutrition and WIC Reauthorization Act of 2004*) 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.

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## Approval Order

Public Meeting held  
July 23, 2009

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Nancy Sabol Frantz, Esq., Abstained; John F. Mizner, Esq.

*State Board of Pharmacy—Sales of Hypodermic Needles and Syringes; Regulation No. 16A-5418 (#2625)*

On August 15, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Pharmacy (Board). This rulemaking amends 49 Pa. Code § 27.18. The proposed regulation was published in the August 25, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 5, 2009.

This rulemaking eliminates the need for a prescription when a person buys hypodermic needles and syringes.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 390-4(j), 390-6(k)(1) and 390-6(k)(9)) 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.

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## Approval Order

Public Meeting held  
July 23, 2009

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Nancy Sabol Frantz, Esq., Dis-senting; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—Revised Procedure; Regulation No. 125-96 (#2739)*

On January 13, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 403a, 435a, 441a, 461a and 465a. The proposed regulation was published in the January 24, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 3, 2009.

This regulation amends various provisions to correct errors, clarify requirements, and revise or add new requirements that reflect current practices.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. § 1202(b)(30)) 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.

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### Approval Order

Public Meeting held  
July 23, 2009

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq., by Phone; Nancy Sabol Frantz, Esq.; John F. Mizner, Esq.

*State Board of Education—Special Education Services and Programs—General Provisions; Regulation No. 6-317 (#2767)*

On June 3, 2009, the Independent Regulatory Review Commission (Commission) received this regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code § 14.102 (a)(2). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This rulemaking aligns the Commonwealth's regulations with the Federal Individuals With Disabilities Education Act and implementing regulations (34 CFR 300.1—300.818), as amended at 73 FR 73006—73029 (December 1, 2008).

We have determined this regulation is consistent with the statutory authority of the Board (24 P.S. §§ 13-1372(1) and 26-2603-B) 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.

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### Approval Order

Public Meeting held  
July 23, 2009

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq., by Phone; Nancy Sabol Frantz, Esq.; John F. Mizner, Esq.

*Department of Education—General Provisions and Supervision; Regulation No. 6-320 (#2768)*

On June 3, 2009, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Education (Department). This rulemaking amends 22 Pa. Code § 711.3(b). Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This rulemaking aligns the Commonwealth's regulations with the Federal Individuals With Disabilities Education Act and implementing regulations (34 CFR 300.1—300.818), as amended at 73 FR 73006—73029 (December 1, 2008).

We have determined this regulation is consistent with the statutory authority of the Department (24 P.S. §§ 17-1732-A(c)(2) and 17-1749-A(b)(8)) 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.

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 09-1428. Filed for public inspection August 7, 2009, 9:00 a.m.]

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### Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

#### Final-Form

Reg. No.	Agency/Title	Received	Public Meeting
14-510	Department of Public Welfare Payment for Burial and Cremation	7/28/09	9/3/09

ARTHUR COCCODRILLI,  
Chairperson

[Pa.B. Doc. No. 09-1429. Filed for public inspection August 7, 2009, 9:00 a.m.]

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## INSURANCE DEPARTMENT

### Alisa Kearney; Hearing

**Appeal of Alisa Kearney under 40 P.S. §§ 991.2101—991.2193; Keystone Health Plan West, Inc.; Doc. No. HC09-07-017**

Under 40 P.S. §§ 991.2101—991.2193, notice is given that the appellant in this action has requested a hearing, in connection with the appellant's managed health care plan. The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on September 1, 2009, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before August 28, 2009. A date for a hearing shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before August 17, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Sev-

enth Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before August 31, 2009.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-1430. Filed for public inspection August 7, 2009, 9:00 a.m.]

### **Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Curwensville Nursing Home, Inc.**

Curwensville Nursing Home, Inc. has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Ridgeview Elder Care Rehabilitation Center in Curwensville, PA. The initial filing was received on July 28, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of 1984 (40 P. S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-1431. Filed for public inspection August 7, 2009, 9:00 a.m.]

### **Health Maintenance Organization Certificate of Authority; Application filed by Aetna Better Health, Inc.**

Notice is given that on June 17, 2008, Aetna Better Health, Inc., filed an application with the Departments of Health and the Insurance Department for a certificate of authority to establish, operate and maintain a health maintenance organization (HMO) under the provisions of the HMO Act (40 P. S. §§ 1551—1567), Department of Health HMO Regulations (28 Pa. Code §§ 9.1—9.97) and the Department of Insurance HMO Regulations (31 Pa. Code §§ 301.1—301.204).

The proposed service area of the applicant Bucks, Chester, Delaware, Montgomery, Philadelphia, Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, Perry and York Counties.

A copy of the application is available for public inspection, by appointment only, at the following locations:

Department of Health  
Bureau of Managed Care  
Room 912, Health and  
Welfare Building  
Harrisburg, PA 17109-0900  
(717) 787-5193

Insurance Department  
1345 Strawberry Square  
Harrisburg, PA 17120  
(717) 787-2735

Interested parties are invited to submit written comments to William Wiegmann, Department of Health (DOH) or Robert Brackbill of the Insurance Department (Department) at the previously listed addresses.

Persons wish to submit written comments regarding the application may do so within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Persons with a disability may submit information and comments through alternative formats, such as audio tape, Braille or using the DOH's TDD (717) 783-6514. Persons with a disability requesting alternative forms may contact William Wiegmann so the DOH may accommodate their needs.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-1432. Filed for public inspection August 7, 2009, 9:00 a.m.]

### **Review Procedure Hearings; Cancellation or Refusal of Insurance**

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearing will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Jeremy and Janel Aungst; file no. 09-188-73079; Erie Insurance Company; Doc. No. P09-07-022; September 17, 2009, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order



resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-1433. Filed for public inspection August 7, 2009, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board seeks the following new site:

Butler County, Office Space #8134 (Relocation), Cranberry, PA

*Lease expires:* 90-Day Status since April 1, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500—3,000 net useable square feet of existing retail commercial space for use of an office. Space should be in proximity to the Turnpike Interchange with Interstate 79/Route 19 and provide free parking in Cranberry Township, Cranberry, PA.

*Proposals due:* August 28, 2009, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 158 Purity Road,  
Suite B, Pittsburgh, PA 15235-4441  
**Contact:** George D. Danis, (412) 723-0124

PATRICK J. STAPLETON, III,  
*Chairperson*

[Pa.B. Doc. No. 09-1434. Filed for public inspection August 7, 2009, 9:00 a.m.]

## PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY

### Application for the Volunteer Fire Company and Volunteer Ambulance Services Grant Program

This notice provides information about the Volunteer Fire Company and Volunteer Ambulance Services Grant Program (Program). Volunteer fire companies and volunteer ambulance services seeking grants under the Program must submit completed applications no later than 4 p.m. on October 23, 2009. Written instructions and guidelines for the Program will be available online at the Office

of State Fire Commissioner (Commissioner) web site <http://www.osfc.state.pa.us> no later than September 1, 2009. Grant applications will be available online at the Commissioner web site <http://www.osfc.state.pa.us> no later than September 8, 2009.

This notice is provided in accordance with the Volunteer Fire Company and Volunteer Ambulance Service Grant Program Act (35 P.S. §§ 6941.101—6941.902).

EDWARD MANN,  
*State Fire Commissioner*

[Pa.B. Doc. No. 09-1435. Filed for public inspection August 7, 2009, 9:00 a.m.]

## PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM

### Request for Proposal

The Pennsylvania Municipal Retirement System will accept proposals for RFP 2009-1, Investment Consulting and Performance Measurement Services, until 3 p.m. on October 1, 2009. The Request for Proposal will be available on August 14, 2009, in pdf format and can be accessed and downloaded from our web site: [www.pmr.state.pa.us](http://www.pmr.state.pa.us). The Agency Project Manager is Reynold Witmer, who may be contacted at (717) 787-2065 or [rwitmer@state.pa.us](mailto:rwitmer@state.pa.us).

JAMES B. ALLEN,  
*Secretary*

[Pa.B. Doc. No. 09-1436. Filed for public inspection August 7, 2009, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Delegation of Additional Authority to Cancel Motor Carrier Certificates for Certain Uncontested Violations; Doc. No. M-2009-2115071

The Pennsylvania Public Utility Commission (Commission) at its July 23, 2009, public meeting delegated additional routine ministerial and nonpolicymaking matters to its staff for disposition. In particular, the Commission adopted the Law Bureau's recommendation to delegate authority to the Bureau of Transportation and Safety (BTS) to cancel motor carrier certificates for the following two types of uncontested violations: (1) a failure to provide evidence of insurance; and (2) abandonment or discontinuance of service.

Accordingly, BTS will address these matters by Secretarial Letter. The staff's action may be appealed to the Commission by filing a petition within 20 days after service of notice of the action, unless a different time period is specified. See 52 Pa. Code § 5.44 (relating to petitions for appeal from actions of the staff).

The contact person for this matter is Stephanie M. Wimer, Assistant Counsel, Law Bureau at (717) 772-8839.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 09-1437. Filed for public inspection August 7, 2009, 9:00 a.m.]

### Order

Public Meeting held  
July 23, 2009

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli;  
Wayne E. Gardner; Robert F. Powelson

*Guidelines for Waiver of the Call Recording  
Prohibition at 52 Pa. Code § 63.137(2); Pending  
Rulemaking; Doc. No. M-2008-2074891*

### Order

*By the Commission:*

By tentative order entered November 20, 2008, the Commission proposed terms and conditions for jurisdictional telecommunications companies to qualify for temporary partial waivers of 52 Pa. Code § 63.137(2). Such waivers, similar to waivers previously granted to several local exchange carriers (LECs), would allow telecommunications utilities to record, for training and quality of service purposes, customer calls to their call centers. The tentative order sought comments on the Commission's proposal for a uniform, efficient, and lawful process to request, review, and grant such waivers. This order now sets forth the process and conditions for obtaining such waivers.

#### *Background*

Currently, all "telephone companies"<sup>1</sup> except eight local exchange carriers (LECs) that have been granted partial waivers, are expressly prohibited by section 63.137(2) from recording telephone conversations with their customers. Section 63.137(2) was promulgated in an effort to balance customer privacy interests with the business interests of the telecommunications utilities.<sup>2</sup> To establish this balance, telecommunications call center supervisors are allowed to monitor communications between customers and service representatives through "live" or "real-time" listening in, but calls may not be recorded. Substantively, section 63.137(2) provides, in relevant part, as follows:

(2) *Service evaluation and monitoring.* The telephone company may evaluate and monitor those aspects of its operations, including customer communications, necessary for the provision of service to its customers.  
**The recording of conversations is prohibited.**

(Emphasis added.) The remainder of section 63.137(2) explains, in several subparts, the types of service evaluation and monitoring of customer telephone calls a telecommunications company may perform in the provision of service to its customers. No jurisdictional utility industry outside the telecommunications industry is subject to similar customer or call-center call-recording prohibitions under our regulations.

<sup>1</sup> That is, to all jurisdictional telecommunications entities.

<sup>2</sup> The provisions of section 63.137(2) were issued pursuant to 66 Pa.C.S. §§ 501 and 1501, and were adopted July 24, 1992, effective September 23, 1992, 22 Pa.B. 3892.

By order entered on September 23, 2008, at Docket No. P-2008-2051138, we granted, in part, the petition of four D&E LECs for partial waiver of section 63.137(2).<sup>3</sup> We had previously granted similar waivers to two Verizon LECs and two Full Service LECs.<sup>4</sup> Specifically, the eight petitioning LECs received waivers allowing them to record, for training and quality of service purposes, customer calls to their call centers.

On November 20, 2008, we entered a final order soliciting comments on proposed guidelines for a blanket waiver in an attempt to avoid addressing such waiver requests on a piecemeal basis in the future. The final order proposed a process whereby a telecommunications company could petition the Commission for a one-year partial waiver of section 63.137(2) and up to two one-year extensions, subject to proposed uniform terms and conditions applicable to operations under the temporary partial waiver.

The Pennsylvania Telephone Association (PTA) filed the only comments. PTA specifically averred that "[b]y requiring that each company file a petition as stated in the Tentative Order, this Commission essentially continues its piecemeal review of such requests. Moreover, PTA avers that the filing of a petition is not consistent with the intent expressed in Commissioner Gardner's Motion to consider a 'blanket' waiver." (PTA at 2.) PTA suggested that the Commission reevaluate the requirement that telecommunications utilities be required to continue individually petitioning for waivers and extensions and that the Commission should handle this matter as it handled a similar matter in *Rulemaking re: Provision of Bundled Service Package Plans*, Docket No. L-00060179 (July 3, 2006), (*BSP Rulemaking Order*). In that matter, the Commission established conditions under which a blanket waiver was granted related to 52 Pa. Code § 64.21. Companies were required to agree to comply with the specific conditions in order to qualify for the automatic waiver. PTA states that "the same process should be followed here." (PTA at 4.)

PTA further averred that the proposed one-year time limit is "unreasonable and unnecessary" and that the proposed renewal process for two one-year extensions is "even more 'onerous' and 'cumbersome' than the existing individual waiver process. (PTA at 3-4.) PTA asserted that under its proposal, there would be no need to revisit the eight waivers already granted and that periodic status reporting would not be necessary. (PTA at 4.)

#### *Discussion*

The strikingly similar arguments presented by the eight petitioning LECs in support of their individual waiver requests, coupled with the differences in the specific features and permissions requested by the petitioning LECs, lead us to conclude that establishing terms and conditions for temporary partial waivers for call recording practices is reasonable until such time as this Commission can institute a generic rulemaking regarding the applicable regulation. Among other arguments related to improving customer service, the eight LECs noted, in support of their waiver requests, that "telephone companies" are the only class of jurisdictional utilities prohibited from recording calls for any purpose including train-

<sup>3</sup> Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, and D & E Systems, Inc., were granted partial waivers of 52 Pa. Code § 63.137(2) at Docket No. P-2008-2051138 (September 23, 2008).

<sup>4</sup> Verizon Pennsylvania, Inc. and Verizon North, Inc. (Verizon LECs) were granted partial waivers at Docket No. P-00072333 (December 20, 2007). Full Service Computing Co. and Full Service Network LP (Full Service LECs) were granted partial waivers at Docket No. P-2008-2020446 (May 5, 2008).

ing and measuring and improving service quality. Other utilities, as well as other businesses and this Commission, routinely record calls for service quality purposes within the bounds of applicable laws concerning wiretaps and trap and trace devices.

PTA's comments serve as a valid counterpoint to the proposal in the tentative order while also reinforcing the need for consistency throughout the industry. Recognizing merit in the assertions of PTA and consistent with the process we utilized in the *BSP Rulemaking Order*, we shall establish herein terms and conditions that will qualify for a temporary partial waiver of the call recording prohibition provision in section 63.137(2), rather than continue to address the concerns of telecommunications companies related to call recording for training and quality of service purposes in a piecemeal fashion.<sup>5</sup>

Before addressing the substance of a temporary partial waiver, we shall, however, address the procedural aspects. Section 63.53(e)<sup>6</sup> of our regulations permits us to waive our regulations under certain circumstances and after notice to the affected parties. Pursuant to section 63.53(e), notice of a request for exemption must be provided to the persons who would be affected by the exemption. The tentative order provided notice to the public, in general, and to the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), and the Office of Trial Staff (OTS), in particular, of the proposal to adopt guidelines for terms and conditions for waivers of the call recording prohibition in our regulations applicable to telecommunications utilities. This order further provides notice of the temporary partial waiver. Finally, under the terms and conditions set forth herein, customers will be ensured the option of refusing to be recorded by requesting a call back from a service representative in which case any waiver of the section 63.137(2) call recording prohibition will not affect them because the call back will not be recorded. We shall also require the telecommunications companies that elect to operate pursuant to the temporary partial waiver established in this order to provide advance notice to their customers by bill inserts or equivalent method. Accordingly, we find that this constitutes reasonable notice under the circumstances.

