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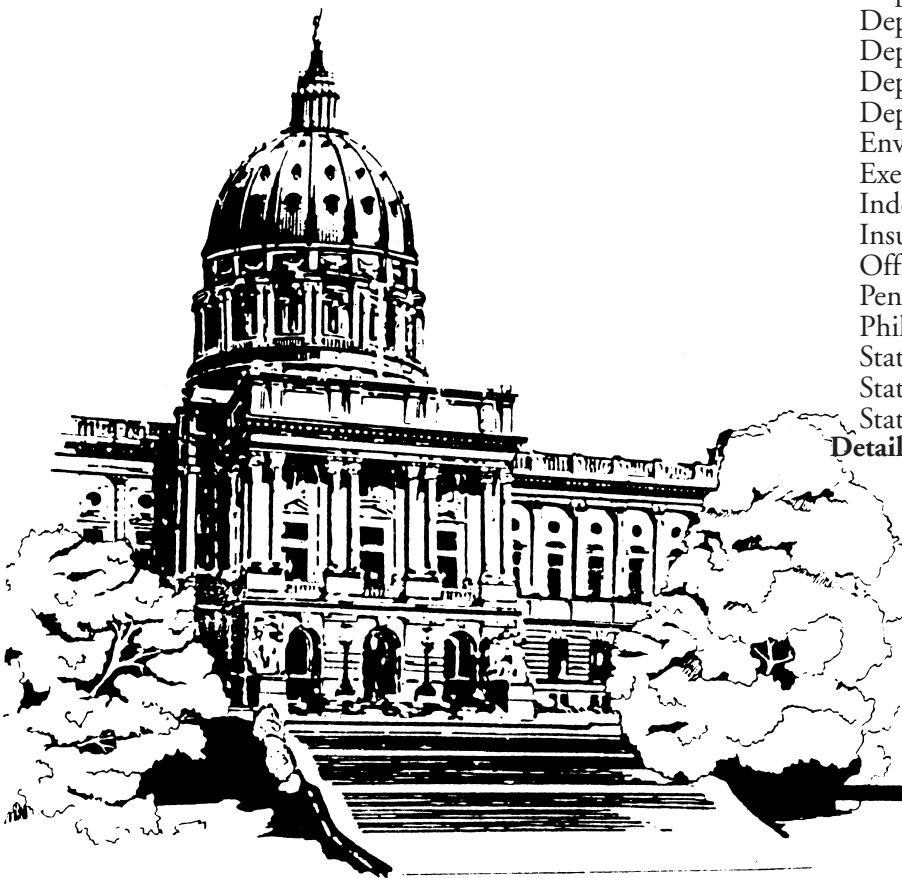
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Insurance Department
Office of the Budget
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Board of Chiropractic
State Board of Cosmetology
State Board of Pharmacy

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No. 421, December 2009

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 6]

[EXECUTIVE ORDER NO. 2004-1 AS AMENDED]

Governor's Invasive Species Council

September 18, 2006

Whereas, nonnative invasive species are a national problem that pose significant environmental and economic threats to the Commonwealth's natural resources and resource-based industries, and may be detrimental to public health and safety; and

Whereas, nonnative invasive species pose a significant threat to biodiversity which is essential for the Commonwealth's economic, environmental, and social well-being; and

Whereas, preventing new introductions of nonnative invasive species and limiting the spread of established populations into uninfested areas is both environmentally responsible and economically beneficial; and

Whereas, federal *Executive Order 13112* acknowledges that nonnative invasive species fail to recognize jurisdictional boundaries, thus creating a need for enhanced coordination between local, state, regional, and federal entities; and

Whereas, the *National Invasive Species Act of 1996* provides federal funding to states that voluntarily implement a federally approved aquatic invasive species management plan; and

Whereas, it has been determined that the Governor and the Commonwealth would benefit from the advice and counsel of an official representative body of natural resource managers, policymakers, and researchers engaged in abating the introduction and spread of nonnative invasive species in Pennsylvania.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Governor's Invasive Species Council (hereinafter referred to as the "Council") as hereinafter set forth.



Governor

Fiscal Note: GOV 04-11. (1) General Fund; (2) Implementing Year 2003-04 is \$25,000; (3) 1st Succeeding Year 2004-05 is \$75,000; 2nd Succeeding Year 2005-06 is \$75,000; 3rd Succeeding Year 2006-07 is \$75,000; 4th Succeeding Year 2007-08 is \$75,000; 5th Succeeding Year 2008-09 is \$75,000; (4) 2002-03 Program—\$N/A; 2001-02 Program—\$N/A; 2000-01 Program—\$N/A; (7) Department of Agriculture—General Government Operations; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

Subchapter T. GOVERNOR'S INVASIVE SPECIES COUNCIL

§ 6.272. Responsibilities.

The Governor's Invasive Species Council (Council) shall:

(1) Develop and implement a comprehensive nonnative invasive species management plan for this Commonwealth and revise the plan at regular 5-year intervals or as needed.

(2) Provide guidance on prevention and control of nonnative invasive species and rapid response to new infestations. The Council shall utilize scientific methods and procedures to assist in developing the guidance. In addition, the Council may consider the potential for widespread harm to public health, an ecological system or the economic benefit derived from a nonnative species to determine whether control measures are needed.

(3) Facilitate coordination among Federal, regional, State and local initiatives and organizations engaged in the management of nonnative invasive species.

(4) Convene at least quarterly and at the call of the Chairperson of the Council.

(5) Adopt rules of procedure consistent with this subchapter.

§ 6.273. Composition.

(a) The Secretary of Agriculture will serve as Chairperson of the Governor's Invasive Species Council (Council). The membership will include agency heads of the Commonwealth or designees responsible for the conservation of agricultural and natural resources and the protection of public health, each of whom shall be appointed by and serve at the pleasure of the Governor, including the following:

- (1) Secretary of Conservation and Natural Resources.
- (2) Secretary of Environmental Protection.
- (3) Secretary of Health.
- (4) Secretary of Transportation.
- (5) Executive Director of the Fish and Boat Commission.
- (6) Executive Director of the Game Commission.

(b) In addition, the Council will have up to ten members of the public representing agriculture and natural resource organizations and educational institutions conducting nonnative invasive species research and outreach. The members of the public will be appointed by and serve at the pleasure of the Governor. A member of the public appointed to the Council under this section may have a designee act on the member's behalf, if the member first provides the Chairperson a copy of the member's written designation authorizing the designee to so act.

[Pa.B. Doc. No. 09-2359. Filed for public inspection December 24, 2009, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rule 206.1 Governing Petitions and Rule 206.5 Governing Rules to Show Cause; Proposed Recommendation No. 243

The Civil Procedural Rules Committee proposes that Rules of Civil Procedure 206.1 governing petitions and 206.5 governing rules to show cause 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 February 19, 2010 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

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 200. BUSINESS OF COURTS

Rule 206.1. Petition. Definition. Content. Form.

(a) As used in this chapter, "petition" means

(1) an application to **strike and/or** open a default judgment or a judgment of non pros, and

(2) any other application which is designated by local rule, numbered Local Rule 206.1(a), to be governed by Rule 206.1 et seq.

Official Note: A petition for relief from a judgment by confession is governed by Rule 2959.

Motions are governed by Rule 208.1 et seq.

Rule 206.1(a)(2) authorizes each court of common pleas to designate applications which are to proceed in the manner of a petition under Rule 206.1 et seq. Rule 239.2(a) requires each court which has made that designation to promulgate a local rule, numbered Local Rule 206.1(a), listing the applications to be determined pursuant to Rule 206.1 et seq. Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujsportal.pacourts.us>).

(b) A petition shall specify the relief sought and state the material facts which constitute the grounds therefore. **All grounds for relief, whether to strike or open a default judgment, shall be asserted in a single petition.**

(c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

Official Note: Petitions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a petition and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order.

(a) [**Rescinded**] **A judgment shall be stricken without the issuance of a rule to show cause when there is a defect on the face of the record that is grounds for striking a default judgment.**

* * * * *

Explanatory Comment

The Civil Procedural Rules Committee is proposing the amendment of Rule 206.1 governing petitions and Rule 206.5 governing rules to show cause. The proposed amendment requires that all grounds for relief from a default judgment, whether to strike off or to open, be raised in a single petition. Under current case law, it appears that a judgment debtor is not required to raise all grounds for relief from a default judgment in a single petition. In *Mother's Restaurant, Inc. v. Krystkiewicz*, 861 A.2d 327, 337 (Pa. Super. 2004) (citation omitted) (footnote omitted), the Superior Court stated "Additionally, an individual may even seek to strike a void judgment after a trial court has previously denied his/her petition to open the same judgment." See also *Bancorp Group, Inc. v. Pirgos, Inc.*, 744 A.2d 791, 793 n.1 (stating that the denial of a petition to strike does not preclude review of a subsequent petition to open a default judgment.)

The proposed amendment is intended to bring the practice involving default judgments in line with other areas of the rules of civil procedure in which all grounds must be raised at the same time, such as striking off or opening confessed judgments pursuant to Rule 2959(a) or raising all preliminary objections at the same time pursuant to Rule 1028(b).

By the Civil Procedural
Rules Committee

STEWART L. KURTZ
Chair

[Pa.B. Doc. No. 09-2360. Filed for public inspection December 24, 2009, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 207]

Adjustment of Fines, Costs, Fees, and Other Remittances

By Order of the Supreme Court of Pennsylvania of October 14, 1988, Judicial Administration Docket No. 88, the Court Administrator has been delegated the authority under the Judicial Code, 42 Pa.C.S. § 3502(c)(3), to adjust, through regulation, the level of fines, costs, fees, and other remittances as otherwise fixed by law so as to facilitate the transmission of remittances through or by a financial intermediary.

In accordance therewith, the following regulation is hereby promulgated.

Filed in the Administrative Office of the Pennsylvania Courts on December 14, 2009.

ZYGMONT A. PINES,
Court Administrator of Pennsylvania

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 207. TRANSMITTING REMITTANCES

§ 207.3. Online Payment Convenience Fee—Adjustment of Fines, Costs, Fees, and Other Remittances.

(a) Pursuant to 42 Pa.C.S. § 3502(c)(3), the Court Administrator of Pennsylvania hereby adjusts the level of fines, costs, fees, and other remittances by assessing a non-refundable \$2.75 convenience fee for online credit/debit card payments of court costs, fines, fees, and restitution associated with pre-existing cases or those initiated within the Magisterial District Judge, Common Pleas, and Appellate Court Case Management Systems of the Pennsylvania Courts. Said amount shall be paid through a contracted financial intermediary and shall be added at the time of the payment.

(b) This regulation shall become effective January 1, 2010, and shall apply to all online credit/debit card payments initiated through the AOPC's UJS Portal made on or after this date on pre-existing cases or those initiated within the Magisterial District Judge, Common Pleas, and Appellate Court Case Management Systems of the Pennsylvania Courts.

Comment

As part of an overall strategy to increase collections of fines, costs and restitution for the local and county court systems, the Administrative Office of Pennsylvania Courts is working to develop an Internet-based web application that will permit the online payment of fines, costs and restitution for defendants. This Internet application will be hosted on the Pennsylvania Judiciary's web portal and be integrated with the Common Pleas Criminal Case Management System (CPCMS) and Magisterial

District Judge System (MDJS) applications. By charging a per transaction convenience fee, the AOPC intends to provide this service at no cost to the counties.

A person interested in paying fees online will navigate to the Judiciary's web portal site (located at <http://ujportal.pacourts.us/>), select the e-commerce link, search for his/her cases/payment plans at the MDJS and/or CPCMS levels of court. The payment amount must be entered along with the credit card information. The transaction will then be processed, sending the appropriate financial information to the court applications for review, selection and acceptance by the court staff. It is anticipated that this application will be expanded in the future to include the processing of filing fees for certain documents at the various levels of court.

[Pa.B. Doc. No. 09-2361. Filed for public inspection December 24, 2009, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Judicial Salaries

The Court Administrator of Pennsylvania reports that the percentage change in the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U) for the 12-month period ending October 2009, was negative 0.1 percent (-0.1%). (See U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, Wednesday, November 18, 2009.)

Therefore, the annual judicial salaries for calendar year beginning January 1, 2010, will not be adjusted by a cost-of-living factor. The following salaries that became effective January 1, 2009, will remain in effect:

The annual salary of a justice of the Supreme Court shall be \$186,450.

The annual salary of the Chief Justice of the Supreme Court shall be \$191,876.

The annual salary of a judge of the Superior Court shall be \$175,923.

The annual salary of the President Judge of the Superior Court shall be \$181,349.

The annual salary of a judge of the Commonwealth Court shall be \$175,923.

The annual salary of the President Judge of the Commonwealth Court shall be \$181,349.

The annual salary of a judge of the court of common pleas shall be \$161,850.

The annual salary of the President Judges of the Court of Common Pleas shall be in accordance with the following schedule:

Allegheny County, \$164,563.

Philadelphia County, \$165,106.

Judicial districts having six or more judges, \$163,260.

Judicial districts having one to five judges, \$162,555.

Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of six or more judges, \$163,260.

Administrative judges of the divisions of the Court of Common Pleas of Philadelphia County with divisions of five or less judges, \$162,555.

Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of six or more judges, \$163,260.

Administrative judges of the divisions of the Court of Common Pleas of Allegheny County with divisions of five or less judges, \$162,555.

The annual salary of a judge of the Philadelphia Municipal Court shall be \$158,105.

The annual salary of the President Judge of the Philadelphia Municipal Court shall be \$160,547.

The annual salary of a judge of the Philadelphia Traffic Court shall be \$85,050.

The annual salary of the President Judge of the Philadelphia Traffic Court shall be \$85,755.

The annual salary of a magisterial district judge shall be \$80,927.

The compensation payable to a senior judge of a court of common pleas, a senior Commonwealth Court judge, a senior Superior Court judge and a senior Supreme Court justice, assigned pursuant to 42 Pa.C.S. § 4121 (relating to assignment of judges) and a senior Philadelphia Municipal Court judge assigned pursuant to 42 Pa.C.S. § 4124 (relating to assignment of senior Philadelphia Municipal Court judges) shall be \$497 per day. In any calendar year the amount of compensation which a senior judge shall be permitted to earn as a senior judge shall not, when added to retirement income paid by the Commonwealth, for the senior judge, exceed the annual salary payable by the Commonwealth to a judge then in regular active service on the court from which the senior judge retired.

In any calendar year, the amount of compensation which a senior judge assigned to serve on a court referred to in 42 Pa.C.S. § 1806 (relating to Philadelphia Municipal Court), 42 Pa.C.S. § 1807 (relating to Philadelphia Traffic Court) or 42 Pa.C.S. § 1808 (relating to magisterial district judges) shall be permitted to earn as a senior judge shall not, when added to retirement income paid by the Commonwealth to that senior judge, exceed the compensation payable by the Commonwealth to a judge then in regular active service on the court from which that senior judge retired.

A senior judge who so elects may serve without being paid all or any portion of the compensation permitted.

[Pa.B. Doc. No. 09-2362. Filed for public inspection December 24, 2009, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 1]

Proposed Modifications to Rules 167, 170 and 172

Introduction

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 167, 170 and 172 be adopted and prescribed. The proposed modified Rule 167

adds court designee as a person that may distribute court orders or notices. The proposed modified Rule 170 clarifies in the Comment when records may be expunged. The proposed modified Rule 172 provides for directives in the court's order. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of this rule. Note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

We request that interested persons submit suggestions, comments or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenile.rules@pacourts.us. E-mail is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of Comments to the Committee.

If you do not have access to e-mail, comments may be faxed to the Committee at (717) 231-9541 or written comments may be mailed to:

Christine Riscili, Esq., Staff Counsel
 Supreme Court of Pennsylvania
 Juvenile Court Procedural Rules Committee
 Pennsylvania Judicial Center
 601 Commonwealth Avenue, Suite 6200
 P. O. Box 62635
 Harrisburg, PA 17106-2635

All Comments shall be received no later than Monday, January 25, 2010.

By the Juvenile Court
 Procedural Rules Committee

CYNTHIA K. STOLTZ, Esq.,
 Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART C(2). MAINTAINING RECORDS

Rule 167. Filings and Service of Court Orders and Notices.

A. Filings.

1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time stamped promptly with the date of receipt.

2) All orders and court notices shall be filed in the juvenile court file.

B. Service.

1) A copy of any order or court notice shall be served promptly on each party's attorney, and the juvenile, if unrepresented.

2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the [**court or**] court administrator **or other court designee**.

3) *Methods of service.* Service shall be:

a) in writing by:

i) personal delivery to the party's attorney, and if unrepresented, the juvenile;

ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;

iii) 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;

iv) sending a copy to an unrepresented juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement;

v) sending a copy by facsimile transmission or other electronic means if the party's attorney, and if unrepresented, the juvenile has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case; or

vi) delivery to the party's attorney, and if unrepresented, the juvenile by carrier service; or

b) orally in open court on the record.

C. *Unified Practice.* Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the juvenile's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the juvenile, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time stamping.

Official Note: Rule 167 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 167 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

PART C(3). EXPUNGING OR DESTROYING RECORDS

Rule 170. Expunging or Destroying Juvenile Court Records.

A. *Motion.* Juvenile records may be expunged upon motion.

B. *Contents of Motion.* A motion, which shall [**take the form of**] include a proposed court order, shall contain the following information:

- 1) [**The**] the name of the juvenile;
- 2) the date of birth of the juvenile, if known;
- 3) the juvenile's case docket number, if any;

4) the allegations to which the order pertains;

5) the law enforcement agency that initiated the allegations;

6) the reference number of the police report or written allegation to be expunged or destroyed;

7) the date of arrest;

8) the disposition of the written allegation or petition;

9) the reasons and statutory authority for expunging or destroying the document; and

10) the agencies upon which certified copies of the court order shall be served.

C. *Service of Motion.* In addition to the service required by Rule 345, the movant shall serve the motion on the chief juvenile probation officer.

D. *Answer.* The attorney for the Commonwealth, and any other person upon whom the motion was served, may file an answer to the motion.

E. *Hearing.* Unless the attorney for the Commonwealth consents to expunging the records, the court shall schedule and conduct a hearing, and thereafter grant or deny the motion.

Comment

[**See 18 Pa.C.S. § 9123 for records that may be expunged and 42 Pa.C.S. § 6341(a) for destruction of fingerprints and photographs.**]

Under paragraph (B)(6), any number assigned to police papers helpful in tracking the police report or written allegation that would assist the law enforcement agency in expunging or destroying the document is to be listed. A reference number could be an offense tracking number, district control number, crime control number, incident number, Philadelphia identification number, or another number assigned by the law enforcement agency to track the document.

Pursuant to paragraph (B)(9), the reasons and the statutory authority for expunging the records are to be included in the motion. Pursuant to 18 Pa.C.S. § 9123, records may be expunged because: a) the written allegation was not substantiated or the petition was dismissed; b) six months have elapsed since the final discharge of the person from supervision under a consent decree and no proceeding seeking adjudication or conviction is pending; c) 5 years have elapsed since the final discharge of the juvenile from commitment, placement, probation, or any other disposition and referral, and since such final discharge, the juvenile has not been convicted or adjudicated delinquent of a felony or misdemeanor, and no such proceeding is pending seeking such conviction or adjudication; or d) the individual is eighteen years of age or older, the attorney for the Commonwealth consents to the expungement, and the court has given consideration to the factors listed in 18 Pa.C.S. § 9123(A)(4)(i)—(iv). See 18 Pa.C.S. § 9123 for records that may be expunged. See also 42 Pa.C.S. § 6341(a) for destruction of fingerprints and photographs.

Official Note: Rule 170 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 170 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Rule 172. Order to Expunge or Destroy.

A. *Contents.* Any order to expunge or destroy the juvenile court file, docket entries, law enforcement records, or fingerprints and photographs shall include the following information:

- 1) **[All]** all items contained in Rule 170(B);
- 2) **a directive that the keeper of the juvenile records shall expunge all official and unofficial law enforcement, probation, and juvenile court records, including fingerprints, photographs, and all other information pertaining to the arrest;**
- 3) **a directive that each agency, department, or office shall notify the court or its designee of the action taken in response to the order to expunge or destroy;**
- 4) the printed name and signature of the judge issuing the order; and
- [3] 5)** the date of the court order.

B. *Service.* In addition to the service required by Rule 167, the clerk of courts, **court administrator, or other court designee** shall serve certified copies of the order on the chief juvenile probation officer and any other person or agency as directed by the court.

Comment

Pursuant to Rule 167(B)(2), the clerk of courts is to serve orders from the court unless the President Judge has promulgated a local rule designating service to be by the court administrator or other court designee. See Rule 121 for procedures on local rules.

The directive is to include expungement from all registries, including but not limited to the Central Repository maintained by the Pennsylvania State Police, JNET, CLEAN, PCIC, and NCIC. Each agency, department, or office is to notify the court that it has complied with the expungement order. See also 42 Pa.C.S. § 6309.

Official Note: Rule 172 adopted April 1, 2005, effective October 1, 2005.

EXPLANATORY REPORT**Rule 167. Filings and Service of Court Orders and Notices.**

The addition to Rule 167(B)(2) deletes “court” and adds “court designee” as persons who may serve court orders and notices. It is not the court that does the serving but rather the court designee performs this function for the court.

Rule 170. Expunging or Destroying Juvenile Court Records.

The addition to Rule 170(B) clarifies that there is a separate motion and a proposed court order.

The addition to the *Comment* to Rule 170 sets forth the statutory authority for expunging records. Pursuant to 18 Pa.C.S. § 9123, records may be expunged because: a) the written allegation was not substantiated or the petition was dismissed; b) 6 months have elapsed since the final discharge of the person from supervision under a consent decree and no proceeding seeking adjudication or conviction is pending; c) 5 years have elapsed since the final discharge of the juvenile from commitment, placement, probation, or any other disposition and referral, and since such final discharge, the juvenile has not been convicted

or adjudicated delinquent of a felony or misdemeanor, and no such proceeding is pending seeking such conviction or adjudication; or d) the individual is 18-years of age or older, the attorney for the Commonwealth consents to the expungement, and the Court has given consideration to the factors listed in 18 Pa.C.S. § 9123(A)(4)(i)—(iv). See 18 Pa.C.S. § 9123.

Rule 172. Order to Expunge or Destroy.