Having addressed the question of notice, we shall now turn to the substance of the temporary partial waiver. On a going-forward basis, the following terms and conditions shall apply to companies wishing to record calls with customers for quality of service and training purposes.<sup>7</sup> Jurisdictional telecommunications carriers seeking to record customer calls for service quality and training purposes are granted a temporary partial waiver of the Commission's regulation at 52 Pa. Code § 63.137(2) which prohibits the recording of customer calls subject to strict adherence to the following terms and conditions:

<sup>5</sup> We issued a Secretarial letter on September 23, 2003, at *Compliance with 52 Pa. Code § 64.21 Separate Billing for Basic Service*, Docket No. M-00031747, to detail the conditions for operating under the section 64.21 blanket waiver. In this matter, this order, rather than a separate Secretarial letter, will establish the conditions under which jurisdictional telecommunications companies may elect to operate under the temporary partial waiver of section 63.137(2).

<sup>6</sup> 52 Pa. Code § 63.53 (e) provides that:  
If unreasonable hardship to a person or to a utility results from compliance within this subchapter, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this subchapter by the Commission will not preclude the altering or amending of the provisions in a manner consistent with applicable statutory procedures, nor will the adoption of this subchapter preclude the Commission from granting temporary exemptions in exceptional cases. A person or utility that files an application under this section shall provide notice to a person who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

<sup>7</sup> Telephone companies may still petition individually for a partial temporary waiver of section 63.137(2).

- A carrier seeking to operate pursuant to this temporary partial waiver shall file notice with the Secretary of Commission, with a copy to the Commission's Bureau of Consumer Services, of its intent to do so prior to commencing such operations, giving at least 30 days notice to the Commission, and must also provide its customers with a bill insert (or make an equivalent customer contact) explaining the call recording process and the opt-out process to customers at least 30 days before commencing call recording operations;
- Customers calling a jurisdictional telecommunications company telephone number equipped to record customer calls must hear a prerecorded message to the effect that the call may be monitored or recorded for training or quality control purposes;
- The prerecorded message must advise callers that they have the option to discontinue the call and to request a call back from an unrecorded line and must also provide instructions on how to request a call back prior to any aspect of the call being recorded;
- Recorded telephone calls may be used solely for the purpose of training or measuring and improving service quality;
- Recorded calls must be erased after a 90-day (or shorter) retention period; and
- All other provisions of 52 Pa. Code 63.137 shall remain in full force and effect.

We have consistently rejected the use of the recorded calls for "evidentiary" purposes, and we shall continue to do so. We rejected that use, asserting that we believe that permitting calls taped under the mantle of training and quality service improvement purposes to be used for any evidentiary purpose may violate Pennsylvania's wiretapping law. Thus, none of the eight petitioning LECs that have been granted partial waivers of section 63.137(2) have been granted permission to use the recorded calls for evidentiary purposes. We see no reason to change our position herein on this matter in the context of establishing terms and conditions for temporary partial waivers. The Wiretap Act provides, in pertinent part, that:

It shall not be unlawful and no prior court approval shall be required under this chapter for:

\* \* \* \* \*

(6) Personnel of any public utility to record telephone conversations with utility customers or the general public relating to receiving and dispatching of emergency and service calls provided there is, during such recording, a periodic warning which indicates to the parties to the conversation that the call is being recorded.

\* \* \* \* \*

(15) The personnel of a business engaged in telephone marketing or telephone customer service by means of wire, oral or electronic communication to intercept such marketing or customer service communications where such interception is made for the sole purpose of training, quality control or monitoring by the business, provided that one party involved in the communications has consented to such intercept. Any communications recorded pursuant to this paragraph may only be used by the business for the purpose of training or quality control. Unless otherwise required by Federal or State law, communications recorded

pursuant to this paragraph shall be destroyed within one year from the date of recording.

18 Pa.C.S. § 5704(6) and (15). Accordingly, use of recorded customer calls is and will remain limited to training and quality control purposes, and the retention of recordings for “evidentiary” or other purposes is and will remain prohibited.<sup>8</sup>

We have also determined not to require periodic status reports on complaints regarding call recording as the vast majority of this information would be available through other sources such as pursuant to chapter 64 of our regulations or through the Commission’s informal and formal complaints processes.

Any carrier with a preexisting waiver that has not yet commenced actual recording of customer calls pursuant to that waiver may henceforth only commence call recording pursuant to these terms and conditions. Any carrier that has commenced call recording of customer calls without a previously granted specific waiver or pursuant to this order has twenty (20) days to come into compliance with this order or must discontinue call recording.

By establishing terms and conditions of a temporary partial waiver, we intend to minimize the risk of creating a disparity between the partial waivers previously granted (to the eight LECs) and any temporary partial waivers that would be granted subsequently to the establishment of such guidelines.

In granting the petition filed by the two Verizon, the two Full Service, and the four D&E LECs, we noted that a rulemaking proceeding may ultimately be appropriate in order to determine whether a revision to section 63.137(2) is necessary to address this issue on an industry-wide basis. Having established terms and conditions for a temporary partial waiver of section 63.137(2) at this docket, we shall take under consideration at another docket of the matter of opening a rulemaking to eliminate the call recording prohibition.

#### Conclusion

Under the totality of the circumstances, the Commission finds, pursuant to its authority under 66 Pa.C.S. § 501(a) and 66 Pa.C.S. § 3019(b)(2), that establishing terms and conditions under which telecommunications utilities may elect to operate under a temporary and partial waiver of the call recording prohibition at 52 Pa. Code § 63.137(2) is warranted. It is expressly noted that neither the establishment of terms and conditions for waivers nor the granting of a temporary partial waiver of section 63.137(2) would enlarge or limit, in any way, a jurisdictional utility’s obligations or a customer’s protections pursuant either to Pennsylvania’s *Wiretapping and Electronic Surveillance Control Act*, 18 Pa.C.S. §§ 5701—5704, or to any applicable federal statutes or regulations; *Therefore,*

#### It Is Ordered That:

1. Terms and conditions under which jurisdictional telecommunications utilities may operate under a temporary partial waiver of the call recording prohibition contained in 52 Pa. Code § 63.137(2) are hereby established, consistent with this order.

2. All other provisions of 52 Pa. Code § 63.137(2) remain in full force and effect.

3. Pending the final resolution of a rulemaking to address the call recording prohibition at 52 Pa. Code

<sup>8</sup> This prohibition also prevents the use of recordings in informal complaint proceedings before the Commission.

§ 63.137(2), that prohibition is temporarily waived to the extent necessary to permit jurisdictional telecommunications companies to record calls for quality of service and training purposes, provided that the company agrees to the conditions set forth herein.

4. The contact persons for this order are Louise Fink Smith, Esq., Law Bureau, (717) 787-8866, finksmith@state.pa.us, Melissa Derr, Bureau of Fixed Utility Services, (717) 783-6171, mderr@state.pa.us, and Tawana Dean, Bureau of Consumer Services, (717) 772-0806, tadean@state.pa.us.

5. That this order be served on all jurisdictional telecommunication carriers and published in the *Pennsylvania Bulletin* upon entry.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-1438. Filed for public inspection August 7, 2009, 9:00 a.m.]

#### Order

Public Meeting held  
July 23, 2009

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli;  
Wayne E. Gardner; Robert F. Powelson

*Relief Plan for the 570 NPA;*  
*Doc. No. P-2009-2117193*

#### Order

*By the Commission:*

#### Introduction

On July 1, 2009, the North American Numbering Plan Administrator NeuStar, Inc. (NANPA), in its role as the neutral third-party NPA Relief Planner for Pennsylvania,<sup>1</sup> acting on behalf of the Pennsylvania telecommunications industry (industry) filed a petition with the Commission requesting approval of its plan for the 570 Numbering Plan Area (NPA or area code). According to the petition, the industry reached a consensus<sup>2</sup> to implement an all services distributed overlay for the geographic area covered by the 570 NPA which would create a new area code to service the area.

The Commission, therefore, is now faced with the decision of deciding what form of area code relief should be implemented and when the new area code must be added. Because we need input from consumers, the industry and other interested parties involved regarding this difficult decision, we will now direct that the consensus relief plan for the 570 NPA shall not be implemented at this time. Rather, the Commission will seek comments as outlined in Section III below and a decision on this issue will be rendered at a later date after we review said

<sup>1</sup> The NANPA is the entity that allocates numbering resources and monitors the viability of area codes to determine when all of the numbers available in the area code are nearing exhaust. The Industry Numbering Committee Guidelines provide that when an area code is nearing exhaust, the NANPA, which then becomes the NPA Relief Planner, convenes a meeting of the industry to discuss relief alternatives. *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016, reissued Nov. 8, 1999, at § 5.5. If the industry reaches a consensus, then its consensus plan is filed with the Commission and the Commission has an opportunity to take action at that point. *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016, reissued Nov. 8, 1999, at § 5.6.

<sup>2</sup> A consensus is established when substantial agreement has been reached. Substantial agreement means more than a simple majority, but not necessarily unanimity. *CLC Principles and Procedures*, May 1998, at § 6.8.8.

comments. Further, while we are only seeking written comments at this time, this issue may be subject to future public input hearings.

#### Discussion

### I. FCC Requirements Regarding Area Code Relief

The proliferation of new area codes is not the result of the unavailability of numbers for end-users. Rather, new area codes are needed when existing area codes exhaust their supply of NXX codes.<sup>3</sup> When there are no more NXX codes available to assign to telephone companies, then new area codes need to be opened. The system for allocating numbering resources was designed in 1947 to accommodate a monopoly system. In recent years, however, a combination of several factors has created an unprecedented demand for NXX codes leading to the exhaust of existing area codes and the proliferation of new area codes to fill the void.

According to the Federal Communications Commission (FCC), which has plenary jurisdiction over numbering issues in the United States,<sup>4</sup> the Commission must implement timely area code relief, i.e., add a new area code, when Pennsylvania's area codes are about to exhaust their supply of NXX codes.<sup>5</sup> Pursuant to FCC regulations, new area codes can be introduced to relieve the shortage of NXX codes in an area code through the use of any of the following three methods.

1. A geographic area code split, which occurs when the geographic area served by an area code is split into two or more geographical parts;
2. An area code boundary realignment, which occurs when the boundary lines between two adjacent area codes are shifted to allow the transfer of some numbers from one area code to the other;
3. An area code overlay, which occurs when a new area code is introduced to serve the same geographic area as an existing area code. 47 CFR 52.19(c)(1)—(3).

Although the NANPA notifies the industry when an area code needs relief planning and conducts the relief planning meeting, it is a neutral third-party that does not express an opinion on any proposed relief alternative. Additionally, the industry is encouraged to participate in the creation of the relief alternatives and is free to present any plans during the relief planning meeting.

### II. Relief Planning for the 570 NPA

#### A. History of the 570 NPA

Between 1940 and 1990, Pennsylvania had a total of only four area codes (412, 814, 717 and 215). On June 28, 1996, the telecommunications industry asked the Commission to decide how to relieve the shortage of numbering resources in the 717 NPA because the industry could not reach a consensus. Therefore, the Commission opened a docket at P-00961071 that ultimately led to the creation of the 570 NPA on May 21, 1998. The 570 NPA was a geographic split of the 717 NPA and was activated on April 8, 1999. The geographic area covered by the 570 NPA is comprised of 21 north-central counties and includes the cities of Williamsport, Wilkes-Barre, Scranton,

and Stroudsburg. At the time it was created, the 570 NPA was projected to contain enough numbering resources for almost six years.

Nevertheless, on May 4, 2000, not quite a year after activation of the 570 NPA, the industry was notified by the NANPA that relief planning was necessary. According to the NANPA, the projected exhaust date of 570 area code was now the first quarter of 2002. At the 570 NPA Relief Industry Meeting held on June 1, 2000, members from various ILECs, CLECs, wireless companies, the Office of Consumer Advocate, and the Commission were present. The NANPA proposed three relief alternatives to alleviate the situation in the 570 NPA. After discussion of these three alternatives, the industry reached a consensus to adopt an all services distributed overlay as the form of relief for the 570 NPA with implementation of this overlay to begin on October 2, 2000. Pursuant to the plan, all existing customers in the 570 NPA would retain their 570 area code and would not be required to change their telephone numbers. Consistent with FCC regulations, the industry reached a consensus to implement a 10-digit dialing plan both within and between the existing NPA and the overlay NPA.

On July 19, 2000, NeuStar, as the neutral third-party NPA Relief Planner for Pennsylvania, acting on behalf of the Pennsylvania telecommunications industry, filed a petition with the Commission requesting approval of its relief plan to implement an overlay for the geographic area covered by the 570 area code. On September 15, 2000, the Commission entered a Tentative Order at the previously captioned docket seeking comments from interested parties regarding what type of relief should be implemented in the 570 NPA and when this relief should be implemented. The Commission received comments from interested parties. Because several of these commentators requested that the Commission schedule public input hearings to further discuss area code relief in the 570 NPA, we conducted four public input hearings on December 18, 2000, in Wilkes-Barre and December 19, 2000, in Williamsport.<sup>6</sup>

In the meantime, since holding these public input hearings, the Commission had implemented various number conservation measures in the 570 NPA, such as thousands-block (1K) number pooling<sup>7</sup> and NXX code reclamation.<sup>8</sup> Furthermore, the FCC mandated that all wireless carriers participate in pooling as of November 24, 2002.<sup>9</sup> Thus, wireless carriers began participating in Pennsylvania's mandatory pools, including the pool in 570.

Accordingly, by Order entered July 17, 2003, the Commission concluded that the data on which the 570 relief

<sup>6</sup> During these hearings, the Commission received testimony from State Representative Keith McCall, State Representative John T. Yudichak, Craig Rickard, Vincent Matteo, Howard Grossman, Mark Rutkowski, Henry O'Dell, David Hines, Ambrose Meletsky, Bill Kuklewicz, Mayor Thomas McCroarty, Jerry S. Walls, Allen Kaplin, Anthony Rampulla and Michael Ochs. Transcripts from these hearings were filed with the Commission on December 26, 2000, and January 3, 2001.

In addition to the testimony, the Commission received as exhibits letters from the following: R. Neil Henrie and Cora Maie Henrie, senior citizens from the Bloomsburg area; Representative John R. Gordner, State Representative from the 109th Legislative District; Ronald F. Kozma, Director of Columbia County Department of Public Safety; Natalie Duy, a citizen from Danville; Ed Edwards, President of the Bloomsburg Area Chamber of Commerce; Maureen E. Savitsky, a citizen from Danville; Crystal J. Fink, a citizen from Wilkes-Barre; and Gregory and Deborah Lutz, citizens from Mifflinville. Subsequently, other written comments were received by the Commission and filed in this docket. These comments were from State Senator Lisa Boscola, the Milton Area Chamber of Commerce and the Pocono Mountain Vacation Bureau.

<sup>7</sup> Mandatory 1,000-block pooling was implemented in February 2002.

<sup>8</sup> See *In the Matter of Numbering Resource Optimization*, CC Docket Nos. 99-200, 96-98, NSD File No. L-99-101 (2000). The Commission implemented NXX code reclamation in the 570 NPA in August 2000.

<sup>9</sup> In *The Matter of Verizon Wireless' Petition For Partial Forbearance From the Commercial Mobile Radio Services Number Portability Obligation and Telephone Number Portability*, WT Docket 01-84, CC Docket No. 95-116 (Order adopted July 16, 2002).

<sup>3</sup> Telephone numbers consist of 10 digits. The first three digits make up the area code, and the second three digits make up the NXX code. Each NXX code contains 10,000 numbers and each area code contains approximately 792 NXX codes.

<sup>4</sup> 47 U.S.C. § 251(e)(1).

<sup>5</sup> See *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 190029 (1998).

plan had been filed was outdated and that the various number conservation measures that had been implemented had resulted in more numbers becoming available in the 570 area code. Consequently, the Commission determined that adequate numbering resources existed for carriers to receive numbers in a timely fashion and we believed that there was good cause to dismiss the industry's petition for approval of its relief plan in the 570 NPA.<sup>10</sup> Moreover, after taking into account the effects of the number conservation measures, the projected exhaust date for the 570 NPA was extended to the third quarter of 2008.