The additions to Rule 172(A)(2) and (3) include two directives. First, the keeper of the juvenile records must expunge all records pertaining to the arrest. This includes official and unofficial records, fingerprints, photographs, officer notes, reports, and any other information maintained by a law enforcement agency. Second, each agency, department, or office must notify the court that it has complied with the court order. The *Comment* to Rule 172 lists some registries that may have this information.

Rule 172(B) and its *Comment* add that the court administrator or another court designee may provide service of the court order if the President Judge of a judicial district has promulgated a local rule. See Rule 121 for procedures on local rules.

[Pa.B. Doc. No. 09-2363. Filed for public inspection December 24, 2009, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEHIGH COUNTY

**In Re: Clerk of Orphans’ Court Division; Fee
Schedule; No. AO2009-001**

Administrative Order

And Now, this 8th day of December, 2009, pursuant to 42 P.S. § 21032.1, and on motion of the Clerk of the Orphans’ Court Division,

It Is Ordered that the Fee Schedule for the Clerk of the Orphans’ Court Division, as set forth in the attached Fee Bill, is approved and the charges set forth herein shall be the fees for services rendered by the said Clerk of the Orphans’ Court Division.

It Is Further Ordered that said Fee Schedule is effective January 1, 2010, and shall supersede any and all previously established fee schedules for the transaction of business with the Clerk of Orphans’ Court Division.

It Is Further Ordered that the District Court Administrator shall file seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that a copy hereof shall be published in the *Lehigh Law Journal*; and that one (1) copy shall be filed with the Clerk of Orphans’ Court Division of the Court of Common Pleas of Lehigh County.

By the Court

WILLIAM H. PLATT,
President Judge

**Schedule of Fees
Clerk of the Orphans' Court
Lehigh County**

ADOPTIONS—PARENTAL TERMINATIONS

Report of Intention to Adopt	25.00
Counseling Fund Fee (Arms Length Adopt.)	75.00
Adoption Petition/Gestational Birth Carrier Petition	100.00
Involuntary Term/Voluntary Relinq Petitions	75.00
Foreign Adoption Registration IR3 Visa (no hrg req'd)	75.00
Foreign Adoption Registration/Re-Adoption IR4 Visa (hrq req'd.)	100.00
Adoption Search	100.00

ADOPTION INVESTIGATION FEES

Adoptive Parents Only	350.00
Adoptive Parents and Biological Parents interviewed within Lehigh County or within fifty (50) mile radius	450.00
Adoptive Parents and if one or both biological parents interviewed reside outside fifty (50) mile radius	500.00

GUARDIANSHIP OF INCAPACITATED PERSON/MINORS

Petition for Determination of Incapacity	100.00
Guardian Certificate	10.00
Will Inspection	10.00

MARRIAGE LICENSES

{All costs associated with Marriage License transactions are payable only in cash or money order}

Marriage Application	50.00
Certified Copy Marriage Record	10.00
Exemplification of Marriage Record	50.00
Certification of No Marriage	10.00
Petition for Court Approval—Applicant Under 16 years	25.00
Waiver of 3 Day Waiting Period {Fee waived for Active Duty Military applicant(s)—Written proof of active duty required}	10.00
Search Fee {Marriage/Birth/Death/O.C.}	25.00
Reprinted Marriage License	15.00

ACCOUNTS FILED FOR FORMAL AUDIT

INSOLVENT ESTATES	100.00
<i>Cost is based on valuation of gross estate or gross principal receipts</i>	
<i>Valuation of Gross Estate</i>	<i>Cost</i>
1 to 300,000	200.00
300,001 to 500,000	300.00
500,001 to 750,000	400.00
750,001 to 1,000,000	500.00
1,000,001 to 2,000,000	600.00
For each succeeding \$500,000 or fraction thereof over \$2,000,000 add an additional \$100.00	

Automation Fee ¹	5.00
Appeal to Superior/Supreme Court ²	125.00
Certified copy of any document	10.00
Claim, Notice of,	25.00
Copies/per page (photocopies, microfiche copies or copies from scanned images)	.25
Corporate Fiduciary Power/Sureties Current Certificate	10.00
Disclaimer/Renunciation/Election to take under/against	25.00

Exceptions	25.00
Exemplification	50.00
Guardian's Certificate	10.00
Guardian's Inventory	15.00
Guardian's Inventory (Supplemental)	10.00
Informal Account	75.00
Judicial Computer System ³	23.50
Lehigh County E-filing fee ⁴	5.00
Minors' Compromise Petitions (Copy of Civil Division signed, clocked Order)	25.00
Minors' Compromise Petition {No action commenced in Civil Division}	50.00
Miscellaneous Transactions ⁵	****
Objections	25.00
Petition {Contested}	100.00
Petition {Uncontested}	50.00
Power of Attorney	25.00
Returned Check Charge (separate check)	20.00
Small Estate Petition	50.00
Subpoena	10.00
Will Contest Proceeding	100.00

¹ This \$5.00 fee imposed pursuant to 42 P.S. § 2102.1, is in addition to the OC filing fee, the LCE fee and the JCS fee, regarding all initial filings.

² In addition to the stated Orphans' Court fee there are appellate filing fees imposed by the Superior and Supreme Courts. That fee, payable to the appropriate appellate court by separate check, must accompany the requisite notice of appeal and OC filing fee. Counsel is urged to contact the appellate court to obtain the correct appellate filing fee.

³ This is a statutorily created fee imposed upon "first filings in petitions concerning adoptions, incapacitated persons, estates of minors and *inter vivos* trusts." 42 P.S. § 3733. Effective December 8, 2009, the JCS fee was increased from \$10.00 to \$23.50. This \$23.50 JCS fee is in addition to the OC filing fee, the LCE fee and the Automation fee.

⁴ Imposed upon all initial filings pursuant to 42 P.S. § 2102.1.

⁵ A filing fee in an amount equal to that of the most similar pleading will be assessed regarding pleadings not specifically enumerated in the fee schedule.

{Pa.B. Doc. No. 09-2364. Filed for public inspection December 24, 2009, 9:00 a.m.}

LEHIGH COUNTY

In Re: Lehigh County Clerk of Judicial Records; Register of Wills Division—Fee Schedule; No. AO2009-0002

Administrative Order

And Now, this 7th day of December, 2009, pursuant to 42 P.S. § 21022.1, and on motion of the Clerk of Judicial Records,

It Is Ordered that the Fee Schedule of the Office of the Clerk of Judicial Records—Register of Wills Division as set forth in the attached Fee Bill is approved and the charges set forth herein shall be the fees for services rendered by the Office of the Clerk of Judicial Records—Register of Wills Division.

It Is Further Ordered that said Fee Schedule is effective January 1, 2010, and shall supersede any and all previously established fee schedules for the transaction of business within the Clerk of Judicial Records—Register of Wills Division.

It Is Further Ordered that the District Court Administrator shall file seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts;

that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that a copy hereof shall be published in the *Lehigh Law Journal*; and that one (1) copy shall be filed with the Clerk of Judicial Records of the Court of Common Pleas of Lehigh County.

By the Court

WILLIAM H. PLATT,
President Judge

Clerk of Judicial Records of Lehigh County,
Pennsylvania
Register of Wills Division
Effective January 1, 2010

LETTERS
TESTAMENTARY/ADMINISTRATION
ESTIMATED VALUE*

\$ 0.00	to	\$ 10,000.00	\$ 40.00
\$ 10,000.01	to	\$ 50,000.00	\$ 80.00
\$ 50,000.01	to	\$ 100,000.00	\$120.00
\$100,000.01	to	\$ 200,000.00	\$160.00
\$200,000.01	to	\$ 300,000.00	\$200.00
\$300,000.01	to	\$ 400,000.00	\$240.00
\$400,000.01	to	\$ 500,000.00	\$300.00
\$500,000.01	to	\$ 600,000.00	\$340.00
\$600,000.01	to	\$ 700,000.00	\$400.00
\$700,000.01	to	\$ 800,000.00	\$440.00
\$800,000.01	to	\$ 900,000.00	\$480.00
\$900,000.01	to	\$1,000,000.00	\$520.00
Each additional \$1,000,000.00 or fraction thereof			\$300.00
Affidavit			\$ 5.00
Ancillary Letters			\$ 50.00
Appeal			\$ 25.00
Automation Fee**			\$ 5.00
Bond			\$ 10.00
Caveat			
Formal			\$ 50.00
Informal			\$ 25.00
Certification of documents			\$ 10.00

Citation		
Pet. & issuing one respondent		\$ 50.00
Each additional respondent		\$ 5.00
Commission		\$ 50.00
Copies		\$.25
Mail		\$.50
Microfiche		\$ 1.00
E-Filing***		\$ 5.00
Election against a Will		\$ 5.00
Estate Closing Letter		\$ 5.00
Exemplification		
Filing		\$ 50.00
Preparing		\$ 50.00
Federal Return		\$ 25.00
Hearing/Order		\$100.00
Inheritance Tax Return		\$ 20.00
Supplemental		\$ 20.00
Inventory		\$ 10.00
Supplemental		\$ 10.00
Judicial Computer System (set by law)		\$ 23.50
Miscellaneous transactions		****
Receipt and Release		\$ 25.00
Renunciation		\$ 5.00
Research fee		\$ 5.00
Returned check		\$ 20.00
Short Certificates		\$ 5.00
Subpoena		\$ 10.00
Will Lodged		\$ 35.00

* At the time of filing the Petition for Letters an estimate of the gross probate value of the Estate is required. Additional probate fees will be charged if the Inventory and/or Notice of Inheritance Tax Assessment value is greater than the original estimate.

** Automation charge pursuant to 42 P. S. § 21022.1.

*** E-Filing charge pursuant to 42 P. S. § 21022.1.

**** Instruments not specifically listed will be charged at a rate comparable to this schedule for a similar instrument.

[Pa.B. Doc. No. 09-2365. Filed for public inspection December 24, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 245]

Administration of the Storage Tank and Spill Prevention Program

Order

The Environmental Quality Board (Board) by this order amends 25 Pa. Code Chapter 245 (relating to Administration of the storage tank and spill prevention program).

This order was adopted by the Board at its meeting of September 15, 2009.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact Charles M. Swokel, Chief, Division of Storage Tanks, P. O. Box 8763, Rachel Carson State Office Building, Harrisburg, PA 17105-8763, (717) 772-5806; or Kurt Klapkowski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) web site (<http://www.depweb.state.pa.us>).

C. *Statutory Authority*

The rulemaking is being made under the authority of section 106 of the Storage Tank and Spill Prevention Act (Storage Tank Act) (35 P. S. § 6021.106), which authorizes the Board to adopt rules and regulations governing aboveground and underground storage tanks to accomplish the purposes and carry out the provisions of the act; section 501 of the act (35 P. S. § 6021.501), which authorizes the Department to establish program requirements for underground storage tanks; and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes the Board to formulate, adopt and promulgate rules and regulations that are necessary for the proper work of the Department.

D. *Background of the Amendments*

The Board established the initial rulemaking governing administration of the storage tank and spill prevention program with its final publication of Chapter 245, Subchapters A and B (relating to general provisions; and certification program for installers and inspectors of storage tanks and storage tank facilities) at 21 Pa.B. 4345 (September 21, 1991). In that initial rulemaking, Federal requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)) were adopted by reference in Subchapter A. Comprehensive UST regulations were established in Chapter 245 when the Board adopted Subchapter E in 1997 (27 Pa.B. 5341, October 11, 1997). The Board last amended Subchapter E in 2007, when several UST provisions contained in the

Federal Energy Policy Act of 2005 (August 8, 2005, Pub. L. No. 109-58, 119 Stat. 594) (EPAAct) were adopted at 37 Pa.B. 5979, (November 10, 2007). The most significant provision in this final-form rulemaking addresses UST operator training requirements and codifies the last provision of the Energy Policy Act of 2005 (Pub.L. 109-58) (EPAAct) relating to UST that needs to be addressed by the Department. Provisions for training course and trainer approvals, along with provisions for mandatory training or retraining of UST owners and operators whose tank systems are determined to be out of compliance as a result of an inspection, are already contained in current Chapter 245.

The proper conduct of operations, maintenance and related recordkeeping for USTs has been a problem in this Commonwealth and Nationally. The Department has noted particular compliance concerns relating to routine leak detection monitoring, periodic testing of monitoring equipment and corrosion protection systems, and maintenance. The operator training provisions in this rulemaking will help to improve significantly UST operations, maintenance, recordkeeping and related compliance with the Commonwealth and Federal UST regulatory requirements, which will protect the citizens and the environment of this Commonwealth.

Establishment of an operator training program is necessary to comply with Federal operator training grant guidelines issued by the U.S. Environmental Protection Agency (EPA) on August 8, 2007. Section 9010 of Subtitle I of the Solid Waste Disposal Act (Subtitle I), as amended by section 1524 of the EPAAct (42 U.S.C. § 6991i), required the EPA to develop and publish guidelines for states to establish training requirements for UST operators. This section also requires that states receiving Federal funds under Subtitle I develop state-specific regulatory training requirements consistent with the EPA guidelines by August 8, 2009 or be well underway in that process. The Commonwealth receives Federal funding under Subtitle I in the form of the UST and Leaking Underground Storage Tank Trust Fund grants. Additionally, the guidelines require states to ensure that all three classes of operators are trained according to state-specific training requirements by August 8, 2012. Failure to establish an effective operator training program in the Commonwealth would jeopardize current EPA state program approval and substantial funding provided to the Department under Subtitle I. For Federal Fiscal Year 2009, the Department received \$2.79 million in Federal funds from EPA for the UST and Leaking Underground Storage Tank (cleanup) programs.

The final-form rulemaking amends existing § 245.422(e) (relating to upgrading of existing underground storage tank systems) to clarify that containment is required when replacing an existing product dispenser that involves a major modification.

The final-form rulemaking also amends § 245.435(b) (relating to reporting and recordkeeping) to clarify the time frame for retention of temporary records and to correct errors on the retention of cathodic protection documents. This subsection also adds operator training documents to the temporary recordkeeping requirements.

The final-form rulemaking adds § 245.436 (relating to operator training) to existing regulations. This section establishes three distinct classes of UST operators and related training requirements. It includes the general requirements for trained operators (subsection (a)), descriptions of the classes of storage tank operators to be trained (subsection (b)), required and acceptable forms of training for each class of operator (subsection (c)), deadlines for new and existing operators to meet the training requirements (subsection (d)), and documentation requirements (subsection (e)).

The Department worked with the Storage Tank Advisory Committee (STAC) during development of this rulemaking. The Department also met with UST owners, operators and manufacturers; associations and groups, such as the Pennsylvania Petroleum Marketers and Convenience Store Association; the Tank Installers of Pennsylvania; and the Agricultural Advisory Board. The STAC, which was established by section 105 of the Storage Tank Act (35 P. S. § 6021.105), consists of persons representing a cross-section of organizations having a direct interest in the regulation of storage tanks in this Commonwealth. As required by section 105 of the Storage Tank Act, the STAC has been given the opportunity to review and comment on the final-form rulemaking and to review comments received on the proposed rulemaking. On June 9, 2009, the STAC voted to support the amendments and recommended that the Board consider the amendments for publication as final-form rulemaking. A listing of STAC members and minutes of STAC meetings are available on the Department's web site at ww.depweb.state.pa.us and may also be obtained from Charles M. Swokel, whose contact information appears in Section B of this order.

E. Summary of Changes to and Comments and Responses on the Proposed Rulemaking

The Board received comments on the proposed rulemaking from six commentators. Five individuals submitted comments during the 30-day public comment period, subsequent to the notification of availability published at 39 Pa.B. 1300 (March 14, 2009). The Department provided the Independent Regulatory Review Commission (IRRC) with all comments received during the public comment period. On May 13, 2009, IRRC submitted written comments to the Board. Based on the comments received, several changes have been made in the final-form rulemaking.

One commentator felt that compliance costs included in the preamble of the proposed rulemaking may be understated and did not address travel and labor costs associated with attending an operator training course. The Board recognizes that additional travel and labor costs could be incurred. However, the upper range of the rate shown for national trainers was for onsite training. Since the proposed rulemaking was published, some national trainers have started providing computer-based interactive operator training courses at even lower rates than projected in the preamble. See Section F, Compliance Cost of this order for more discussion on the costs associated with the rulemaking. The Board believes that market factors and national demand for training operators will ensure that training costs are competitive and reasonable.

Two commentators raised concerns that the proposed rulemaking may not meet EPA guidelines for operator training because the proposal does not provide for retraining or mandatory training of storage tank operators when a facility is determined to be out of compliance with regulatory requirements. Since existing regulations al-

ready contain provisions in § 245.411(d) for mandatory training or retraining of owners and operators, when a facility is determined to be out of compliance, the Board does not see a need to further amend the regulation on retraining. The existing regulations cover any formal retraining of owners and operators that may be required.

The Department may also rely on certified third-party inspectors or Department staff to provide instructions to operators during a facility inspection process for minor infractions, such as where on-the-spot corrections can be made or when the operator can provide documentation within a certain time frame to the inspector that demonstrates compliance. This less formal training process should satisfy retraining requirements for minor infractions, so long as it measures the operators understanding of regulatory requirements, achieves compliance for the noted infractions and is documented on the inspection report or other enforcement records. The Board believes that the EPA guidelines allow for flexibility when determining compliance and providing retraining specific to minor or limited infractions, as determined by the Department.

Two commentators complimented the Department on efforts to establish the rulemaking and one recommended that the provision on availability of Class A and Class B operators be retained as proposed. The Board appreciates the comments, and the provision is retained.

One commentator raised concerns about what constitutes a "manned facility" and recommended that definitions be added for manned and unmanned facilities and for determining when a facility is in operation that requires a Class C operator to be onsite. The Board recognizes this concern and has changed § 245.436(a)(ii) in the final-form rulemaking to clarify this issue and to reference 37 Pa. Code Chapter 13 (relating to storage and use of flammable and combustible liquids), which stipulates requirements for onsite operators when dispensing fuel for retail sales to the general public.

One commentator indicated that Class A operators may not make routine management decisions as indicated in § 245.436(b)(1), but may advise the tank owner or management on such matters. The Board has changed the routine requirements in this section to indicate that Class A operators "typically" have certain management responsibilities, thus implying that other methods of handling these responsibilities, such as advising management, may also be acceptable.

Two commentators were concerned that Department-certified entities should not be allowed to serve as operators and expressed that contracting the Class A operators position may pose safety concerns. The Board does not agree with the commentators that Department-certified entities should not be allowed to serve as operators or that contracting these functions poses safety concerns. However, the Board does believe that when designated as Class A or Class B operators, Department-certified entities should maintain current IUM or UMX certification categories or complete the same formal training as other operators. Therefore, the final-form rulemaking requires that Department certification must be "current" in § 245.436(b)(1) and (2) for Department-certified entities when designated as the Class A operator, the Class B operator or both.

Several commentators raised concerns about Class C operator notification and use of environmental hot-line representatives for notification in emergencies. One of the commentators felt the proposed rulemaking was vague on instances when notification must be made. The Board

recognizes these concerns and has included changes in § 245.436(b)(3) and (e)(3) of the final-form rulemaking that notification should be “based on the nature and type of emergency” and that Class C operator “or owner contact information including . . . emergency procedures” shall be posted at unmanned facilities. This helps to clarify that an emergency hot-line representative may be used to satisfy notification, provided that written emergency procedures are provided that adequately address the process. The proposed rulemaking text also allows the hot-line representative to be designated as a Class C operator (additional, alternate or primary), if needed.

One commentator was concerned that maintaining lists of trained operators will be difficult and time-consuming, given the commentator’s experience with the high turnover of Class C operators. This commentator and another commentator also believe that the proposed rulemaking should further clarify retention requirements for operator training documents maintained offsite, such as for unmanned facilities. The Board believes that maintaining current lists of designated operators and other related documents is necessary and appropriate to identify the trained operators responsible for each underground storage tank facility. Retaining documentation at a readily available offsite location is already clarified in § 245.435(b) of the existing regulation, which is referenced in the proposed rulemaking under § 245.436(e)(2).

One commentator felt that the requirement to train a new Class A or Class B operator within 30 days for replacing a trained operator should be waived if the company has other trained operators already available to designate. The Board believes that the proposed rulemaking already allows for substitution of trained operators and no waiver is required. When designating any operator who is not yet trained, that operator must be trained within the time frames stated in the regulation.

Finally, one commentator indicated that the corporate owner of multiple UST facilities is developing in-house training programs to fulfill the requirements to train and certify their own Class A and Class B operators under § 245.141 (relating to training approval). The Board agrees that the proposed rulemaking, coupled with existing training approval provisions in § 245.141, does not preclude an owner from developing in-house operator training courses and submitting the course outlines for approval by the Department for training the owner’s operators. The regulations require that the course instructor have professional background and knowledge necessary for the technical material covered and that the training course meet regulatory requirements, including testing and certification of the operators.

F. *Benefits, Costs and Compliance*

Benefits

The amendments are expected to result in significant improvements in the routine operation, maintenance and monitoring of UST. This will help to further reduce the number of releases from UST and in turn protect public health and the environment. These regulatory changes will provide economic opportunities for third-party trainers. By recognizing a wide array of training options, it is expected that costs to storage tank owners and operators will be minimized.

By establishing a viable operator training program, the Commonwealth will retain UST state program approval and will remain eligible for continued substantial Federal funding for the program under Subtitle I.

Compliance Costs

There are approximately 3,500 tank owners and their operators with nearly 8,700 UST facilities regulated by the Department in this Commonwealth. Many of the owners are major corporations, while the remaining owners are mostly small businesses and various government entities. Many of the small businesses and corporations belong to organizations and associations that have shown an interest in helping with the required training for operators. The number of operators at any particular facility range from one to several, depending on the size of the facility and hours of operation. Generally, retail sales facilities have more operators than government entities or nonretail facilities.

The current National availability of UST training vendors for operators is somewhat limited, but is expected to expand significantly as all states implement mandatory operator training requirements. Many states have indicated that they will rely on third-party or industry trainers. The current cost of National training vendors ranges from \$145 to \$500 per training course for Class A and Class B operators. However, several organizations and associations in this Commonwealth, as well as Department-certified tank installers, inspectors and companies have indicated an interest in becoming approved trainers or in some cases providing services as qualified operators. It is anticipated with in-State and National trainers expanding into the UST program that the cost of operator training courses will be minimized through these market forces.