### B. Relief Planning Meeting for the 570 NPA

On March 30, 2009, the NANPA notified the Industry and the Commission that it needed to meet to discuss relief alternatives for the 570 NPA. According to the April Number Resource Utilization Forecast (NRUF) and NPA Exhaust Analysis April 24, 2009 Update (2009 NRUF Report),<sup>11</sup> the 570 NPA is projected to exhaust all available NXX codes during the third quarter 2011. The 570 NPA was declared to be in jeopardy on April 1, 2009.

The Industry met via conference call May 27, 2009 to discuss various relief alternatives proposed by the NANPA. The NANPA proposed four relief alternatives to alleviate the situation in the 570 NPA. The following relief alternatives are detailed below and set forth in the attached "Appendix A."

1. Alternative #1—All Services Distributed Overlay: A new NPA code would be assigned to the same geographic area as the existing 570 NPA. Alternative #1 has a projected life of 16 years.
2. Alternative #2—Two-Way Geographic Split: In a two-way geographic split, the exhausting NPA is split into two geographic areas and a new NPA is assigned to one of the areas formed by the split. For Alternative #2, the proposed split boundary line runs east to west along rate center boundaries placing Morris, Estella, Sweet Valley, Pittston and Pocono Lake among those rate centers north of the boundary line and Renovo, Trout Run, Laporte, Muhlenburg and Wilkes-Barre among the rate centers south of the boundary line. The area north of the split line, referred to in the IPD as Area A, would have a projected NPA life of 16 years to exhaust and the

<sup>10</sup> See *INC Guidelines* at § 5.10. A relief plan may be withdrawn while the plan is pending, if it is determined that the projected exhaust date is more than 5 years away.

<sup>11</sup> Federal rules that went into effect on July 17, 2000, require all carriers to report to the NANPA their historical and forecast utilization data. 47 CFR 52.15(f). These reports are made semi-annually and are referred to as the "NRUF Reports." Using this data along with the rate of assignment of NXX codes in the NPA, the NANPA predicts the exhaust date for all NPAs in its NPA Exhaust Analysis. These reports can be found at [www.nanpa.com](http://www.nanpa.com).

area south of the split line, Area B, would have a projected NPA life of 16 years to exhaust.

3. Alternative #3—Two-Way Geographic Split: The proposed split boundary line runs north to south along rate center boundaries placing St. Joseph, Mehoopany, Plymouth, Nuangola and McAdoo among the rate centers west of the boundary line and Montrose, Nicholson, Moosic, Wilkes-Barre and Weatherly among the rate centers east of the boundary line. The western portion, Area A, would have a projected NPA life of 14 years to exhaust and the eastern portion, Area B, would have a projected NPA life of 20 years to exhaust.

4. Alternative #4—Two-Way Geographic Split: The proposed split boundary line runs diagonally from the northeast to the southeast along rate center boundaries placing Clifford, Center Moreland, Sweet Valley, Orangeville and Danville among the rate centers southeast of the boundary line and Brooklyn, Nicholson, Noxen, Benton and Washingtonville among the rate centers northwest of the boundary line. The northwestern portion, Area A, would have a projected NPA life of 18 years to exhaust and the southeastern portion, Area B, would have a projected NPA life of 15 years to exhaust.

### C. Industry's Current Consensus to Recommend an Overlay

After discussing the four relief alternatives presented at the May 27, 2009, meeting, the industry decided to recommend implementation of the all-services distributed overlay (Alternative #1). The industry reached a consensus to recommend Alternative #1 as the form of relief for the 570 NPA for several reasons. First, all existing customers in the 570 area code would not have to change their telephone numbers because an overlay does not require customers to change their telephone numbers or split communities of interest. Secondly, while the recommended relief plan would require 10-digit dialing for all calls within and between the 570 NPA and the new NPA, the industry noted that 10-digit dialing has become more prevalent nationwide and overlays, with 10-digit dialing, have been implemented in southeastern and western Pennsylvania. Thus, the industry recommended that all local and toll calls between the 570 NPA and the new NPA be dialed as 10-digits, or permissively as 1+10 digits at each service provider's discretion. Additionally, all local and toll calls originating in the 570 NPA or the new NPA and terminating in other NPAs (NPAs other than the 570 or new NPA) must be dialed as 1+10 digits. The following table illustrates the recommended dialing plan:

#### Recommended Overlay Dialing Plan for All Services Distributed Overlay

Type of Call	Call Terminating in	Dialing Plan
Local & Toll Calls	Overlay Home NPAs (HNPA)	10 digits (NPA-NXX-XXXX)*
Local & Toll Calls	Foreign NPA (FNPA) outside of overlay	1+10 digits (1+NPA-NXX-XXXX)
Operator Services Credit card, collect, third party	HNPA or FNPA	0+10 digits (0+NPA-NXX-XXXX)

\* 1+10 digit dialing for all HNPA and FNPA calls permissible at each service provider's discretion

### III. Comments Sought By the Commission

The FCC has adamantly maintained that state commissions cannot engage in number conservation measures to the exclusion of, or as a substitute for, timely area code relief.<sup>12</sup> Therefore, when Pennsylvania's area codes are about to exhaust their supply of NXX codes, the Commission must implement timely area code relief, i.e., add a new area code. When faced with the need to implement new area codes, the Commission must decide two very important issues. First, the Commission must decide how to implement the new area code (i.e., a geographic split or an overlay). Second, the Commission must determine when the new area code needs to be implemented. Therefore, we are seeking comments from interested parties regarding what form of area code relief should be implemented upon exhaust of the 570 NPA and the timeframe for the implementation.

#### A. Form of Area Code Relief for the 570 NPA

According to the FCC, state commissions must add new area codes when the existing area codes exhaust or are about to exhaust all their NXX codes. Consequently, the critical element for deciding when to add new area codes is to know when the area code will exhaust all of its NXX codes. State commissions have no involvement in predicting or projecting the exhaust dates for area codes. The FCC has delegated this responsibility to the NANPA.

The NANPA projects exhaust dates for area codes by averaging the past rate of assignment of NXX codes and using that to estimate the future rate at which NXX codes will be assigned. Because these variables are so fluid, projecting accurate exhaust dates is difficult. With constantly changing information such as this, the Commission has a difficult time trying to determine when Pennsylvania's area codes will exhaust thereby requiring the addition of new area codes to ensure that all telecommunications carriers have numbering resources.

Once it is determined that area code relief must be necessary, based on the projected forecasts of the NANPA, state commissions are faced with the task of deciding what form that relief should take. The Commission is seeking comments on the five relief alternatives submitted by the NANPA to the industry and is open to suggestions regarding any other potential alternative for providing relief to the 570 NPA.

Pennsylvania has experienced both area code splits and overlays. There have been a total of five overlays since 1999 (484, 267 and 878 have been implemented and 835 and 445 were activated but later rescinded). Prior to 1999, three geographic splits have been implemented (610, 570, and 724). There are benefits and disadvantages to either method.

With the imposition of an overlay, existing land-based telephone customers are not likely to have to change telephone numbers. Therefore, customers will not need to change their advertising and stationery. However, the FCC requires that 10 digits be used to dial all numbers in the overlaid area when an overlay is implemented. New NXX numbers from the new area code are assigned to carriers that do not have numbers available in a given rate center. Therefore, the first three digits of a 10-digit telephone number around the corner or down the block

might be from the new area code. Eventually, a single customer might have two different area codes for telephone lines serving his or her home or place of business, if the existing carrier has run out of numbers in an NXX assigned to the old area code.

On the other hand, implementation of a geographic split involves dividing an existing area code into two or more parts, with one part retaining the old area code and other(s) receiving a new area code(s). Callers are presently able to continue using 7-digit dialing for calls made within the area code boundaries. Customers in the area retaining the old area code are minimally impacted. Customers in the new area code, however, must change their area codes. Businesses must revise their stationery and their advertising. Commercial customers may not be able to retain "vanity numbers," upon which they have spent advertising dollars. Callers, particularly at the border of the old and new area codes are temporarily inconvenienced. They often must dial 11 digits to make calls that were previously 7-digit numbers. Although local calling areas actually have not changed, and calls that were local before the area code split remain local calls, even if they cross into the new area code, people are initially disconcerted and distrusting of the concept of an eleven-digit local call. Indeed, local calling areas do not change no matter which method of area code relief is implemented.

Specifically, the Commission is interested in the specific circumstances of the 570 NPA and whether these circumstances favor the implementation of one form of relief over the other. We ask parties that are submitting comments to keep in mind the following factors when advocating a particular form of relief: 1) Whether the form of area code relief would create longer lasting NPAs for the 570 region; and 2) What form of area code relief is the least disruptive to consumers.

#### B. Implementation Schedule and Activation of the Relief Plan Chosen for the 570 NPA

While a state commission may not utilize numbering optimization measures in lieu of implementing timely area code relief, a state commission may minimize the consumer impact of traditional area code relief by not implementing new area codes sooner than necessary. Accordingly, we would like comments from interested parties on the time frame for when area code relief must be implemented and ultimately activated to relieve the 570 NPA. The current relief plan proposed by the industry allows 13 months for full implementation of an all services distributed overlay. According to this timeline, 6 months are devoted to network preparation, 6 months are devoted to "permissive" 10-digit dialing, and 1 month is devoted to "mandatory" 10-digit dialing. The Commission's experience with area code overlays is that they can be fully implemented within 6 months. Consequently, the Commission seeks comment on whether a 13-month timeline is really necessary for implementation of an overlay for the 570 NPA.

We also seek comment on the following questions regarding implementation of a split to relieve the 570 NPA. What is the shortest amount of time this type of relief can be implemented? Would a 6-month time frame for implementation of a split be feasible? What aspect of implementing a split is the most significant for the industry and how long does this take to complete?

<sup>12</sup> *In the Matter of Numbering Resource Optimization*, CC Docket Nos. 99-200, 96-98, NSD File No. L-99-101 (2000).

Also, in Southeastern Pennsylvania (610/484 and 215/267), the Commission had ordered that the additional proposed overlays (835 over 610/484 and 445 over 215/267) not be activated until 3 months prior to total exhaust of the underlying NPAs. Is a similar situation possible for the 570 NPA? More specifically, could the industry undertake to implement an overlay for the 570 NPA but not actually activate that new overlay NPA until total exhaust of the 570 NPA? Could the requirement of 10-digit dialing be suspended until the new overlay NPA were fully activated?

Moreover, we recently filed a petition with the FCC requesting additional delegated authority so that we could implement mandatory number pooling throughout each and every rate center within our NPAs. We believe that if the petition is granted by the FCC, it will add to the number of NXX codes available for assignment in our NPAs, particularly our more geographically rural NPAs, like the 570 NPA. We also believe that this may impact the implementation schedule for any new area code in the 570 NPA.

#### *Conclusion*

The policy of the Commission is to ensure that numbering resources are made available on an equitable, efficient and timely basis in Pennsylvania while ensuring that the impact of proliferating new area codes on consumers is as

minimal as possible. In view of the well-documented disruption to customers caused by changes in their area code, it is in the public interest for us to seek comments from consumers, the industry and other interested parties involved regarding this difficult decision; *Therefore,*

#### *It Is Ordered That:*

1. The industry consensus recommendation set forth in the petition for an all services distributed overlay relief plan for the 570 NPA is denied, pending receipt of comments and any further proceedings, as necessary.

2. Comments, as requested by this Order, be filed with the Commission no later than 30 days after this Order is published in the *Pennsylvania Bulletin*. Reply comments may be filed within 20 days after the close of the comment period.

3. A copy of this order shall be served on all jurisdictional telecommunications carriers, wireless carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, and Wayne Milby and Beth Sprague of the North American Numbering Plan Administrator.

4. A copy of this order shall be published both in the *Pennsylvania Bulletin* and on the Commission's web site.

JAMES J. MCNULTY,  
*Secretary*



APPENDIX A

**570 NPA - RELIEF ALTERNATIVES**

PENNSYLVANIA

Numbering Plan Area Born on Date: December 5, 1998

NPA RELIEF PLANING TOOL ASSUMPTIONS

NRUF DATE.....	April 2009
PROJECTED EXHAUST DATE.....	3Q2011
ANNUALIZED CODE DEMAND PROJECTION.....	48
MONTHLY CO CODE DEMAND PROJECTION.....	4.0
LOCAL EXCHANGE ROUTING GUIDE DATA.....	April 2009

**NPA RELIEF ALTERNATIVES**

**OVERLAY ALTERNATIVE**

ALTERNATIVE #1 – ALL SERVICES DISTRIBUTED OVERLAY

A new NPA code would be assigned to the same geographic area occupied by the existing 570 NPA. Customers would retain their current telephone numbers; however, ten-digit local dialing by all customers within and between NPAs in the affected area would be required. Codes in the overlay NPA will be assigned upon request with the effective date of the new area code. At exhaust of the 570 NPA all future code assignments will be made in the overlay area code.

Total CO Codes = 725  
Total rate centers = 180  
Area Code Life in Years = 16

**NPA SPLIT ALTERNATIVES**

The exhausting NPA is split into two or more geographic areas and a new NPA is assigned to one of the areas formed by the split. All split plans would require ten-digit dialing between NPAs in the same extended local calling area. Within an NPA, seven-digit dialing would be permitted.

ALTERNATIVE #2 – NPA SPLIT

The proposed split boundary line runs east-to-west along rate center boundaries where Morris, Estella, Sweet Valley, Pittston and Pocono Lake are some of the rate centers north of the boundary line and Renovo, Trout Run, Laporte, Muhlenburg and Wilkes-Barre are among the rate centers south of the boundary line..

AREA "A"  
Total CO Codes = 361  
Total rate centers = 94  
Area Code Life in Years = 16

AREA "B"  
Total CO Codes = 364  
Total rate centers = 86  
Area Code Life in Years = 16

## **570 NPA - RELIEF ALTERNATIVES**

### ALTERNATIVE #3 – NPA SPLIT

The proposed split boundary line runs north-to-south along rate center boundaries where St. Joseph, Mehoopany, Plymouth, Nuangola and McAdoo are some of the rate centers west of the boundary line and Montrose, Nicholson, Moosic, Wilkes-Barre and Weatherly are among the rate centers east of the boundary line.

#### AREA “A”

Total CO Codes = 398  
Total rate centers = 113  
Area Code Life in Years = 14

#### AREA “B”

Total CO Codes = 327  
Total rate centers = 67  
Area Code Life in Years = 20

### ALTERNATIVE #4 – NPA SPLIT

The proposed split boundary line runs on a diagonal path from the northeast to the southeast along rate center boundaries where Clifford, Center Moreland, Sweet Valley, Orangeville and Danville are some of the rate centers southeast of the boundary line and Brooklyn, Nicholson, Noxen, Benton, and Washingtonville are among the rate centers northwest of the boundary line.

#### AREA “A”

Total CO Codes = 342  
Total rate centers = 112  
Area Code Life in Years = 18

#### AREA “B”

Total CO Codes = 383  
Total rate centers = 68  
Area Code Life in Years = 15

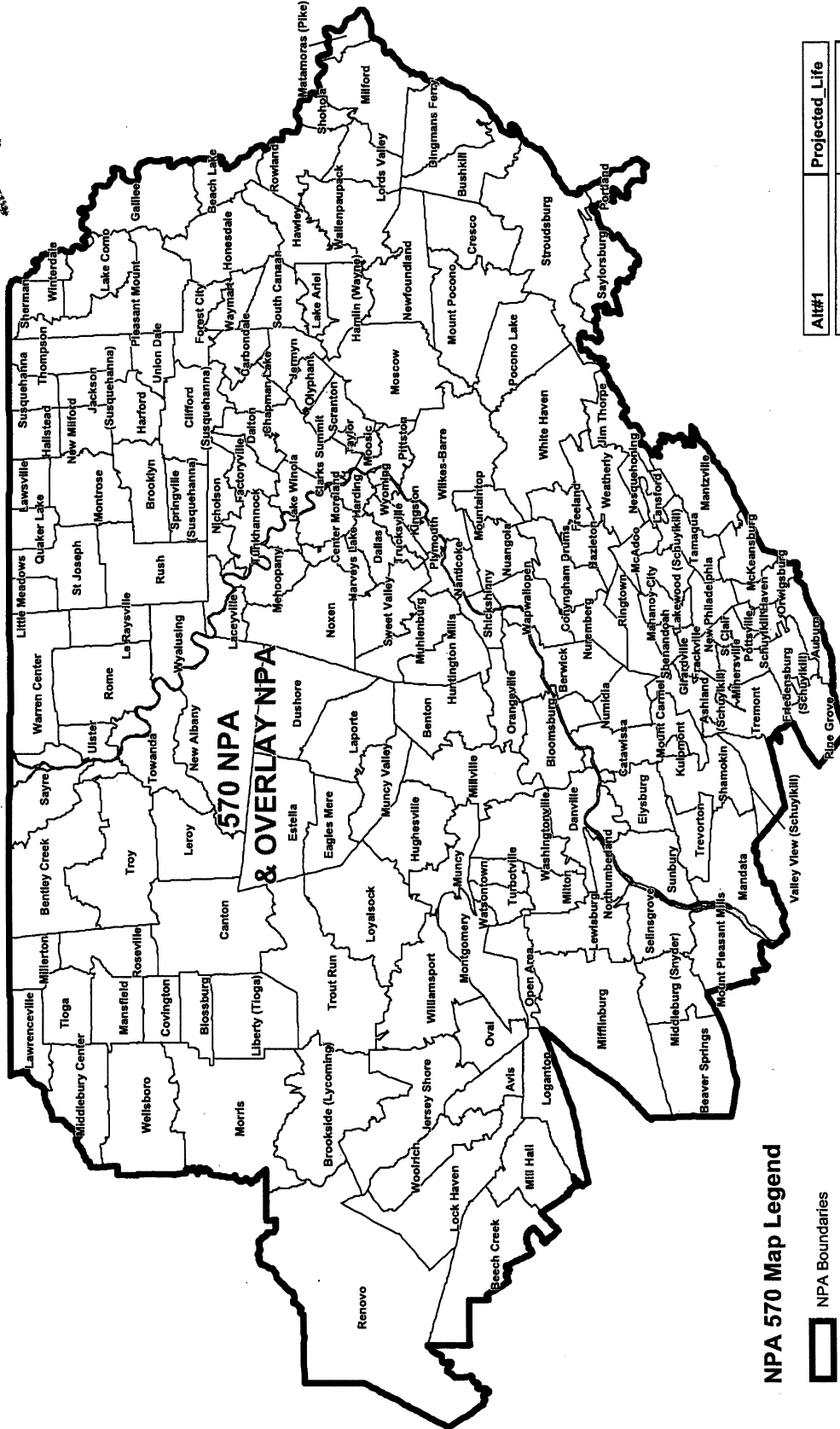
**570 – RELIEF ALTERNATIVES****PENNSYLVANIA****PROJECTED LIVES OF RELIEF ALTERNATIVES  
IN YEARS**

Alternative	Area A	Area B	Overlay
#1	-	-	16
#2	16	16	-
#3	14	20	-
#4	18	15	





**ALTERNATIVE #1  
ALL SERVICES DISTRIBUTED OVERLAY**

**NPA 570 Rate Center Map**



**NPA 570 Map Legend**

-  NPA Boundaries
-  Rate Center Boundaries

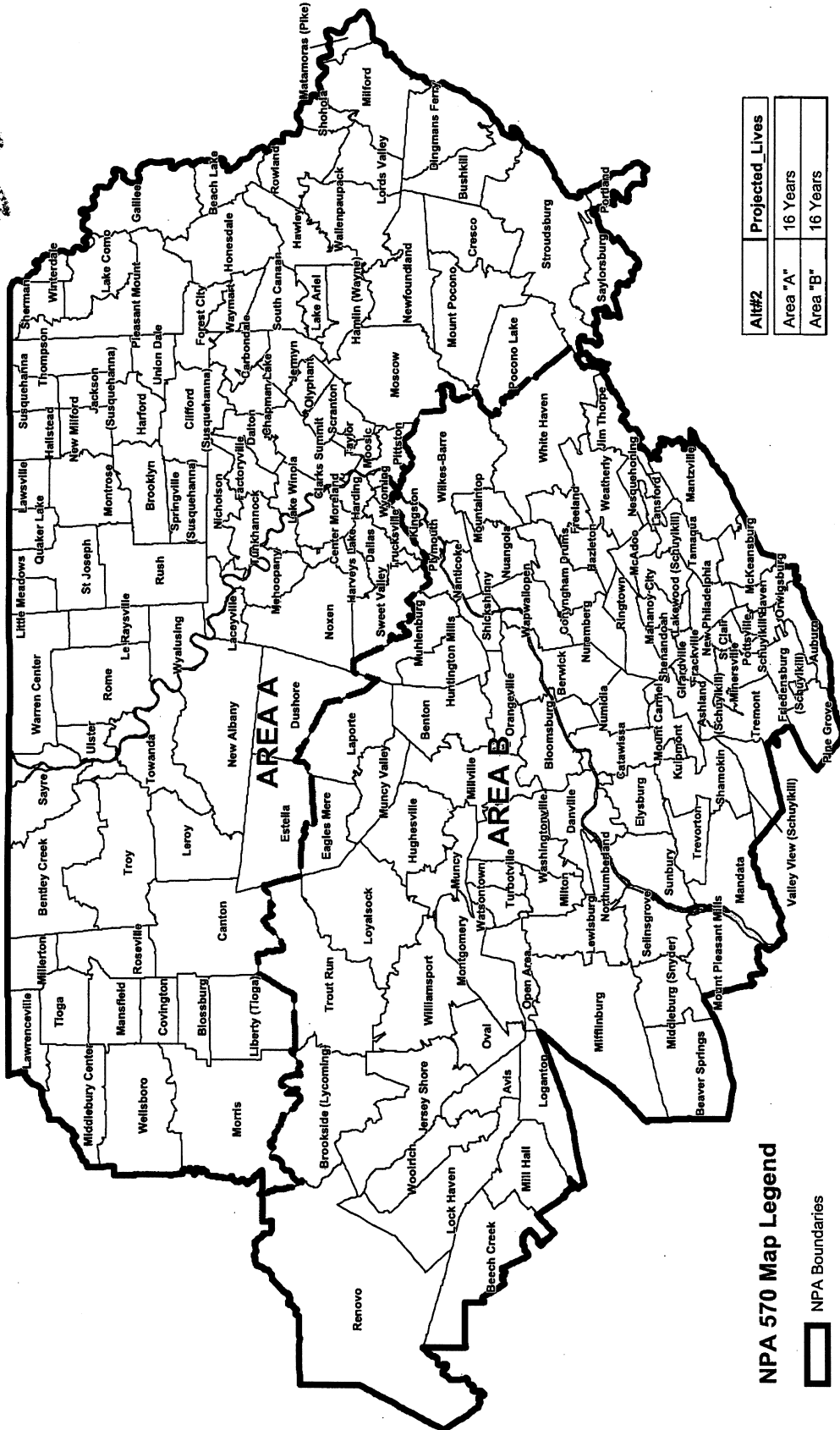
Alt#1	Projected_Life
Distributed Overlay	16 Years

Produced by CDS Business Mapping, LLC 05/2009



**ALTERNATIVE #2  
NPA SPLIT**

**NPA 570 Rate Center Map**

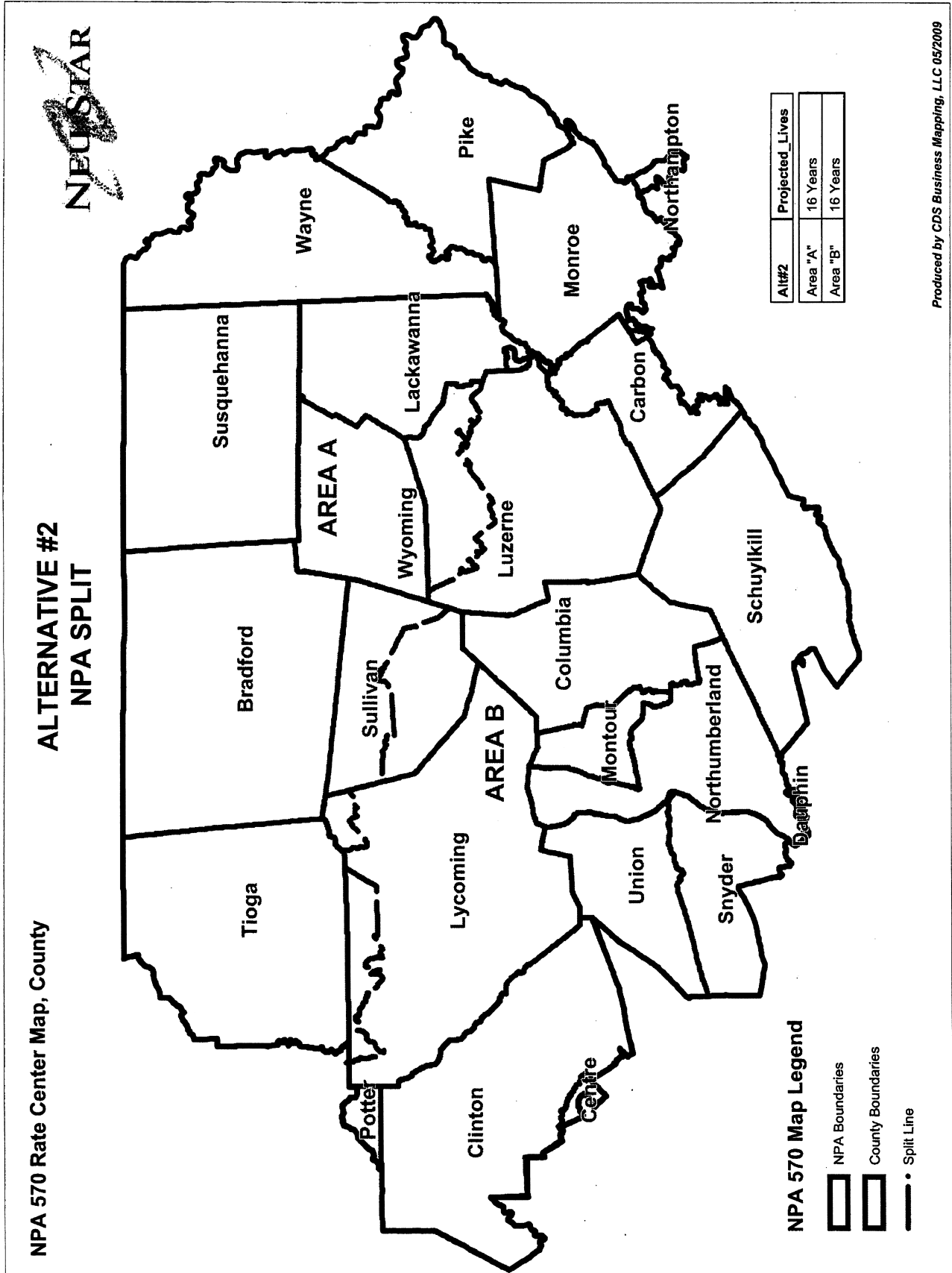


Alt#2	Projected Lives
Area "A"	16 Years
Area "B"	16 Years

**NPA 570 Map Legend**

- NPA Boundaries
- Rate Center Boundaries
- Split Line

Produced by CDS Business Mapping, LLC 05/2009

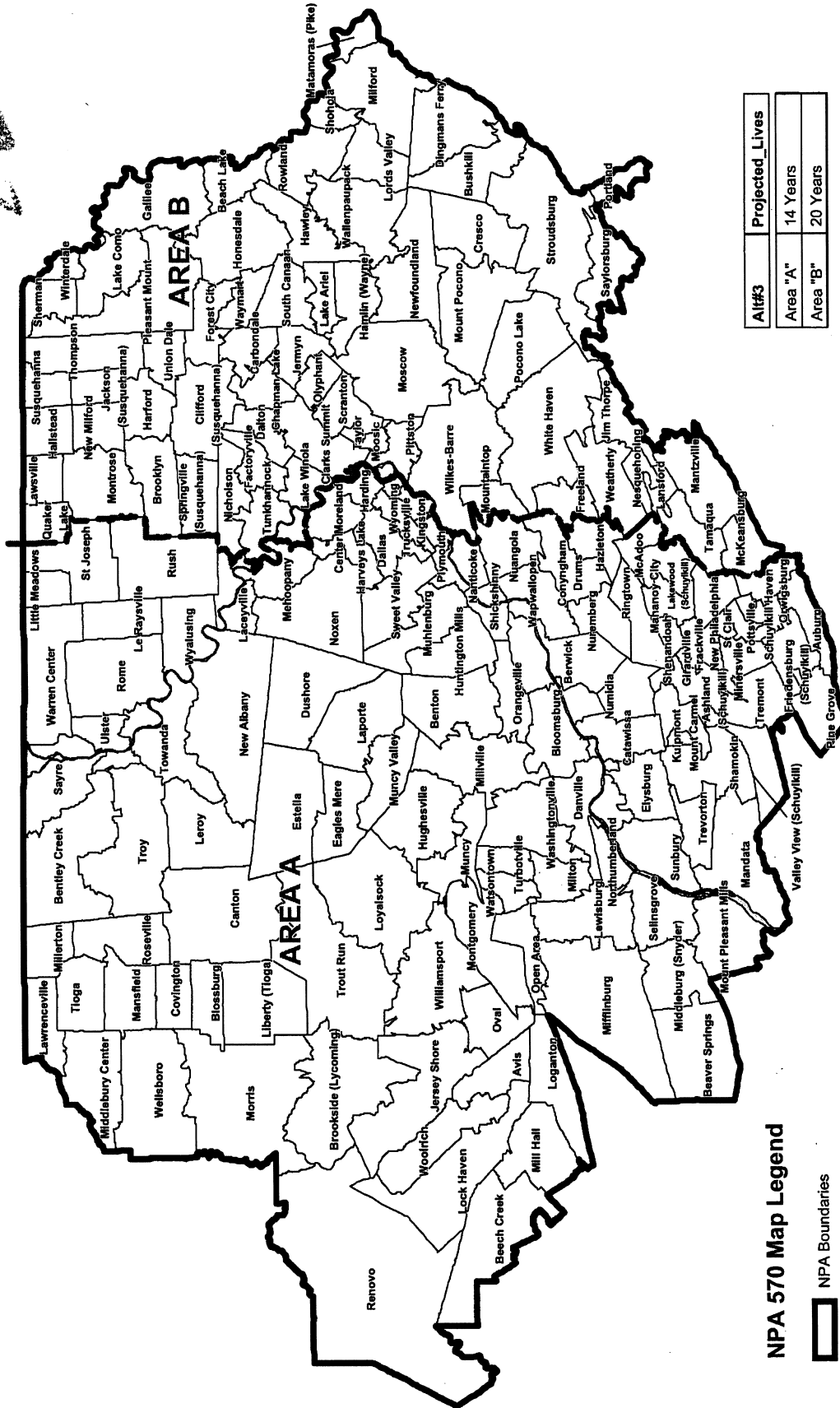


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**ALTERNATIVE #3  
NPA SPLIT**