The costs for training Class C operators should be very minimal. The Class C operators only require in-house training on emergency procedures and written instructions. Tank owners should already provide this training to satisfy U.S. Occupational Safety and Health Administration requirements in 29 CFR Part 1910 (relating to Occupational Safety and Health Standards); and Department of Labor and Industry requirements in 37 Pa. Code Chapter 13.

Compliance Assistance Plan

It is not anticipated that the Commonwealth will provide sources of financial assistance to aid in compliance with the final-form rulemaking.

As for technical and educational assistance, the Department currently operates a fairly extensive program of outreach activities designed to assist owners and operators of storage tanks as well as individuals. This program includes a series of fact sheets that focus on single issues in the storage tank program (for example, Leak Detection: Meeting the Requirements); periodic seminars and conferences focusing on storage tank technical and administrative issues; training sessions presented by regional and central office training teams on a variety of issues; numerous guidance documents addressing technical and policy issues; and a great deal of information available on the Department’s web site. The Department will work with organizations, associations, companies and individuals to establish a base of industry trainers to provide the necessary training, testing and related documentation for owners and operators of UST.

Paperwork Requirements

There are very few new paperwork requirements in this rulemaking and no new reporting requirements. The rulemaking addresses requirements to maintain a list of designated operators, certificates or documentation of training, and facility contacts and written emergency procedures. The list of operators, training records and

some contact information is new; emergency procedures should already be available at most facilities. These records will be checked during the periodic inspections currently required at UST facilities and will not be routinely required to be submitted to the Department.

G. Pollution Prevention

The programs set out in this rulemaking package and in the current regulations are designed to prevent the release and spread of regulated substances from storage tanks located in this Commonwealth. They create a program similar to the cradle-to-grave process with the goal of making sure that the storage tank is installed, maintained, operated, closed and removed in a manner that will minimize the likelihood of a release occurring. If a release does occur, these amendments and regulations that currently exist in Chapter 245 are designed to detect and contain the release quickly, and make sure that corrective action is carried out expeditiously, minimizing exposure to the public and the environment.

In this rulemaking, the Department is attempting to reach or improve upon these goals through a combination of performance standards and training of storage tank operators. The final-form rulemaking has built-in flexibility as to how the regulated community achieves the goals and reliance on industry standards and trained industry professionals. By taking this approach, the Department hopes to improve routine storage tank operation and maintenance, reduce pollution, lower the number of corrective actions that must eventually be performed, decrease the amount of contaminated soil and groundwater that must be dealt with, and do so in a manner that is flexible, reasonable and cost effective.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 27, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 1300 (March 14, 2009) to IRRC and the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 4, 2009, this final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 5, 2009, and approved the final-form rulemaking.

J. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968,

P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 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) These regulations do not enlarge the purpose of the proposal published at 39 Pa.B. 1300.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing Storage Tank Act identified in Section C of this order.

K. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapter 245, are amended by amending §§ 245.422 and 245.435 to read as set forth at 39 Pa.B. 1300; and by adding § 245.436 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order, 39 Pa.B. 1300 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 Chairperson shall submit this order, 31 Pa.B. 1300 and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order, 39 Pa.B. 1300 and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately.

JOHN HANGER
Chairperson
Environmental Quality Board

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 6705 (November 21, 2009).)

Fiscal Note: Fiscal Note 7-432 remains valid for the final adoption of the subject regulation.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VI. GENERAL HEALTH AND SAFETY

CHAPTER 245. ADMINISTRATION OF THE STORAGE TANK AND SPILL PREVENTION PROGRAM

Subchapter E. TECHNICAL STANDARDS FOR UNDERGROUND STORAGE TANKS

GENERAL OPERATING REQUIREMENTS

§ 245.436. Operator training.

(a) *Requirement for trained operators.*

(1) An owner shall designate Class A, Class B and Class C operators for each underground storage tank system or facility that has underground storage tanks permitted to operate by the Department.

(2) A facility may not operate after August 8, 2012, unless operators have been designated and trained as required in this section, unless otherwise agreed upon by the Department.

(3) Trained operators shall be readily available to respond to suspected/confirmed releases, other unusual operating conditions and equipment shut-offs or failures.

(i) The Class A or Class B operator shall be available for immediate telephone consultation when a facility is in operation. A Class A or Class B operator must be able to be onsite at the storage tank facility within 24 hours.

(ii) Facilities that dispense motor fuel for retail sales to the general public shall be manned by an onsite Class C operator when open for business with the public in accordance with 37 Pa. Code §§ 13.115 and 13.117 (relating to attended self-service stations; and supervision of dispensing). During an unexpected absence of a Class C operator, such as employee no-shows or call-offs, an onsite Class A or Class B operator may fill-in or temporarily substitute for the Class C operator. Facilities that do not dispense motor fuel to the general public may be manned based on the facility owner's requirements and routine operational needs.

(iii) For unmanned facilities, a Class C operator shall be available for immediate telephone consultation and shall be able to be onsite within 2 hours of being contacted. Emergency contact information shall be prominently displayed at the site. Emergency procedures for users of unmanned facilities shall also be prominently posted at the site.

(4) Designated operators shall successfully complete required training under subsection (c) by August 8, 2012.

(5) A person may be designated for more than one class of operator.

(b) *Operator classes.*

(1) *Class A operator.* A Class A operator has primary responsibility to operate and maintain the underground storage tank system and facility. The Class A operator's responsibilities typically include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements. In general, this person focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to properly operate and maintain the underground storage tank system and facility.

(i) A Class A operator assists the owner by ensuring that underground tank systems are properly installed and expeditiously repaired, and records of system installation, modification and repair are retained and made available to the Department and certified IUM inspectors.

(ii) A Class A operator shall be familiar with training requirements for each class of operator and may provide required training for Class C operators.

(iii) A Class A operator may prepare site drawings that indicate equipment locations for Class C operators and routine maintenance checklists for Class B operators. (See PEI RP 900—"Recommended Practices for the Inspection and Maintenance of UST Systems.")

(iv) Department-certified companies, installers and inspectors with current underground storage tank UMX or IUM certification categories may perform Class A operator duties when employed or contracted by the tank owner to perform these functions.

(A) Department-certified installers, inspectors and companies identified in this subparagraph are excluded from required training under subsection (c), unless required by the Department to successfully complete mandatory operator training under § 245.411(d) (relating to inspection frequency).

(B) A certified IUM inspector may not perform a facility operation inspection for a facility where the inspector is also the designated Class A operator. (See § 245.106 (relating to conflict of interest).)

(2) *Class B operator.* A Class B operator implements applicable underground storage tank regulatory requirements and standards in the field or at the storage tank facility. This person oversees and implements the day-to-day aspects of operations, maintenance and recordkeeping for the underground storage tanks at one or more facilities. For example, the operator ensures that release detection methods, release prevention equipment and related recordkeeping and reporting requirements are met, relevant equipment manufacturer's or third-party performance standards are available and followed, and appropriate persons are trained to properly respond to potential emergencies caused by releases or spills from underground storage tank systems at the facility.

(i) A Class B operator checks spill prevention and overfill control equipment and corrosion protection equipment to ensure that they are functioning properly and that any required system tests are performed at required intervals.

(ii) A Class B operator assists the owner by ensuring that release detection equipment is operational, release detection is performed at the proper intervals and release detection records are retained and made available to the Department and certified IUM inspectors.

(iii) A Class B operator shall be totally familiar with Class B and Class C operator responsibilities, and may provide required training for Class C operators.

(iv) Department-certified companies, installers and inspectors with current underground storage tank UMX or IUM certification categories may perform Class B operator duties when employed or contracted by the tank owner to perform these functions.

(A) Department-certified installers, inspectors and companies identified in this subparagraph are excluded from required training under subsection (c), unless required by the Department to successfully complete mandatory operator training under § 245.411(d).

(B) A certified IUM inspector may not perform a facility operation inspection for a facility where the inspector is also the designated Class B operator. (See § 245.106.)

(3) *Class C operator.* A Class C operator is the first line of response to events indicating emergency conditions. This person is responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems and equipment failures. The Class C operator shall notify the Class A or Class B operator and appropriate emergency responders when necessary, based on the nature or type of emergency.

(i) A Class C operator may control or monitor the dispensing or sale of regulated substances.

(ii) After June 28, 2010, written instructions or procedures shall be provided and visible at manned storage tank facilities, and be readily available for unmanned facilities for persons performing duties of the Class C operator to follow and to provide notification necessary in the event of emergency conditions.

(iii) There may be more than one Class C operator at a storage tank facility, but not all employees of a facility are necessarily Class C operators.

(c) *Required training.*

(1) *Class A operators.* A Class A operator shall successfully complete a training course approved under § 245.141 (relating to training approval) or recognized by the Department under paragraph (5) that includes a general knowledge of underground storage tank system requirements. Training must provide information that should enable the operator to make informed decisions regarding compliance and to ensure that appropriate persons are fulfilling operation, maintenance and recordkeeping requirements and standards of this chapter or Federal underground storage tank requirements in 40 CFR Part 280 (relating to technical standards and corrective action requirements for owners and operators of underground storage tanks (UST)), or both, including the following:

- (i) Spill and overfill prevention.
- (ii) Release detection and related reporting requirements.
- (iii) Corrosion protection.
- (iv) Emergency response.
- (v) Product and equipment compatibility.
- (vi) Financial responsibility.
- (vii) Notification and storage tank registration requirements.
- (viii) Temporary and permanent closure requirements.
- (ix) Operator training requirements.

(2) *Class B operators.* A Class B operator shall successfully complete a training course approved under § 245.141 or recognized by the Department under paragraph (5) that includes an in-depth understanding of operation and maintenance aspects of underground storage tank systems and related regulatory requirements. Training must provide specific information on the components of underground storage tank systems, materials of construction, methods of release detection and release prevention applied to underground storage tank systems and components. Training must address operation and maintenance requirements of this chapter or Federal underground storage tank requirements in 40 CFR Part 280, or both, including the following:

- (i) Spill and overfill prevention.
- (ii) Release detection and related reporting requirements.
- (iii) Corrosion protection and related testing.
- (iv) Emergency response.
- (v) Product and equipment compatibility.
- (vi) Reporting and recordkeeping requirements.
- (vii) Class C operator training requirements.

(3) *Class C operators.* At a minimum, training provided by the tank owner or Class A or Class B operator must enable the Class C operator to take action in response to

emergencies, such as situations posing an immediate danger or threat to the public or to the environment and that require immediate action, caused by spills or releases and alarms from an underground storage tank system. Training must include written instructions or procedures for the Class C operator to follow and to provide notification necessary in the event of emergency conditions.

(4) *Class A and Class B operators.* Successful completion for Class A and Class B operators means attendance for the entire training course and demonstration of knowledge of the course material as follows:

(i) Receipt of a passing grade under § 245.141(b)(4), on an examination of material presented in the training course, or demonstration through practical (hands-on) application to the trainer, operation and maintenance checks of underground storage tank equipment, including performance of release detection at the underground storage tank facility, at the conclusion of onsite training.

(ii) Receipt of a training certificate by an approved trainer upon verification of successful completion of training under this paragraph.

(5) *Reciprocity.* The Department may also recognize successful completion of Class A and Class B operator training on regulatory standards consistent with 40 CFR Part 280, which is recognized by other states or implementing agencies and which is approved by the EPA as meeting operator training grant guidelines published by the EPA.

(6) *Costs of training.* The tank owner or operator shall incur the costs of the training.