**NPA 570 Rate Center Map**

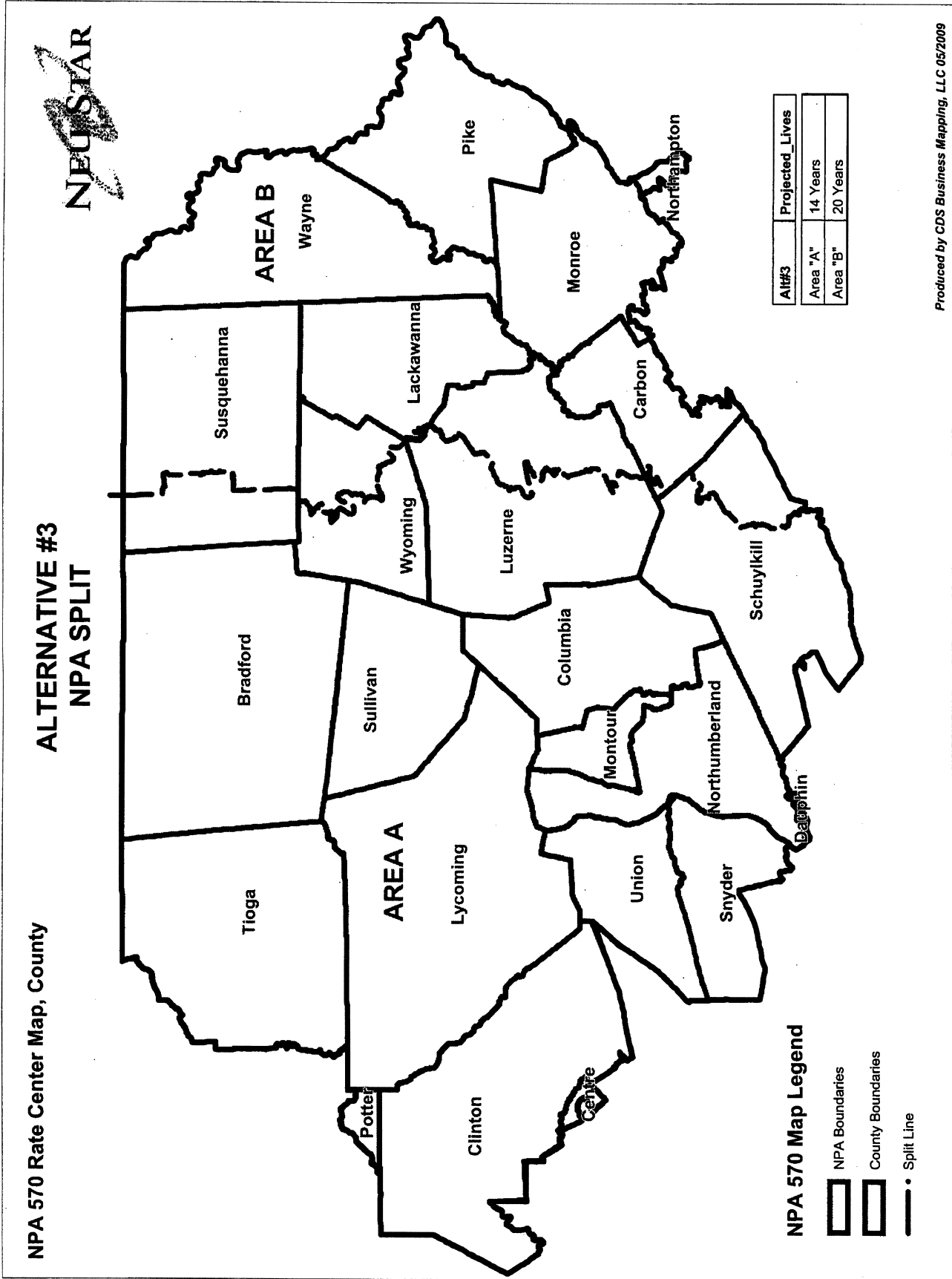


Alt#3	Projected Lives
Area "A"	14 Years
Area "B"	20 Years

**NPA 570 Map Legend**

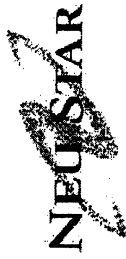
- NPA Boundaries
- Rate Center Boundaries
- Split Line

Produced by CDS Business Mapping, LLC 05/2009



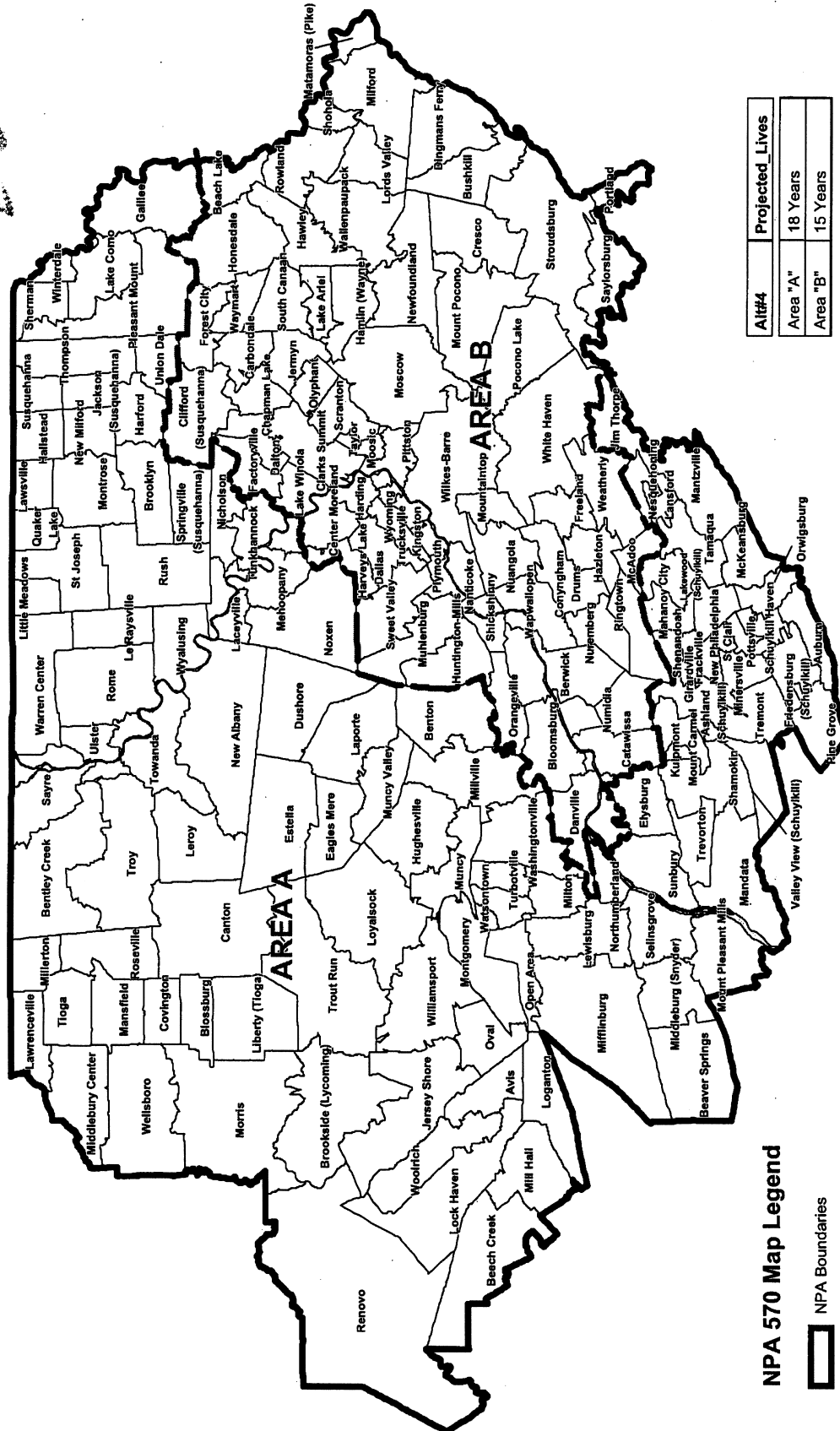
Produced by CDS Business Mapping, LLC 05/2009



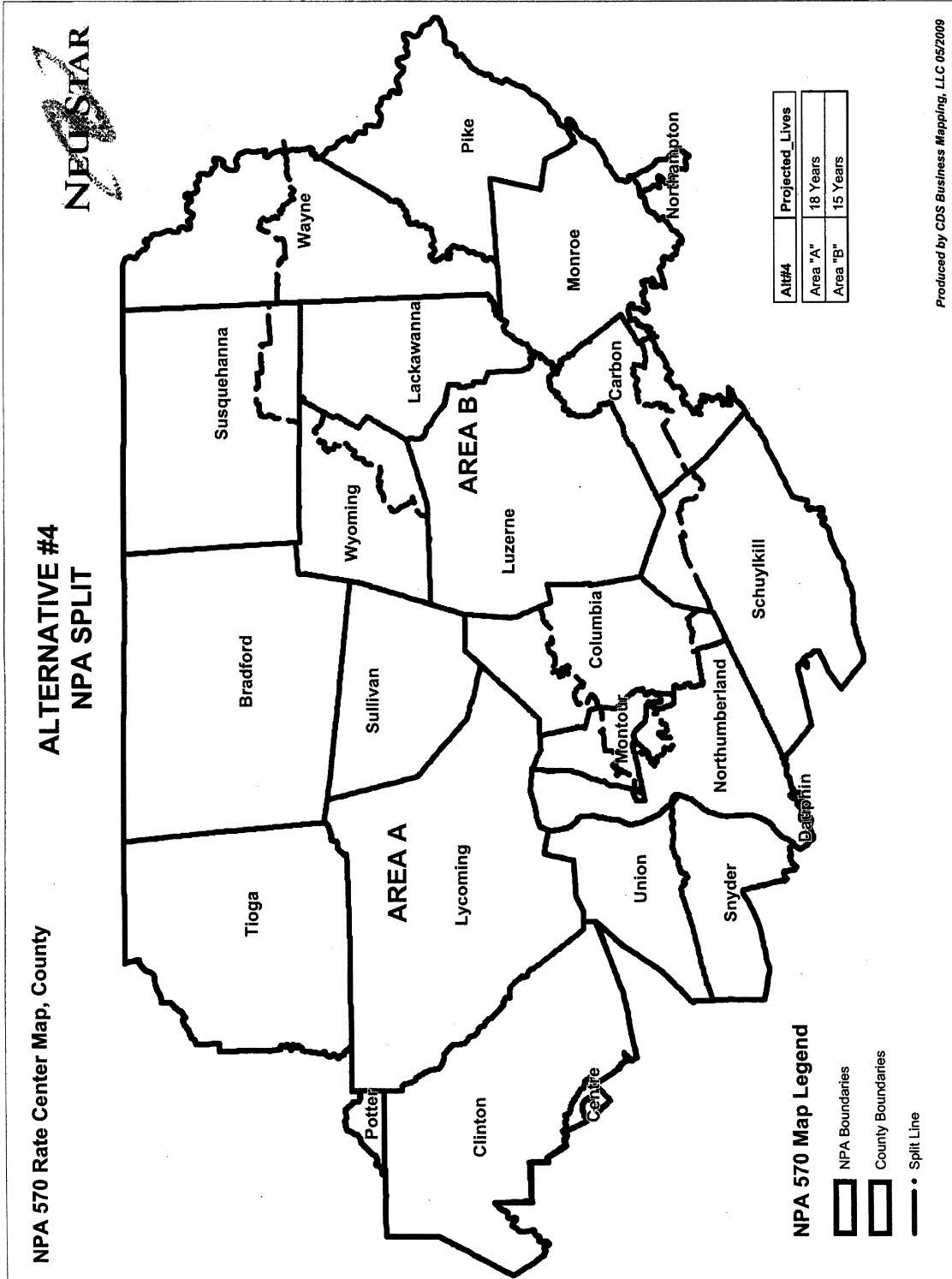


**ALTERNATIVE #4  
NPA SPLIT**

**NPA 570 Rate Center Map**



Produced by CDS Business Mapping, LLC 05/2009



[Pa.B. Doc. No. 09-1439. Filed for public inspection August 7, 2009, 9:00 a.m.]

## Order

Public Meeting held  
July 23, 2009

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyronne J. Christy, Vice Chairperson; Kim Pizzingrilli;  
Wayne E. Gardner; Robert F. Powelson

*Relief Plan for the 814 NPA;  
Doc No. P-2009-2112925*

## Order

*By The Commission:*

### Introduction

On June 9, 2009, the North American Numbering Plan Administrator (NANPA),<sup>1</sup> NeuStar, Inc., in its role as the neutral third-party NPA Relief Planner for Pennsylvania, acting on behalf of the Pennsylvania telecommunications industry (industry) filed a petition with the Commission requesting approval of its plan to alleviate numbering exhaust for the 814 Numbering Plan Area (NPA or area code). According to the petition, the industry reached a consensus<sup>2</sup> to implement an all services distributed overlay for the geographic area covered by the 814 NPA which would create a new area code to service the area.

The Federal Communications Commission (FCC), which has plenary jurisdiction over numbering issues in the United States,<sup>3</sup> mandates that states must implement timely area code relief, i.e., add a new area code, when the area codes within their boundaries are about to exhaust their supply of NXX codes.<sup>4</sup> The Commission, therefore, is now faced with the decision of deciding when a new area code must be added and in what form that area code should be added. Because we need input from consumers, the industry and other interested parties involved regarding this difficult decision, we will now direct that the consensus relief plan for the 814 NPA shall not be implemented at this time. Rather, the Commission will seek comments as outlined in Section III below and a decision on this issue will be rendered at a later date once we review said comments. Further, while we are only seeking written comments at this time, this issue also may be subject to future public input hearings.

### Discussion

#### I. FCC Requirements Regarding Area Code Relief

The proliferation of new area codes is not the result of the unavailability of numbers for end-users. Rather, new area codes are needed when existing area codes exhaust their supply of NXX codes.<sup>5</sup> When there are no more NXX codes available to assign to telephone companies, then new area codes need to be opened. The system for

allocating numbering resources was designed in 1947 to accommodate a monopoly system. In recent years, however, a combination of several factors has created an unprecedented demand for NXX codes leading to the exhaust of existing area codes and the proliferation of new area codes to fill the void.

According to FCC regulations, new area codes can be introduced to relieve the shortage of NXX codes in an area code through the use of any of the following three methods:

1. A geographic area code split, which occurs when the geographic area served by an area code is split into two or more geographical parts;
2. An area code boundary realignment, which occurs when the boundary lines between two adjacent area codes are shifted to allow the transfer of some numbers from one area code to the other;
3. An area code overlay, which occurs when a new area code is introduced to serve the same geographic area as an existing area code.

See 47 CFR 52.19(c)(1)–(3).

Although the NANPA notifies the industry when an area code needs relief planning and conducts the relief planning meeting, it is a neutral third-party that does not express an opinion on any proposed relief alternative. Additionally, the industry is encouraged to participate in the creation of the relief alternatives and is free to present any plans during the relief planning meeting.

#### II. NANPA's NPA Relief Planning for the 814 NPA

##### A. The Relief Planning Meeting for the 814 NPA

Between 1940 and 1990, Pennsylvania had a total of only four area codes (412, 814, 717 and 215). The 814 area code is one of Pennsylvania's original four area codes. Today, Pennsylvania has ten active area codes (215, 610,<sup>6</sup> 267, 484,<sup>7</sup> 717, 570,<sup>8</sup> 412, 724,<sup>9</sup> 878,<sup>10</sup> and 814).

Relief Planning for the 814 area code initially began in 2002 when the 2001 NRUF (Number Resource Utilization Forecast) and NPA Exhaust Analysis June 1, 2001, Update (2001 NRUF Report) indicated that the 814 NPA would exhaust during the first quarter of 2005. Due to the projected exhaust date, NANPA notified the Commission and the Industry on January 23, 2002, that NPA relief needed to be addressed. The Industry met on March 21, 2002, in Pittsburgh, Pennsylvania, to discuss various relief alternatives. Pursuant to the NPA Relief Planning Guidelines, NANPA distributed an Initial Planning Document (IPD) to the Industry prior to the relief planning meeting. The IPD contained descriptions, maps, general facts and assumptions, and the projected lives of three two-way geographic split alternatives, referred to in the IPD as Alternatives #1, #2 and #5, an all-services distributed overlay relief alternative, referred to as Alternative #3 and, a technology specific overlay, referred to as

<sup>6</sup> In 1994, the original 215 NPA in southeastern Pennsylvania was geographically split and the 610 NPA was introduced.

<sup>7</sup> By Order entered May 21, 1998, Docket No. P-00961061, the Commission directed that the 215 and 610 NPAs, or area codes, in the southeastern portion of this Commonwealth receive individual overlay NPAs so as to address the prevailing NXX code shortage problem. The 215 NPA received the 267 overlay NPA and the 610 NPA received the 484 overlay NPA.

<sup>8</sup> The 570 NPA was a geographic split of the 717 NPA and was activated on April 8, 1999.

<sup>9</sup> By Order entered July 15, 1997, at P-00961027, the Commission directed that the original 412 NPA in western Pennsylvania be geographically split with the new 724 NPA. The Pittsburgh metropolitan area would retain the 412 NPA with the surrounding communities transferring to the new 724 NPA. The new 724 NPA was activated on February 1, 1998.

<sup>10</sup> The 412 NPA was declared to be in jeopardy on October of 1999, by the NANPA. On January 19, 2000, an industry consensus was reached to institute an all services multiple overlay. Therefore, on August 17, 2001, the 878 NPA was activated and overlays both the 412 and the 724 geographic areas.

<sup>1</sup> The NANPA is the entity that allocates numbering resources and monitors the viability of area codes to determine when all of the numbers available in the area code are nearing exhaust. The Industry Numbering Committee Guidelines provide that when an area code is nearing exhaust, the NANPA, which then becomes the NPA Relief Planner, convenes a meeting of the industry to discuss relief alternatives. *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016, reissued Nov. 8, 1999, at § 5.5. If the industry reaches a consensus, then its consensus plan is filed with the Commission and the Commission has an opportunity to take action at that point. *NPA Code Relief Planning & Notification Guidelines*, INC97-0404-016, reissued Nov. 8, 1999, at § 5.6.

<sup>2</sup> A consensus is established when substantial agreement has been reached. Substantial agreement means more than a simple majority, but not necessarily unanimity. *CLC Principles and Procedures*, May 1998, at § 6.8.8.

<sup>3</sup> 47 U.S.C. § 251(e)(1).

<sup>4</sup> See *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Red 190029 (1998).

<sup>5</sup> Telephone numbers consist of 10 digits. The first three digits make up the area code, and the second three digits make up the NXX code. Each NXX code contains 10,000 numbers and each area code contains approximately 792 NXX codes.

Alternative #4. Geographic split Alternative #5 was proposed by the Pennsylvania Office of Consumer Advocate and the technology specific overlay was proposed by Commission staff prior to the distribution of the IPD to the Industry.

During the relief planning meeting, the Industry members evaluated the five relief alternatives, described more fully below and set forth in Appendix "A:"

- **Alternative #1—Two-Way Geographic Split:** The proposed split boundary line runs along rate center boundaries approximately following the county boundaries between Cambria and Clearfield and Centre and Clearfield. The line divides the 814 NPA into a proposed northern NPA, referred to as "Area A" in the IPD, and a proposed southern NPA, referred to as "Area B." The boundary runs south of Glen Campbell, Mahaffey, Coalport and Houtzdale. The line then turns north and runs east of Osceola Mills, Clearfield, Winburne and Frenchville. Area A would have a projected NPA life of 14 years to exhaust and Area B would have a projected NPA life of 28 years to exhaust.
- **Alternative #2—Two-Way Geographic Split:** The proposed split boundary line runs along rate center boundaries approximately to the east of Jefferson, Elk and McKean counties. The line divides the 814 NPA into a proposed southeastern NPA, referred to as "Area A," and a proposed northwestern NPA, referred to as "Area B." The boundary runs east of the Shinglehouse, Wilcox, Kersey, Dubois and Sykesville rate centers. Area A would have a projected NPA life of 18 years to exhaust and Area B would have a projected NPA life of 22 years to exhaust.
- **Alternative #3—All Services Distributed Overlay:** A new NPA code would be assigned to the same geographic area as the existing 814 NPA. Alternative #3 has a projected life of 20 years.

- **Alternative #4—Technology Specific Overlay:** Numbering resources in a technology specific overlay are assigned to service providers that use a particular type of technology.

- **Alternative #5—Two-Way Geographic Split:** The proposed split boundary line runs approximately along the boundary between the 924 and the 230 LATAs. The line divides the 814 NPA into a proposed eastern NPA, referred to as "Area A" in the IPD, and a proposed western NPA, referred to as "Area B." The boundary runs east of the Corry, Spartansburg, Grand Valley, Oil City, Venus, and Rockland rate centers. Area A would have a projected NPA life of 7 years to exhaust and Area B would have a projected NPA life of 61 years to exhaust.

At the March 21st meeting, the participants discussed the attributes of the relief alternatives and reached consensus to recommend to the Commission Alternative #3, the all-services distributed overlay plan, as the preferred method of relief for the 814 NPA. Alternative #3, the all-services distributed overlay, would superimpose a new NPA over the same geographic area covered by the existing 814 NPA. All existing customers would retain the 814 area code and would not have to change their telephone numbers. Consistent with FCC regulations, the relief plan would require 10-digit dialing for all local calls within and between the 814 NPA and the new NPA. The Industry recommends that calls between NPAs be dialed using 1+10-digits and 0+10 dialing for operator assisted calls. When the 814 NPA exhausts, all CO code assignments will be made from the new overlay area code. Industry participants reached consensus to recommend to the Commission a 13-month schedule for implementation of the overlay.

The recommended implementation schedule is as follows:

---

#### Recommended Implementation Schedule for All Services Distributed Overlay

Event	Timeframe
Network Preparation Period	6 months
Permissive 10-Digit Dialing and Customer Education Period (Calls within 814 NPA can be dialed using 7 or 10 digits)	6 months
Mandatory dialing period begins at the end of the Permissive Dialing Period	
First Code Activation (Effective date for codes from the new NPA)	1 month (after Mandatory Dialing Period)
Total Implementation Interval	13 months

---

After reaching consensus on the NPA relief plan to recommend to the Commission, however, the Industry discussed the decline in demand for CO codes and certain proposed number conservation measures such as thousands-block (1K) number pooling that may extend the life of the 814 NPA beyond the original projected exhaust date.<sup>11</sup> Consequently, the Industry decided to delay filing the petition for relief until such time that future NRUF reports indicated a more immediate need.

According to the April Number Resource Utilization Forecast (NRUF) and NPA Exhaust Analysis April 24,

<sup>11</sup> In April 2002, the 814 NPA was also included as a part of the national 1K block pooling roll-out schedule developed by Neustar. The 814 numbering pool was implemented in November 2002 in accordance with the FCC's national rollout of thousands-block pooling.

2009, Update (2009 NRUF Report),<sup>12</sup> the 814 NPA is projected to exhaust all available NXX codes during the third quarter 2012. After the release of the April 2009 NRUF Report which indicated that the 814 NPA would exhaust during the third quarter of 2012, the Industry met via conference call on April 19, 2009 and decided to file the updated petition for relief with the Commission.

#### III. Comments Sought By the Commission

The FCC has adamantly maintained that state commissions cannot engage in number conservation measures to

<sup>12</sup> Federal rules that went into effect on July 17, 2000, require all carriers to report to the NANPA their historical and forecast utilization data. 47 CFR 52.15(f). These reports are made semi-annually and are referred to as the "NRUF Reports." Using this data along with the rate of assignment of NXX codes in the NPA, the NANPA predicts the exhaust date for all NPAs in its NPA Exhaust Analysis. These reports can be found at [www.nanpa.com](http://www.nanpa.com).

the exclusion of, or as a substitute for, timely area code relief.<sup>13</sup> Therefore, when Pennsylvania's area codes are about to exhaust their supply of NXX codes, the Commission must implement timely area code relief, i.e., add a new area code. When faced with the need to implement new area codes, the Commission must decide two very important issues. First, the Commission must decide how to implement the new area code (i.e., a geographic split or an overlay). Second, the Commission must determine when the new area code needs to be implemented. Therefore, we are seeking comments from interested parties regarding what form of area code relief should be implemented upon exhaust of the 814 NPA and the timeframe for the implementation.

#### **A. Form of Area Code Relief for the 814 NPA**

According to the FCC, state commissions must add new area codes when the existing area codes exhaust or are about to exhaust all their NXX codes. Consequently, the critical element for deciding when to add new area codes is to know when the area code will exhaust all of its NXX codes. State commissions have no involvement in predicting or projecting the exhaust dates for area codes. The FCC has delegated this responsibility to the NANPA.

The NANPA projects exhaust dates for area codes by averaging the past rate of assignment of NXX codes and using that to estimate the future rate at which NXX codes will be assigned. Because these variables are so fluid, projecting accurate exhaust dates is difficult. With constantly changing information such as this, the Commission has a difficult time trying to determine when Pennsylvania's area codes will exhaust thereby requiring the addition of new area codes to ensure that all telecommunications carriers have numbering resources.

Once it is determined that area code relief is necessary, based on the NANPA's projected forecasts, state commissions are faced with the task of deciding what form that relief should take. The Commission is seeking comments on the five initial relief alternatives submitted by the NANPA to the industry and is open to suggestions regarding any other potential alternatives for providing relief to the 814 NPA.

Pennsylvania has experienced both area code splits and overlays. There have been a total of five overlays since 1999 (484, 267 and 878 have been implemented and 835 and 445 were activated but later rescinded). Prior to 1999, three geographic splits have been implemented (610, 570, and 724). There are benefits and disadvantages to either method.

With the imposition of an overlay, existing land-based telephone customers are not likely to have to change telephone numbers. Therefore, customers will not need to change their advertising and stationery. However, the FCC requires that 10 digits be used to dial all numbers in the overlaid area when an overlay is implemented. New NXX numbers from the new area code are assigned to carriers that do not have numbers available in a given rate center. Therefore, the first three digits of a 10-digit telephone number around the corner or down the block might be from the new area code. Eventually, a single customer might have two different area codes for telephone lines serving his or her home or place of business, if the existing carrier has run out of numbers in an NXX assigned to the old area code.

On the other hand, implementation of a geographic split involves dividing an existing area code into two or more parts, with one part retaining the old area code and other(s) receiving a new area code(s). Callers are presently able to continue using 7-digit dialing for calls made within the area code boundaries. Customers in the area retaining the old area code are minimally impacted. Customers in the new area code, however, must change their area codes. Businesses must revise their stationery and their advertising. Commercial customers may not be able to retain "vanity numbers," upon which they have spent advertising dollars. Callers, particularly at the border of the old and new area codes are temporarily inconvenienced. They often must dial 11 digits to make calls that were previously 7-digit numbers. Although local calling areas actually have not changed, and calls that were local before the area code split remain local calls, even if they cross into the new area code, people are initially disconcerted and distrusting of the concept of an eleven-digit local call. Indeed, local calling areas do not change no matter which method of area code relief is implemented.

Specifically, the Commission is interested in the specific circumstances of the 814 NPA and whether these circumstances favor the implementation of one form of relief over the other. We ask parties that are submitting comments to keep in mind the following factors when advocating for a particular form of area code relief: 1) What form of area code relief would create longer lasting NPAs for the 814 region; and 2) What form of area code relief is the least disruptive to consumers.

#### **B. Implementation Schedule and Activation of the Relief Plan Chosen for the 814 NPA**

While a state commission may not utilize numbering optimization measures in lieu of implementing timely area code relief, a state commission may minimize the consumer impact of traditional area code relief by not implementing new area codes sooner than necessary. Accordingly, we would like comments from interested parties on the time frame for when area code relief must be implemented and ultimately activated to relieve the 814 NPA. The current overlay relief plan proposed by the industry allows 13 months for full implementation of the new NPA. According to this timeline, 6 months are devoted to network preparation, 6 months are devoted to "permissive" 10-digit dialing, and 1 month is devoted to "mandatory" 10-digit dialing. The Commission's experience with area code overlays is that they can be fully implemented within 6 months. Consequently, the Commission questions whether a 13-month timeline would really be necessary for implementation of an overlay for the 814 NPA.

We also seek comment on the following questions regarding implementation of a split to relieve the 814 NPA. What is the shortest amount of time this type of relief can be implemented? Would a 6-month time frame for implementation of a split be feasible? What aspect of implementing a split is the most significant for the industry and how long does this take to complete?

Also, in Southeastern Pennsylvania (610/484 and 215/267), the Commission had ordered that additional proposed overlays (835 over 610/484 and 445 over 215/267) not be implemented until 3 months prior to total exhaust of the underlying NPAs. Is a similar situation possible for the 814 NPA? More specifically, could the industry undertake to implement an overlay for the 814 NPA but not actually activate that new overlay NPA until total exhaust of the 814 NPA? Could the requirement of 10-digit

<sup>13</sup> *In the Matter of Numbering Resource Optimization*, CC Docket Nos. 99-200, 96-98, NSD File No. L-99-101 (2000).

dialing be suspended until the new overlay NPA were fully activated? We would like comments from interested parties on the time frame for when area code relief must be implemented to relieve the 814 NPA.

Moreover, we recently filed a petition with the FCC requesting additional delegated authority so that we could implement mandatory number pooling throughout each and every rate center within our NPAs. We believe that if the petition is granted by the FCC, it will add to the number of NXX codes available for assignment in our NPAs, particularly our more geographically rural NPAs, like the 814 NPA. We also believe that this may impact the implementation schedule for any new area code in the 814 NPA.

#### *Conclusion*

The policy of the Commission is to ensure that numbering resources are made available on an equitable, efficient and timely basis in Pennsylvania while ensuring that the impact of proliferating new area codes on consumers is as minimal as possible. In view of the well-documented disruption to customers caused by changes in their area code, it is in the public interest for us to seek comments

from consumers, the industry and other interested parties involved regarding this difficult decision; *Therefore,*

#### *It Is Ordered That:*

1. The industry consensus recommendation set forth in the petition for an all services distributed overlay relief plan for the 814 NPA is denied, pending receipt of comments and any further proceedings, as necessary.

2. Comments, as requested by this Order, be filed with the Commission no later than 30 days after this Order is published in the *Pennsylvania Bulletin*. Reply comments may be filed within 20 days after the close of the comment period.

3. A copy of this order shall be served on all jurisdictional telecommunications carriers, wireless carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, and Wayne Milby and Beth Sprague of the North American Numbering Plan Administrator.

4. A copy of this order shall be published both in the *Pennsylvania Bulletin* and on the Commission's web site.

JAMES J. MCNULTY,  
*Secretary*

## APPENDIX A

814 NPA Relief Alternatives

**PENNSYLVANIA**  
**NPA RELIEF PLANNING TOOL ASSUMPTIONS FOR 814 NPA**

NRUF DATE:	May 2001
PROJECTED EXHAUST DATE:	1stQuarter 2005
ANNUALIZED CO CODE DEMAND PROJECTION:	69
MONTHLY CO CODE DEMAND PROJECTION:	4.8
LERG DATA:	December 2001

**NPA Relief Alternatives**

NPA Split Alternatives
------------------------

The exhausting NPA is split into two geographic areas and a new NPA is assigned to one of the areas formed by the split. All split plans would require ten-digit local dialing between NPAs in the same extended local calling area. Within an NPA, seven-digit dialing would be permitted.

**Alternative #1 – NPA Split**

The proposed boundary line runs along rate center boundaries approximately following the county boundaries between Cambria and Clearfield and Centre and Clearfield. The proposed boundary runs south of Glen Campbell, Mahaffey, Coalport and Houtzdale. The line then turns north and runs east of Osceola Mills, Clearfield, Winburne and Frenchville.

## Area A

Total CO Codes at Exhaust = 409

Area code life in years = 8

## Area B

Total CO Codes at Exhaust = 314

Area code life in years = 14

**Alternative #2 – NPA Split**

The proposed boundary line runs along rate center boundaries approximately to the east of Jefferson, Elk and Mckean counties. The proposed boundary runs in a north/south direction east of the rate centers Shinglehouse, Wilcox, Kersey, Dubois and Sykesville.

## Area A

Total CO Codes at Exhaust = 383

Area code life in years = 9

## Area B

Total CO Codes at Exhaust = 340

Area code life in years = 12

February 2002

## 814 NPA Relief Alternatives

Overlay Alternative
---------------------

**Alternative #3 – All Services Distributed Overlay**

A new NPA code would be assigned to the same geographic area as the existing 814 NPA. Customers would retain their current telephone numbers; however, ten-digit local dialing by all customers between and within area codes in the area covered by the new code would be required. Codes in the overlay NPA will be assigned upon request with the effective date of the new area code. At exhaust of the 814 NPA all code assignment will be made in the overlay area code.

Total CO Codes at Exhaust = 723

Area code life in years = 11

Industry Developed Alternatives
---------------------------------

**Alternative #4 – Technology Specific (or Specialized) Overlay**

Numbering resources in a technology specific overlay are assigned to service providers that use a particular type of technology or technologies. The Pennsylvania Public Utility Commission Staff (Staff) asked the industry to consider the criteria set forth in paragraph 81 of the FCC's Third Report and Order as guidance in developing this alternative. Staff cited an overlay for wireless service providers only and an overlay for non-pooling service providers as examples for the industry to consider as a starting point.