(d) *Timing of training.*

(1) An owner shall ensure that Class A, Class B and Class C operators are trained as soon as practicable after December 26, 2009, contingent upon availability of approved training providers, but not later than August 8, 2012.

(2) When a Class A or Class B operator is replaced, after August 8, 2012, a new operator shall be trained within 30 days of assuming duties for that class of operator.

(3) Class C operators shall be trained before assuming duties of a Class C operator. After June 28, 2010, written instructions or procedures shall be provided to Class C operators to follow and to provide notification necessary in the event of emergency conditions. Class C operators shall be briefed on these instructions or procedures at least annually (every 12 months), which may be concurrent with annual safety training required the Occupational Safety and Health Administration, 29 CFR Part 1910 (relating to Occupational Safety and Health Standards).

(e) *Documentation.*

(1) The owner of an underground storage tank facility shall prepare a list of designated operators. The list must represent the current Class A, Class B and Class C operators for the underground storage tank facility and include:

(i) The name of each operator, class of operation trained for and the date each operator successfully completed initial training and refresher training, if any.

(ii) For Class A and Class B operators that are not permanently onsite or assigned to more than one facility, telephone numbers to contact the operators.

(2) A copy of the certificates of training for Class A and Class B operators shall be on file and readily available and a copy of the facility list of Class A, Class B and Class C operators and Class C operator instructions or procedures shall be kept onsite and immediately available for manned storage tank facilities and readily available for unmanned facilities. (See § 245.435(b)(3)(ix) (relating to reporting and recordkeeping).)

(3) Class C operator or owner contact information, including names and telephone numbers, and emergency procedures, shall be conspicuously posted at unmanned facilities.

[Pa.B. Doc. No. 09-2366. Filed for public inspection December 24, 2009, 9:00 a.m.]

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY [34 PA. CODE CHS. 401 and 403]

Uniform Construction Code Training and Certification of Code Administrators; Administration

The Secretary of Labor and Industry (Secretary), under the authority of sections 301 and 304 of the Pennsylvania Construction Code Act (act) (35 P.S. §§ 7210.301, 7210.304), amends §§ 401.1, 403.1, 403.21, 403.26, 403.27, 403.28, 403.42, 403.42a, 403.43, 403.62, 403.62a, 403.63, 403.65, 403.102, 403.121 and 403.122 to read as set forth in Annex A.

Proposed Rulemaking Omitted

The Department of Labor and Industry (Department), under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4 (relating to omission of notice of proposed rulemaking), finds that notice of proposed rulemaking under the circumstance is unnecessary and impractical and therefore may be omitted. The Department's justification for utilizing the proposed rulemaking omitted process is that the only changes being made in this amendment are those specifically mandated by the act or that reflect the numerous amendments to the act.

Section 304 of the act requires the Department, by December 31 of the year of the issuance of a new International Code Council (ICC) International Building Code, to promulgate regulations adopting the new code as the Uniform Construction Code (UCC), if the Uniform Construction Code Review and Advisory Council (Council) does not inform the Department that it should exclude any provisions of the triennial code from the UCC. The ICC updated its National codes and issued 2009 editions in early 2009. The Council informed the Department that it should not exclude any provisions of the new triennial ICC Codes. The act was amended by Act 157 of 2006 (Act 157); Acts 9 and 39 of 2007 (Acts 9 and 39, respectively) and Act 106 of 2008 (Act 106).

Background

Under section 304(a)(1) of the act, the Department is required to promulgate regulations adopting new triennial

codes issued by the ICC as the UCC. This was done through final-omitted rulemaking upon the issuance of an updated triennial code by the ICC. The last triennial update to this code occurred through final-omitted regulations issued at 36 Pa.B. 7548 (December 16, 2006).

Act 106 amended the act to create the Council. This Council was given authority to review all new and amended provisions of the triennial ICC codes that comprise the UCC and to direct the Department to exclude any provision that is inconsistent with the act's intent and purpose or which is otherwise inappropriate for inclusion in the UCC. Otherwise, the Department will adopt the triennial updates as the UCC through regulation. See sections 107 and 304(a)(2) of the act (35 P.S. §§ 7210.107 and 7210.304(a)(2)).

During the month of April 2009, the Council held four public meetings and accepted testimony from stakeholders regarding various new and amended provisions of the 2009 ICC codes. On April 30, 2009, the Council notified the Department that it was not directing exclusion of any new or amended provision of the 2009 ICC codes. Therefore, the Department is required by section 304(a)(2) of the act to adopt the new triennial ICC codes as the UCC.

Purpose of the Final-Omitted Rulemaking

The purpose of this final-omitted rulemaking is to update §§ 401.1, 403.21, 403.26 and 403.27 as required by section 304 of the act, to incorporate the new successor building codes issued by the ICC and ANSI, and to incorporate the 2006-2008 amendments to the act in §§ 401.1, 403.1, 403.42, 403.42a, 403.43, 403.62, 403.62a, 403.63, 403.65, 403.102, 403.121 and 403.122.

Explanation of Regulatory Requirements

§ 401.1. Definitions.

The definition of agricultural building is amended to conform to Act 157. Act 157 exempted mushroom growing houses from the statutory definition of an agricultural building. See section 103 of the act (35 P.S. § 7210.103) (definition of "agricultural building").

The definitions for International Building Code, International Energy Conservation Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Performance Code, International Plumbing Code, International Residential Code, International Wildland-Urban Interface Code and Uniform Construction Code are amended in this regulation to reflect the most current editions required by section 304 of the act. In this amendment, the publication year in each definition is being changed from 2006 to 2009.

The definition of ICC Electrical Code is being deleted to reflect the ICC's decision not to publish a separate electric code. The definition of NEC is being added to reflect the decision of the International Code Council to refer to and incorporate parts of the NEC in its publications. The NEC is also referenced in Act 39. The definition of NFPA is also added, as the NFPA issues the NEC.

The definition of Residential building is updated to reflect changes to that definition made by the ICC in the new triennial version of the International Residential Code.

The definition of Pennsylvania’s alternative residential energy provisions is amended to reflect the most current edition issued by the PHRC and to provide that it includes errata issued by the PHRC. The publication year is changed from 2006 to 2009.

§ 403.1. *Scope.*

Subsection (a)(2) is amended to reflect the changes to the regulatory process mandated by Act 106. Act 106 provides that the December 31 deadline for the adoption of the latest triennial codes does not apply if the Council informs the Department that it should exclude any provisions of the triennial codes from the UCC. See section 304(a)(1) of the act.

Subsection (b) is amended to include exemptions to the UCC by Act 39. Subsection (b)(12) is added to reflect the exclusion for certain structures erected for less than 30 days contained in section 104(b)(8) of the act (35 P. S. § 7210.104(b)(8)). This section excludes structures which are erected for the purpose of participation in a fair, flea market, arts and crafts festival or other public celebration, which are less than 1,600 square feet in size, erected for a period of less than 30 days and are not a swimming pool, spa or hot tub. Subsection (b)(13) is added to reflect the exclusion of pole barns at agricultural fairs that are used for agricultural purposes and animal display contained in section 901(e) of the act (35 P. S. § 7210.901(e)).

Section 403.1(f) is amended to reflect the Act 157 exclusion of the UCC plumbing provisions as applied to dwelling units or one-room schoolhouses utilized by members of a recognized religious sect. See section 901(b) of the act (35 P. S. § 7210.901(b)). Additionally, grammatical errors are corrected.

§ 403.21. *Uniform Construction Code.*

Subsection (a)(1) is amended to include language from Act 13 of 2004 (Act 13) regarding stairway riser height and tread depth in certain occupancies. See section 301(a)(6) of the act. Act 13 established special requirements for stairways in certain residential and commercial dwelling units. When the Department submitted final-omitted regulatory changes in 2006, it included the act’s requirements for residential buildings, but failed to include the stairway requirement applicable to certain commercial buildings.

Subsection (a)(2)—(4) is amended to delete the reference to the International Electrical Code in recognition of the ICC’s decision not to publish an electrical code and to insert the “International Performance Code” published by the ICC.

Subsection (a)(6)(i) is amended to reflect a change in the numbering of the referenced section of the “International Residential Code” that applies to interconnected smoke alarms.

Subsection (a)(7) is amended to reflect a change in the numbering of the referenced section of the “International Fire Code” relating to natural cut trees.

Subsection (b) is amended to conform with section 302(a)(1) (35 P. S. § 7210.302(a)(1)), which provides that the codes and standards referenced in Chapter 35 of the “BOCA National Building Code,” or its successor code, are adopted to the extent that they are referenced in Chapter 35. However, the International Building Code, which is the successor code to the BOCA National Building Code, was altered so that other chapters now adopt all ICC codes in their entirety, except the International Fire Code. This section clarifies that the “International Fire Code” was not adopted in its entirety and that it is only adopted

to the extent that it is referenced in Chapter 35 of the “International Building Code.”

A typographical error is corrected in § 403.21(c). The reference to paragraphs (a)(9) and (12)—(14) was changed to accurately reference paragraphs (a)(9) and (11)—(13). In addition, this subsection was amended to clarify that both appendices and resource information are adopted for use. A mistaken reference to other code appendices is also being corrected.

§ 403.26. *Swimming pools.*

Subsection (a) is amended to update the references to sections of the “International Building Code” and the “International Residential Code.” The sections have been renumbered or renamed in the new triennial edition of the adopted codes.

§ 403.27. *Applicability and use of standards.*

Subsection (a) is amended to remove the reference to the ICC Electrical Code in recognition of the ICC’s decision not to publish an electrical code. In addition, the reference to the 2006 codes is removed as unnecessary. The definition of each listed code in § 401.1 specifies the edition of each code which is adopted.

§ 403.28. *Uncertified buildings.*

Subsection (b)(5) is amended to conform to section 902(c)(2) of the act (35 P. S. § 7210.902(c)(2)), which provides that a construction code official may deny a certificate of occupancy to an uncertified building. When the current regulation was promulgated, the Department inadvertently excluded this language.

§ 403.42. *Permit requirements and exemptions.*

Subsection (e) is amended to conform to Act 157, which provides that a permit is not required for equipment that is under the ownership and control of a public service agency. See section 502(a.1) of the act (35 P. S. § 7210.502(a.1)).

§ 403.42a. *Permit application.*

Subsection (b) is amended to require that a permit application include all other permits or approvals related to construction required under § 403.102(n). This amendment reflects changes to the act made by Act 157. See section 502(a)(1) of the act (35 P. S. § 7210.502(a)(1)).

Subsection (k) is amended to revise the reference to section 1709 to 1710 of the “International Building Code,” due to renumbering of sections in the 2009 edition by the International Code Council.

§ 403.43. *Grant, denial and effect of permits.*

Subsection (a) is amended to reflect the Act 157 requirement addressing denial of a building permit. If a permit is denied, the code administrator must, in writing, identify the elements of the application which are not in compliance with the relevant UCC provisions and ordinance, as appropriate, and provide a citation to the relevant provisions of the UCC and ordinance. See section 502(a)(2) of the act.

§ 403.62. *Permit requirements and exemptions.*

Subsection (e) is amended to conform to Act 157, which provides that a permit is not required for equipment that is under the ownership and control of a public service agency. See section 502(a.1) of the act.