Because implementation of this type of relief plan requires States to seek delegated authority and FCC approval, no calculations or a map have been provided by NANPA.

**Alternative #5 – NPA Split<sup>1</sup>**

The proposed boundary line runs along rate center boundaries approximately between LATA boundary 924 and LATA boundary 230. The proposed boundary runs east of Corry, Spartansburg, Grand Valley, Oil City, Venus and Rockland.

Area A

Total CO Codes at Exhaust = 542

Area code life in years = 4

Area B

Total CO Codes at Exhaust = 181

Area code life in years = 31

<sup>1</sup> Alternative #5 does not meet the specifications of INC 97-0404-016, but was requested by an industry member during the pre-IPD conference call and is included as part of the record.

February 2002



814 NPA Relief Alternatives

PENNSYLVANIA

PROJECTED LIVES OF RELIEF ALTERNATIVES

In Years

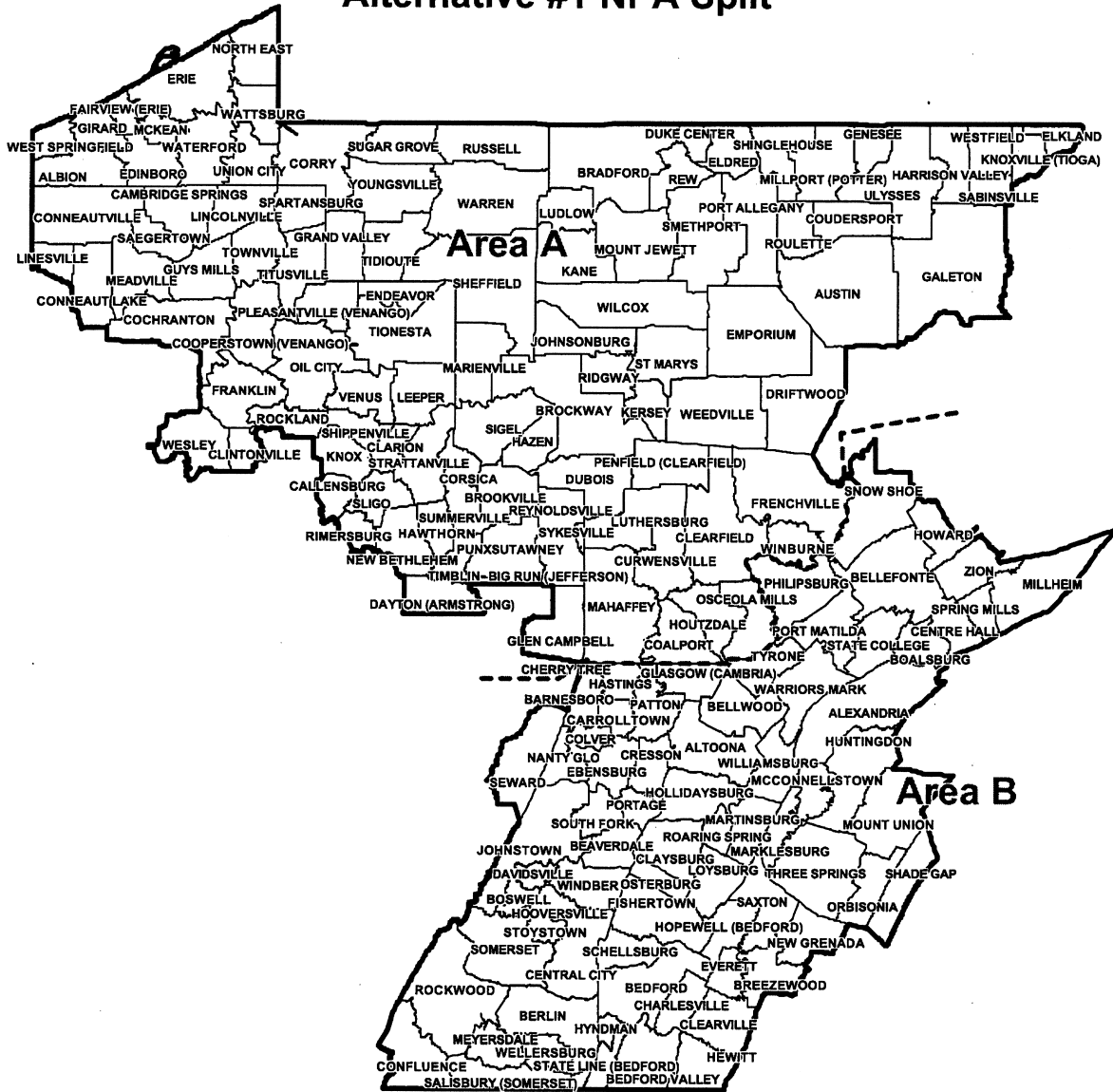
Alternative	Area A		Area B
#1	8		14
#2	9		12
#3		11	
#4	NA		NA
#5	4		31

February 2002

Pennsylvania NPA 814 Rate Center Map



Alternative #1 NPA Split



NPA 814 Map Legend

- NPA Boundaries
- Rate Center Boundaries
- Split Line

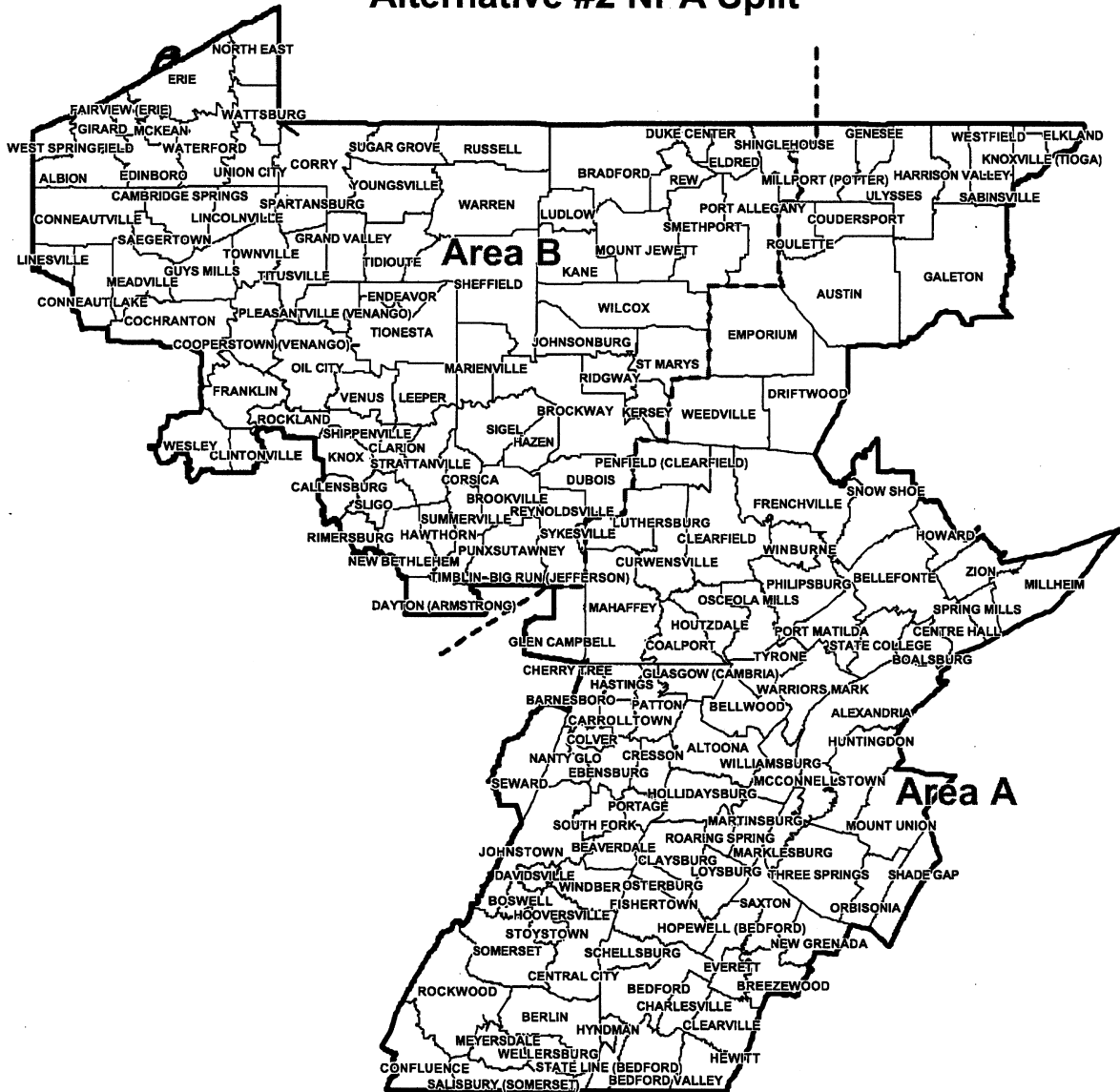
ALTERNATIVE #1	PROJECTED LIVES
Area "A"	8 Years
Area "B"	14 Years

Produced by CDS Business Mapping 1/22/2002

Pennsylvania NPA 814 Rate Center Map



Alternative #2 NPA Split



NPA 814 Map Legend

- NPA Boundaries
- Rate Center Boundaries
- Split Line

ALTERNATIVE_#2	PROJECTED_LIVES
Area "A"	9 Years
Area "B"	12 Years

Produced by CDS Business Mapping 1/22/2002

Pennsylvania NPA 814 Rate Center Map



Alternative #3  
All Services Distributed Overlay



NPA 814 Map Legend

- NPA Boundaries
- Rate Center Boundaries
- Split Line

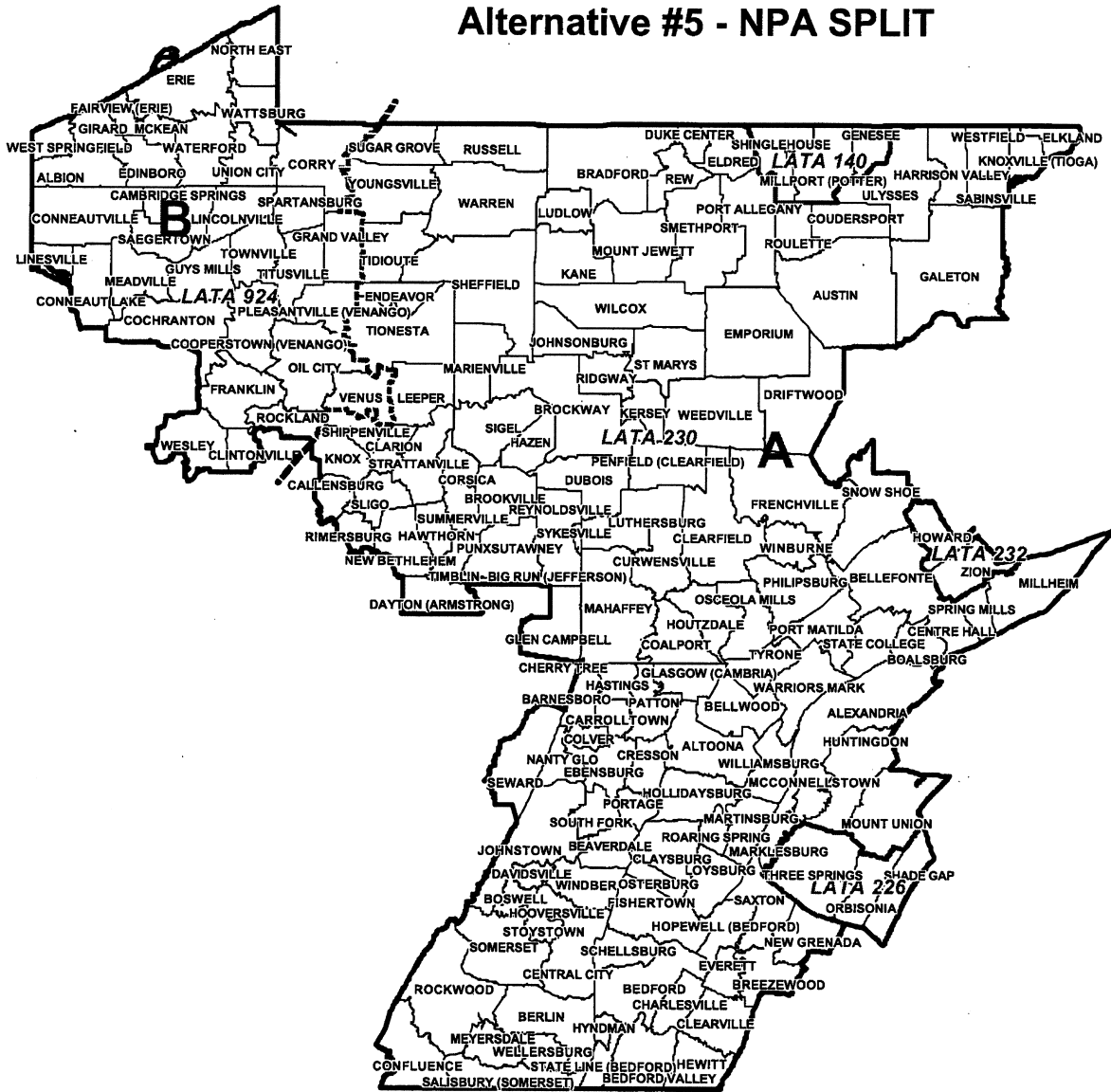
ALTERNATIVE #3	PROJECTED LIVES
Overlay	11 Years

Produced by CDS Business Mapping 1/22/2002

Pennsylvania NPA 814 Rate Center & LATA Map



Alternative #5 - NPA SPLIT



NPA 814 Map Legend

- NPA Boundaries
- Rate Center Boundaries
- LATA Boundaries
- NPA Split Boundary

Alternative_#5	Projected_Lives
Area "A"	4 Years
Area "B"	31 Years

Produced by CDS Business Mapping

NOTICES

RATE CENTER TABLE

Pennsylvania								
814 NPA								
12/01 LERG								
Count of NXX	CATEGORY							
RC FULL NAME	GLEC	ICO	PCS	RBOC	ULEC	WIRELESS	(blank)	Grand Total
ALBION			1					1
ALEXANDRIA					2			3
ALTOONA	7			1	8	1	14	31
AUSTIN	1				1			2
BARNESBORO	2				2			4
BEAVERDALE			1					1
BEDFORD		2	2				4	8
BEDFORD VALLEY			1					1
BELLEFONTE		2			4	1	3	10
BELLWOOD	1				1			2
BERLIN			1					1
BIG RUN (JEFFERSON)					1			1
BOALSBURG	1				1		4	6
BOSWELL			1					1
BRADFORD	2			3	3		3	11
BREEZEWOOD			1					1
BROCKWAY			3					3
BROOKVILLE			1	2				3
CALLENSBURG			1					1
CAMBRIDGE SPRINGS	1		1					2
CARROLLTOWN					1			1
CENTRAL CITY			1					1
CENTRE HALL	1				1			2
CHARLESVILLE			1					1
CHERRY TREE					1			1
CLARION		5		2	4		3	14
CLAYSBURG			1					1
CLEARFIELD		2		2	4		4	12
CLEARVILLE			1					1
CLINTONVILLE			1					1
COALPORT			1					1
COCHRANTON			1					1
COLVER			1					1
CONFLUENCE	1		1					2
CONNEAUT LAKE			1					1
CONNEAUTVILLE			1					1
COOPERSTOWN (VENANGO)			1					1
CORRY	1		3					4
CORSICA			1					1
COUDERSPORT	3			1	1			5
CRESSON	1				2			3
CURWENSVILLE	1				1			2
DAVIDSVILLE			1					1
DAYTON (ARMSTRONG)			1					1
DRIFTWOOD			1					1
DUBOIS		5		2	3		5	15
DUKE CENTER			1					1
EBENSBURG	2				2			4
EDINBORO	1		2					3
ELDRED					1			1
ELKLAND	2		1					3
EMPORIUM			1					1
ENDEAVOR					1			1
ERIE	5		30	2			15	52
EVERETT			1					1
FAIRVIEW (ERIE)	1		1					2
FISHERTOWN			1					1
FRANKLIN	4		2	2				8
FRENCHVILLE	1				1			2
GALETON	1				1			2
GENESEE			1					1
GIRARD	1		1					2
GLASGOW (CAMBRIA)			1					1
GLEN CAMPBELL					1			1
GRAND VALLEY	1		1					2
GUY'S MILLS			1					1
HARRISON VALLEY			1					1
HASTINGS					1			1
HAWTHORN			1					1
HAZEN			1					1
HEWITT			1					1
HOLIDAYSBURG	1				4			5
HOOVERSVILLE			1					1
HOPEWELL (BEDFORD)			1					1
HOUTZDALE	1				1			2
HOWARD	1		1					2
HUNTINGDON	3				3		2	9
HYNDMAN			1					1
JOHNSONBURG			1					1
JOHNSTOWN	4		13	1			12	30
KANE					1			1
KERSEY			1					1
KNOX			1					1