§ 403.62a. *Permit application.*

Subsection (b) is amended to require that a permit application include all other permits or approvals related to construction required under § 403.102(n). This amendment reflects changes to the act made by Act 157. See section 502(a)(1) of the act.

§ 403.63. *Grant, denial and effect of permits.*

Subsection (a) is amended to reflect the Act 157 requirement that, when drawings are prepared by design professionals who are licensed or registered and contain a certification that the plans meet the applicable UCC standards and ordinance, as appropriate, a building permit must be granted or denied within 5 business days of the date of filing or the application is deemed approved. It also reflects the Act 157 requirement that reasons for denial must identify the elements of the application which are not in compliance with the relevant provisions of the UCC and ordinance and provide a citation to the relevant provisions of the UCC and ordinance. See section 502(a)(2) of the act.

§ 403.65. *Certificate of occupancy.*

Subsection (b) is amended to require that a building code official issue a certificate of occupancy after receipt of a final inspection report that indicates compliance with the UCC and ordinance within 10 business days in cities of the first class and within 5 business days in all other jurisdictions. This amendment reflects changes made by Act 157. See section 502(a)(1) of the act.

§ 403.102. *Municipalities electing to enforce the Uniform Construction Code.*

Subsection (i) is amended to conform to changes in Act 157 requiring that a municipality seeking to enact an ordinance containing standards that equal or exceed the UCC include in its submission to the Department a detailed statement containing the differences between the proposed ordinance and the UCC that includes code sections affected by the changes and the time and place of public hearing. See section 502(f) of the act. Subsection (k) is amended to provide that an aggrieved party shall serve a copy of any challenge to an ordinance upon the municipality. See section 502(j) of the act.

Subsection (n) is amended to include the Act 157 requirement that a municipality provide a list of all other required permits necessary prior to the issuance of a building permit. See section 502(a)(1) of the act. The existing subsections (n) and (o) are now renumbered to (o) and (p).

Subsection (q) is added to provide that a municipality may enact an ordinance imposing code requirements on structures exempted under § 403.1(b)(12). This provision is required by Act 39.

§ 403.121. *Board of appeals.*

Subsection (h) is added under Act 157, which provides that the fee for an appeal to a board of appeals may not exceed the actual costs of publishing the hearing notice, court reporter services and all other necessary administrative services. See section 501(c)(4) of the act (35 P. S. § 7210.501(c)(4)).

§ 403.122. *Appeals, variances and extensions of time.*

Subsection (e) is amended to include the Act 157 requirement that in cases before a board of appeals involving a residential building, the board of appeals must convene a hearing within 30 days of the appeal. Subsection (j) is also amended under Act 157, to require that appeals involving residential buildings shall be

heard within 30 days and the board shall render a written decision to the parties within 5 business days, or within 10 business days in cities of the first class. Failure by the board to act within the time period results in the appeal being deemed granted. See section 501(c)(5) of the act.

Fiscal Impact

There is no fiscal impact on the Department. Compliance with updated building codes may have some fiscal impact on the regulated community.

Paperwork

The final-omitted rulemaking will not generate additional paperwork for the public or the Commonwealth.

Sunset Date

The final-omitted rulemaking will become effective on December 31, 2009. The regulation is scheduled for review within 3 years of final publication. No sunset date has been assigned.

Contact Person

The contact person is Edward L. Leister, Director, Bureau of Occupational and Industrial Safety, Labor and Industry Building, 651 Boas Street, 16th Floor, Harrisburg, PA 17120, e-mail: eleister@state.pa.us.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on October 23, 2009, the Department submitted a copy of the final-form regulations, proposed rulemaking omitted, to the Independent Regulatory Review Commission (IRRC) and the Senate Committee on Labor and Industry and the House Labor Relations Committee (Committees). In addition to submitting the final-form regulations, the Department also provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department.

Under section 5.1(j.1)—(j.3) of the Regulatory Review Act, these final-form regulations were deemed approved by the Committees on November 23, 2009. IRRC met on December 10, 2009 and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act.

Findings

The Department finds that the final-omitted rulemaking is necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the Commonwealth Documents Law, the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite this amended regulation.

Order

The Department, acting under authorizing statute, orders that:

(a) The regulations of the Department, 34 Pa. Code Chapters 401 and 403, are amended by amending §§ 401.1, 403.1, 403.21, 403.26, 403.27, 403.28, 403.42, 403.42a, 403.43, 403.62, 403.62a, 403.63, 403.65, 403.102, 403.121 and 403.122 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General

and the Office of General Counsel for approval as to legality and form as required by law.

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

(d) This order shall become effective on December 31, 2009.

SANDI VITO, Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 7271 (December 26, 2009).)

Fiscal Note: 12-89. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART XIV. UNIFORM CONSTRUCTION CODE

CHAPTER 401. UNIFORM CONSTRUCTION CODE TRAINING AND CERTIFICATION OF CODE ADMINISTRATORS

§ 401.1. Definitions.

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

* * * * *

Agricultural building—

(i) A structure utilized to store farm implements, hay, feed, grain or other agricultural or horticultural products or to house poultry, livestock or other farm animals, a milk house and a structure used to grow mushrooms.

(ii) The term includes a carriage house owned and used by members of a recognized religious sect for the purposes of housing horses and storing buggies.

(iii) The term does not include habitable space or spaces in which agricultural products are processed, treated or packaged and will not be construed to mean a place of occupancy by the general public.

* * * * *

ICC—International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401.

ICC Evaluation Services, Inc.—The ICC Evaluation Services, Inc., 5360 Workman Mill Road, Whittier, California 90601.

* * * * *

International Building Code—Chapters 2—29 and 31—35 of the “International Building Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Energy Conservation Code—The “International Energy Conservation Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

* * * * *

International Existing Building Code—The “International Existing Building Code for Buildings and Facilities 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Fire Code—The “International Fire Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Fuel Gas Code—The “International Fuel Gas Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Mechanical Code—The “International Mechanical Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Performance Code—The “International Performance Code for Buildings and Facilities 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Plumbing Code—The “International Plumbing Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Residential Code—The “International Residential Code for One- and Two-Family Dwellings 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Wildland-Urban Interface Code—The “International Wildland-Urban Interface Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

* * * * *

NEC—NFPA-70, the “National Electrical Code 2008” issued by the NFPA on July 26, 2007. The term includes all errata issued by the NFPA.

NFPA—The National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169.

* * * * *

Pennsylvania’s Alternative Residential Energy Provisions—The “Pennsylvania Alternative Residential Energy Provisions” issued in 2009 by the PHRC. This term includes all errata issued by the PHRC.

* * * * *

Residential building—Detached one-family and two-family dwellings and townhouses which are not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

* * * * *

Uniform Construction Code—This chapter, “The International Building Code 2009” (first printing) and the “International Residential Code for One- and Two-Family Dwellings 2009” (first printing), available from the International Code Council, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795, 1 (888) 422-7233; and any standards adopted by the Department in this chapter under section 301 of the act (35 P. S. § 7210.301).

* * * * *

CHAPTER 403. ADMINISTRATION GENERALLY

§ 403.1. Scope.

(a) Application.

* * * * *

(2) The Department will promulgate regulations adopting the new triennial BOCA National Building Code, or its successor building code as the Uniform Construction Code by December 31 of the year of the issuance under section 304(a)(1) of the act (35 P. S. § 7210.304(a)(1)). This deadline will not apply if the Uniform Construction Code Review and Advisory Council established under section 107 of the act (35 P. S. § 7210.107) informs the Department that it should exclude any provisions of the

triennial codes from the Uniform Construction Code. New buildings or renovations to existing buildings for which a design or construction contract was executed before the effective date of the regulatory amendment adopting the latest triennial versions of the construction codes and standards shall comply with the codes and standards in effect at the time that the design or construction contract was executed.

(b) *Exclusions and exemptions.* The Uniform Construction Code does not apply to:

* * * * *

(12) Structures which are:

(i) Erected for the purpose of participation in a fair, flea market, arts and crafts festival or other public celebration.

(ii) Less than 1,600 square feet in size.

(iii) Erected for a period of less than 30 days.

(iv) Not a swimming pool, spa or hot tub.

(13) A pole barn that is constructed on agricultural fairgrounds and is only used for agricultural purposes and animal display. If an exempted pole barn has electrical service, a permit and inspections to determine compliance with the electrical provisions of the Uniform Construction Code are required.

* * * * *

(f) The electrical, plumbing and lumber and wood provisions, except for the wood provisions related to pressure treatment, of the Uniform Construction Code do not apply to a dwelling unit or one-room school house utilized by a member or members of a recognized religious sect if a code administrator grants an exemption under section 901(b) of the act (35 P. S. § 7210.901(b)) as follows:

(1) The permit applicant shall file an application with the code administrator stating the manner in which an electrical provision, a plumbing provision or a lumber and wood provision of the Uniform Construction Code conflicts with the applicant's religious beliefs. The application must also contain an affidavit by the applicant stating:

(i) The permit applicant is a member of a religious sect.

(ii) The religious sect has established tenets or teachings which conflict with an electrical, a plumbing or a lumber and wood provision of the Uniform Construction Code.

(iii) The permit applicant adheres to the established tenets or teachings of the sect.

(A) For a dwelling unit, the dwelling will be used solely as a residence for the permit applicant and the applicant's household.

(B) For a one-room school house, the school house will be used solely by members of the religious sect.

* * * * *

STANDARDS

§ 403.21. Uniform Construction Code.

(a) The Department adopts and incorporates by reference the following codes as the Uniform Construction Code:

(1) The provisions of Chapters 2—29 and 31—35 of the "International Building Code," except that in occupancies in Use Group R-3 and within dwelling units in occupancies in Use Group R-2 the maximum riser height shall be

8 1/4 inches (210 mm) and the minimum tread depth shall be 9 inches (229 mm). A 1-inch (25 mm) nosing shall be provided on stairways with solid risers.

(2) The "International Mechanical Code."

(3) The "International Fuel Gas Code."

(4) The "International Performance Code."

* * * * *

(6) The "International Residential Code," except that:

(i) The provisions of R314.4 requiring interconnected smoke alarms do not apply to one-family and two-family dwellings undergoing alterations, repairs or additions. Noninterconnected battery operated smoke alarms shall be installed in these dwellings.

* * * * *

(7) The "International Fire Code." Section 806.1.1 of the International Fire Code (relating to natural cut trees) is not adopted under this chapter. A municipality that elects to adopt an ordinance for the administration and enforcement of the Uniform Construction Code may, by ordinance, restrict the placement of natural cut trees in an occupancy group. The ordinance restricting the placement of natural cut trees is not subject to section 503(b)—(k) of the act (35 P. S. § 7210.503(b)—(k)) and § 403.102(i)—(k) (relating to municipalities electing to enforce the Uniform Construction Code).

* * * * *

(b) The code adopted under subsection (a)(7) is part of the Uniform Construction Code to the extent that it is referenced in Chapter 35 of the "International Building Code" under section 302(a)(1) of the act (35 P. S. § 7210.302(a)(1)). The provisions of the Uniform Construction Code apply if there is a difference between the Uniform Construction Code and the codes or standards adopted in subsection (a). This chapter's administrative provisions govern under § 403.27(e) (relating to applicability and use of standards) if there is a conflict with the provisions of the codes relating to administration incorporated under subsection (a).

(c) Appendices to a code or standard listed in subsection (a) are not adopted in the Uniform Construction Code except for the appendices and resource information found in the "International Existing Building Code" and the appendices found in (a)(11)—(13).