Source: Local Exchange Routing Guide

RATE CENTER TABLE

KNOXVILLE (TIOGA)			1						1
LEEPER	1				1				2
LINCOLNVILLE			1						1
LINESVILLE			1						1
LOYSBURG			1						1
LUDLOW					1				1
LUTHERSBURG			1						1
MAHAFFEY					1				1
MARIENVILLE	1				1				2
MARKLESBURG	1	1							2
MARTINSBURG		1							1
MCCONNELLSTOWN	1	1							2
MCKEAN	1	1							2
MEADVILLE		6	2				4		12
MEYERSDALE		1							1
MILLHEIM	2				1				3
MILLPORT (POTTER)		1							1
MOUNT JEWETT	1				1				2
MOUNT UNION	1				2				3
NANTY GLO		1							1
NEW BETHLEHEM		1							1
NEW GRENADA		1							1
NORTH EAST	2	1							3
OIL CITY	2	3	2				4		11
ORBISONIA		1							1
OSCEOLA MILLS					1				1
OSTERBURG		1							1
PATTON	1				1				2
PENFIELD (CLEARFIELD)		1							1
PHILIPSBURG	2				2				4
PLEASANTVILLE (VENANGO)	1	1							2
PORT ALLEGANY					1				1
PORT MATILDA		1							1
PORTAGE	1				1				2
PUNXSUTAWNEY	3		1		2				6
REW	1				1				2
REYNOLDSVILLE	1				1		2		4
RIDGWAY		3							3
RIMERSBURG		1							1
ROARING SPRING		1							1
ROCKLAND		1							1
ROCKWOOD		2							2
ROULETTE	1				1				2
RUSSELL					1				1
SABINSVILLE		1							1
SAEGERTOWN		1							1
SALISBURY (SOMERSET)		1							1
SAXTON	1				1				2
SHELLSBURG	1	1							2
SEWARD		1							1
SHADE GAP		1							1
SHEFFIELD		1							1
SHINGLEHOUSE		1							1
SHIPPENVILLE		1							1
SIGEL		1							1
SLIGO		1							1
SMETHPORT	1				1				2
SNOW SHOE	1				1				2
SOMERSET	2	3	1		1		4		10
SOUTH FORK		1							1
SPARTANSBURG	1	1							2
SPRING MILLS	1				1				2
ST MARYS		3	1				3		7
STATE COLLEGE	5		3		11	1	3		23
STATE LINE (BEDFORD)		1							1
STOYSTOWN	1	1							1
STRATTANVILLE		1							1
SUGAR GROVE					1				1
SUMMERSVILLE	1	1							2
SYKESVILLE					1				1
THREE SPRINGS		1							1
TIDIOUTE					1				1
TIMBLIN		1							1
TIONESTA	1				1				2
TITUSVILLE	1	1							2
TOWNVILLE		1							1
TYRONE	1				2				3
ULYSSES	1				1				2
UNION CITY		1							1
VENUS		1							1
WARREN	5		3		3		2		13
WARRIORS MARK		1							1
WATERFORD	1	1							2
WATTSBURG	1	1							2
WEEDVILLE		1							1
WELLERSBURG		1							1
WESLEY	1	1							1
WEST SPRINGFIELD		1							1

Source: Local Exchange Routing Guide

NOTICES

RATE CENTER TABLE

WESTFIELD		1						1
WILCOX		1						1
WILLIAMSBURG		1						1
WINBURNE	1			1				2
WINDBER		1						1
YOUNGSVILLE				1				1
ZION	1	1						2
(blank)								
Grand Total		120	180	31	105	3	91	530

Source: Local Exchange Routing Guide

[Pa.B. Doc. No. 09-1440. Filed for public inspection August 7, 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 August 24, 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-2009-2120515. Cindy's Carriages, LLC** (7011 Old Steubenville Pike, Suite 102, Oakdale, Allegheny County, PA 15071)—persons, in airport transfer service, from points in Allegheny County to the Pittsburgh International Airport located in Findley Township, Allegheny County.

**A-2009-2120572. Cindy's Carriages, LLC** (7011 Old Steubenville Pike, Suite 102, Oakdale, Allegheny County, PA 15071)—persons, upon call or demand, in the Townships of North Fayette, Oakdale, Robinson, Coropopolis, Moon, Findley and Kennedy, all in Allegheny County.

**A-2009-2120621. Cuzzo, LLC, d/b/a A Touch of Class Limousines** (575 North East Street, Frederick, MD 21701)—persons, in limousine service, from points in the Counties of Adams and Franklin, to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

**A-2009-2120726. Frank C. Noonan** (420 West Lincoln Avenue, Myerstown, Lebanon County, PA 17067)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, for medical treatment, from points in Lancaster County, to points in Pennsylvania, and return.

**A-2009-2120781. Jet Sedan Services, LLC** (115 Philander Street, Pittsburgh, Allegheny County, PA 15218), a limited liability company of the Commonwealth—for the right to begin to transport persons, in limousine service, from points in the Counties of Allegheny, Beaver, Butler, Cambria, Clearfield, Crawford, Erie, Fayette, Lawrence, Mercer, Venango, Washington and Westmoreland, to points in Pennsylvania, and return, excluding service under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David M. O'Boyle, Wick, Streiff, Meyer, O'Boyle & Szeligo, P. C., 1450 Two Chatham Center, 112 Washington Place, Pittsburgh, PA 15219-3455.

**A-2009-2121141. Rickey Eugene Fisher** (2021 Gap Road, Allenwood, Lycoming County, PA 17810)—for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in Washington Township, Lycoming County, and within an airline radius of 50 statute miles of said township.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Lehigh Valley Taxicab Co., Inc.; Doc. No. C-2009-2058197*

### 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 Lehigh Valley Taxicab Co., Inc. (respondent) is under suspension effective September 04, 2008, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 1766 West Market Street, Bethlehem, PA 18018-3848.

3. That respondent was issued a Certificate of Public Convenience by this Commission on May 13, 1963, at A-00088477F0006.

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-00088477F0006 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. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Browns  
Trucks & Tows, Inc.; Doc. No. C-2009-2046799*

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 Brown's Trucks & Tows, Inc. (respondent) is under suspension effective November 24, 2008, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 6821 Kelly Street, Pittsburgh, PA 15208.

3. That respondent was issued a Certificate of Public Convenience by this Commission on April 09, 2007, at A-00123077.

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-00123077 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

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. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Osman Akbulut;  
Doc. No. C-2009-2113224*

#### 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 Osman Akbulut (respondent) is under suspension effective June 17, 2009, for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 228-East North Arlington Avenue, Harrisburg, PA 17109.

3. That respondent was issued a Certificate of Public Convenience by this Commission on September 09, 2008, at A-00122310.

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

#### 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:

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-00122310 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

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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. If you have questions regarding this Complaint or if you would like an alternative format of this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 09-1441. Filed for public inspection August 7, 2009, 9:00 a.m.]

#### **Tentative Order**

Public Meeting held  
July 23, 2009

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli;  
Wayne E. Gardner; Robert F. Powelson

*In re: 1-800-Reconex, Inc.;*  
*Doc. Nos. A-310593, A-310593F0002, A-310593F0003*

#### **Tentative Order**

*By the Commission:*

1-800-Reconex, Inc. (Reconex) is a competitive local exchange carrier, a reseller of interexchange toll services, and a competitive access provider certificated at A-310593, A-310593F0002 and A-310593F0003, respectively. By letter dated May 15, 2009, Reconex's former Vice President and General Counsel advised the Commission that Reconex has ceased doing business as of May 31, 2009, and any remaining assets were being returned to leasing companies or being liquidated.

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 the above facts, we believe it is appropriate to revoke Reconex's certificates of public convenience without the necessity of a formal complaint. For these reasons, we tentatively conclude that revocation of Reconex's certificates of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) 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 Reconex seeks relief from this Tentative Order; *Therefore, It Is Ordered That:*

1. Revocation of 1-800-Reconex, Inc.'s certificates of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The absence the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificates of public convenience held by 1-800-Reconex, Inc. at A-310593, A-310593F0002 and A-310593F0003 shall be canceled, and 1-800-Reconex, Inc.'s name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 09-1442. Filed for public inspection August 7, 2009, 9:00 a.m.]

### Tentative Order

Public Meeting held  
July 23, 2009

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli;  
Wayne E. Gardner; Robert F. Powelson

*In re: Lightwave Communications, LLC;*  
*Doc. Nos. A-311021, A-311021F0002*

### Tentative Order

*By the Commission:*

Lightwave Communications, LLC (Lightwave) is a competitive local exchange carrier and a reseller of interexchange toll services certificated at A-311021 and A-311021F0002, respectively. On Lightwave's 2008 Annual Report filed on February 4, 2009, it was noted that Lightwave ceased doing business as of September 18, 2008. A follow up telephone call by Commission Staff to the phone number appearing on the report revealed that the report was filed by Broadview Networks, Inc. (Broadview). Staff subsequently learned in another call to an official with Broadview that Broadview purchased all

of Lightwave's customers while Lightwave was in a Federal bankruptcy proceeding.

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 the above facts, we believe it is appropriate to revoke Lightwave's certificates of public convenience without the necessity of a formal complaint. For these reasons, we tentatively conclude that revocation of Lightwave's certificates of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) 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 Lightwave seeks relief from this Tentative Order; *Therefore, It Is Ordered That:*

*It Is Ordered That:*

1. Revocation of Lightwave Communications, LLC's certificates of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The absence of the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificates of public convenience held by Lightwave Communications, LLC at A-311021 and A-311021F0002 shall be canceled, and Lightwave Communications, LLC's name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 09-1443. Filed for public inspection August 7, 2009, 9:00 a.m.]

### Tentative Order

Public Meeting held  
July 23, 2009

*Commissioners Present:* James H. Cawley, Chairperson;  
Tyrone J. Christy, Vice Chairperson; Kim Pizzingrilli;  
Wayne E. Gardner; Robert F. Powelson

*In re: NexUSTel, LLC;*  
*Doc. No. A-2008-2049492*

### Tentative Order

*By the Commission:*

NexUSTel, LLC (NexUSTel) is a reseller of interexchange toll services certificated at A-3110243. By letter dated March 20, 2009, NexUSTel advised the Commission that it will not provide intrastate telecommunications services for the foreseeable future and that it wishes to abandon its certificate of public convenience. By letter dated April 17, 2009, Secretary McNulty directed

NexUSTel to file an abandonment application and to remit the requisite \$350 filing fee. More recently, Commission staff attempted unsuccessfully to contact by phone and e-mail NexUSTel about the status of its abandonment filing. Additionally, the telephone number the Commission has on file for NexUSTel is disconnected and no information is available for any new phone numbers.

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 the above facts, we believe it is appropriate to revoke NexUSTel's certificate of public convenience without the necessity of a formal complaint. For these reasons, we tentatively conclude that revocation of NexUSTel's certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) 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 NexUSTel seeks relief from this Tentative Order; *Therefore,*

*It Is Ordered That:*

1. Revocation of NexUSTel, LLC's certificate of public convenience is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The absence of the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.

4. Upon this order becoming final, and without further action by the Commission, the certificate of public convenience held by NexUSTel, LLC at A-3110243 shall be canceled, and NexUSTel, LLC's name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Administrative Services.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-1444. Filed for public inspection August 7, 2009, 9:00 a.m.]

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## Water

**R-2009-2117550. Newtown Artesian Water Company.** Newtown Artesian Water Company filed Supplement Number 67 to Tariff Water Pa PUC Number 9, effective September 1, 2009, for the purpose of placing a Purchased Water Adjustment Clause in the company's tariff.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before August 24, 2009. The documents filed in support of the application are available for

inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Newtown Artesian Water Company

*Through and By Counsel:* Thomas T. Niesen, Esquire, Thomas, Long, Niesen and Kennard, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-1445. Filed for public inspection August 7, 2009, 9:00 a.m.]

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## Water Service

**A-2009-2119930. Pennsylvania American Water Company.** Application of Pennsylvania American Water Company for approval of the right to begin to offer, render, furnish or supply water service to the public in a portion of Paint Township, Clarion County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before August 24, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* Pennsylvania American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-1446. Filed for public inspection August 7, 2009, 9:00 a.m.]

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# PENNSYLVANIA STIMULUS OVERSIGHT COMMISSION

## Public Meeting Rescheduled

The public meeting previously scheduled for the Pennsylvania Stimulus Oversight Commission for Thursday, August 13, 2009, at 11 a.m. is cancelled. The next meeting will be held Thursday, September 10, 2009, in Conference Room 1, Forum Place Building, 555 Walnut Street, Harrisburg, PA.

RONALD NAPLES,  
*Chairperson*

[Pa.B. Doc. No. 09-1447. Filed for public inspection August 7, 2009, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Sale of Surplus Equipment

The Philadelphia Regional Port Authority (PRPA) will accept bids for the sale of the following surplus equipment until 2 p.m., Thursday, September 3, 2009.

Project #08-135, sale of two 1,500 gallon, preowned, never used, Concrete Storage Tanks.

Project #08-136, sale of one used Cleaver Brooks Boiler, pressure of 150 PSI, output of 125 horsepower, Model #CB100-125-150 ST and aboveground 2,000 gallon fuel tank.

The bid document may be found at [www.philaport.com](http://www.philaport.com) and will be available August 11, 2009. Contact Donna Powell the Director of Procurement for additional information at (212) 426-2600.

The PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 09-1448. Filed for public inspection August 7, 2009, 9:00 a.m.]

## STATE BOARD OF COSMETOLOGY

### Professional and Occupational Affairs v. Corinne E. Beatty; Doc. No. 1165-45-2009

On June 25, 2009, Corinne E. Beatty, license no. CL019749L, of Bentleyville, Washington County, was suspended for failing to pay a previously imposed civil penalty.

Individuals may obtain a copy of the order by writing to David Markowitz, Board Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Cosmetology (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsyl-

vania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

JANET G. M. SANKO,  
*Chairperson*

[Pa.B. Doc. No. 09-1449. Filed for public inspection August 7, 2009, 9:00 a.m.]

## STATE POLICE

### Mobile Video Recording System Equipment Standards and Approved Mobile Video Recording Systems

The State Police, under 18 Pa.C.S. §§ 5704(16)(ii)(C) and 5706(b)(4) (relating to exceptions to the prohibition of interception and disclosure of communications; and exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices), published at 34 Pa.B. 1304 (February 28, 2004) a notice of Mobile Video Recording System Equipment Standards and Approved Mobile Video Recording Systems for use until the next comprehensive list is published.

As an addendum to the listing of approved mobile video recording systems published at 34 Pa.B. 1304, the State Police, under the authority cited previously, has approved for use, until the next comprehensive list is published, subject to interim amendment, the following additional approved mobile video recording system, which meets the minimum equipment standards published at 34 Pa.B. 1304:

*Digital Patroller*, Integrian, Morrisville, NC

Comments, suggestions or questions should be directed to State Police, Bureau of Patrol, Department Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110.

COLONEL FRANK E. PAWLOWSKI,  
*Commissioner*

[Pa.B. Doc. No. 09-1450. Filed for public inspection August 7, 2009, 9:00 a.m.]