§ 403.26. Swimming pools.

(a) A swimming pool, hot tub and spa which is accessory to a one- or two-family dwelling must comply with all of the following:

(1) Chapter 42 of the "International Residential Code."

(2) Appendix G of the "International Residential Code."

(3) Section 2406.4, paragraph 9 of the International Building Code (glazing in walls and fences enclosing indoor and outdoor swimming pools, hot tubs and spas).

(4) Section 3109.4 of the "International Building Code" (residential swimming pools).

(b) A swimming pool that is not accessory to a one- or two-family dwelling must comply with this chapter, the "American National Standards for Public Pools" issued by ANSI and APSP (ANSI/NSPI-1 2003) and the Public Bathing Law (35 P. S. §§ 672—680d).

(c) A hot tub or spa that is not accessory to a one- or two-family dwelling must comply with this chapter and

the "American National Standard for Public Spas" issued by ANSI and APSP (ANSI/NSPI-2 1999).

§ 403.27. Applicability and use of standards.

(a) Portions of this chapter designate and incorporate portions of the following ICC copyrighted works:

- (1) The "International Building Code."
(2) The "International Residential Code."
(3) The "International Plumbing Code."
(4) The "International Mechanical Code."

(b) The "International Residential Code" and the "International Existing Building Code" apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings no more than three stories in height with a separate means of egress and their accessory structures.

(c) The ICC owns the copyrighted works in subsection (a). Reproduced with permission. All rights reserved.

(d) If different sections of this chapter specify different materials, method of construction or other requirements, the most restrictive material, method of construction or other requirement shall govern. The specific requirement of this part applies if there is a conflict between a general requirement and a specific requirement.

(e) This chapter governs if there is a conflict between this chapter and the provisions of the codes relating to administration incorporated under § 403.21(a) (relating to Uniform Construction Code).

(f) A provision of the "International Mechanical Code" does not apply if the provision conflicts with the Boiler and Unfired Pressure Vessel Law (35 P. S. §§ 1331.1—1331.9).

§ 403.28. Uncertified buildings.

* * * * *

(b) Under section 902(b) of the act, uncertified buildings within the Department's jurisdiction must meet the following requirements which do not apply to uncertified buildings under subsection (a):

* * * * *

(5) A construction code official may deny the issuance of a certificate of occupancy if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.

* * * * *

PERMIT AND INSPECTION PROCESS FOR COMMERCIAL CONSTRUCTION

§ 403.42. Permit requirements and exemptions.

* * * * *

(e) A permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment under the ownership and control of public service agencies.

* * * * *

§ 403.42a. Permit application.

* * * * *

(b) A permit applicant shall submit an application to the building code official and attach construction documents,

including plans and specifications, and information concerning special inspection and structural observation programs, Department of Transportation highway access permits, all other permits or approvals related to the construction required under § 403.102(n) (relating to municipalities electing to enforce the Uniform Construction Code) and other data required by the building code official with the permit application. The applicant shall submit three sets of documents when the Department conducts the review.

* * * * *

(k) The permit applicant shall describe an inspection program, identify a person or firm who will perform special inspections and structural observations if section 1704 or 1710 of the "International Building Code" requires special inspections or structural observations for the construction.

* * * * *

§ 403.43. Grant, denial and effect of permits.

(a) A building code official shall grant or deny a permit application, in whole or in part, within 30 business days of the filing date. Reasons for the denial must be in writing, identifying the elements of the application which are not in compliance with the relevant provisions of the Uniform Construction Code and ordinance as appropriate and providing a citation to the relevant provisions of the Uniform Construction Code and ordinance as appropriate, and sent to the applicant. The building code official and the permit applicant may agree in writing to extend the deadline by a specific number of days. A building code official may establish a different deadline to consider applications for a permit in an historic district.

* * * * *

PERMIT AND INSPECTION PROCESS FOR RESIDENTIAL BUILDINGS

§ 403.62. Permit requirements and exemptions.

* * * * *

(e) A permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment under the ownership and control of public service agencies.

§ 403.62a. Permit application.

(a) Applications for a permit required under § 403.62 (relating to permit requirements and exemptions) shall be submitted to the building code official in accordance with this section.

(b) A permit applicant shall submit an application to the building code official and attach construction documents with plans and specifications and all other permits or approvals related to the construction required by § 403.102(n) (relating to municipalities electing to enforce the Uniform Construction Code).

(c) A building code official may waive the submission of construction documents if the nature of the construction does not require the review of the construction documents to determine compliance with the Uniform Construction Code.

(d) A permit applicant for a building or structure located in a flood hazard area under the National Flood Insurance Program shall submit the following information with the construction documents:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones and the design flood elevation, as appropriate.

(2) The elevation of the proposed lowest floor including basement and the height of the proposed lowest floor including basement above the highest adjacent grade is to be included in the documents if the building or structure is located in areas of shallow flooding (Zone AO).

(3) Design flood elevations contained on the municipality's Flood Insurance Rate Map produced by the Federal Emergency Management Agency. The building code official and the applicant shall obtain and reasonably utilize design flood elevation and floodway data available from other sources if this information is not contained on the municipality's Flood Insurance Rate Map.

(e) The application must contain a site plan showing the size and location of the new construction and existing structures on the site and the structures' distance from lot lines. If the construction involves demolition, the site plan must indicate construction that is to be demolished and the size and location of existing structures and construction that will remain on the site or plot. A building code official may waive or modify the site plan requirement when the permit application is for an alteration or a repair or if the waiver is warranted for other reasons.

§ 403.63. Grant, denial and effect of permits.

(a) A building code official shall grant or deny a permit application, in whole or in part, within 15 business days of the filing date or the application is deemed approved. If the drawings were prepared by a design professional who is licensed or registered under the laws and regulations of the Commonwealth and the application contains a certification by the licensed or registered design professional that the plans meet the applicable standards of the Uniform Construction Code and ordinance as appropriate, a building code official shall grant or deny a permit application, in whole or in part, within 5 business days of the filing date or the application is deemed approved. Reasons for denial must be in writing, identifying the elements of the application which are not in compliance with the relevant provisions of the Uniform Construction Code and ordinance as appropriate and providing a citation to the relevant provisions of the Uniform Construction Code and ordinance as appropriate, and sent to the permit applicant. The building code official and the applicant may agree in writing to extend the deadline by a specific number of days.

* * * * *

§ 403.65. Certificate of occupancy.

(a) A residential building may not be used or occupied without a certificate of occupancy issued by a building code official.

(b) A building code official shall issue a certificate of occupancy after receipt of a final inspection report that indicates compliance with the Uniform Construction Code and ordinance within 5 business days or within 10 business days in cities of the first class. The certificate of occupancy must contain the following information:

- (1) The permit number and address of the residential building.
- (2) The name and address of the owner of the residential building.
- (3) A description of the portion of the residential building covered by the occupancy permit.

(4) A statement that the described portion of the residential building was inspected for compliance with the Uniform Construction Code.

(5) The name of the building code official who issued the occupancy permit.

(6) The construction code edition applicable to the occupancy permit.

(7) If an automatic sprinkler system is provided.

(8) Any special stipulations and conditions relating to the building permit.

(c) A building code official may issue a certificate of occupancy for a portion of a residential building if the portion independently meets the Uniform Construction Code.

(d) A building code official may suspend or revoke a certificate of occupancy when the certificate was issued in error, on the basis of incorrect information supplied by the permit applicant, or in violation of the Uniform Construction Code. Before a certificate of occupancy is revoked, a building owner may request a hearing before the board of appeals in accordance with § 403.122 (relating to appeals, variances and extensions of time).

(e) A third-party agency under contract with a building permit holder shall submit a copy of the certificate of occupancy to the municipality.

(f) A building code official may issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official shall set a time period during which the temporary certificate of occupancy is valid.

MUNICIPAL ELECTION

§ 403.102. Municipalities electing to enforce the Uniform Construction Code.

* * * * *

(i) A municipality may enact an ordinance containing standards that equal or exceed the Uniform Construction Code as adopted by § 403.21 (relating to the Uniform Construction Code) under section 503 of the act (35 P. S. § 7210.503) after Department review and approval. A municipality may enact ordinances under this section which adopt additional code requirements for alterations or repairs to residential buildings. A municipality may enact ordinances under this section which adopt stricter code requirements than required by the act for the regulation of utility and miscellaneous use structures. The municipality shall notify the Department of the proposed ordinance and submit the following to the Department for its review:

- (1) The complete ordinance.
- (2) The information required in subsection (c).
- (3) A detailed statement containing the differences between the proposed ordinance and the Uniform Construction Code including code sections affected by the changes and how the ordinance will equal or exceed the Uniform Construction Code.
- (4) The time and place of public hearing.

* * * * *

(k) A written challenge of an ordinance is governed by the following:

- (1) An aggrieved party may file a written challenge of an ordinance within 30 days of its enactment with the

Department and shall serve a copy of the challenge upon the municipality under section 503(j) of the act.

(2) The Secretary will issue a ruling on the challenge within 45 days of receipt of the filing of the last challenge to the ordinance or within 30 days of the Department hearing on the challenge, whichever occurs last, under section 503(k) of the act.

* * * * *

(n) A municipality will provide a list of all other required permits necessary before issuance of the building permit. A municipality will not be liable for the completeness of any list.

(o) The Department will enforce Chapter 11 (Accessibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code until a municipality employs or contracts with a code administrator certified as an accessibility inspector/plans examiner under this part.

(p) A municipality may observe Department inspections of State-owned buildings in its jurisdiction under section 105(b)(1) of the act (35 P. S. § 7210.105(b)(1)). A municipality may review all building plans and plan review documents for State-owned buildings in the Department's custody.

(q) A municipality may enact an ordinance imposing the code requirements spelled out in section 503(a)(2) of the act (35 P. S. § 7210.503(a)(2)) on the structures exempted under § 403.1(b)(12) (relating to scope).

BOARD OF APPEALS

§ 403.121. Board of appeals.

(a) A municipality which has adopted an ordinance for the administration and enforcement of the Uniform Construction Code or is a party to an agreement for the joint administration and enforcement of the Uniform Construction Code shall establish and appoint members to serve on a board of appeals under section 501(c) of the act (35 P. S. § 7210.501(c)).

(b) The board of appeals shall hear and rule on appeals, requests for variances and requests for extensions of time. An application for appeal shall be based on a claim that the true intent of the act or Uniform Construction Code has been incorrectly interpreted, the provisions of the act or Uniform Construction Code do not fully apply or an equivalent form of construction is to be used.

(c) The composition of a board of appeals is governed by all of the following:

(1) A member of the board of appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.

(2) A member of the board of appeals holds office at the pleasure of the municipality's governing body.

(3) Members of a municipality's governing body and its code administrators may not serve on a board of appeals.

(4) A municipality may fill a position on the board of appeals with a qualified person who resides outside of the municipality when it cannot find a person within the municipality who satisfies the requirements of this section.

(d) Two or more municipalities may establish a joint board of appeals through an intermunicipal agreement under 53 Pa.C.S. §§ 2301—2315 (relating to intergovernmental cooperation).

(e) A board of appeals member may not cast a vote or participate in a hearing in any appeal, request for variance or request for extension of time in which the member has a personal, professional or financial interest.

(f) A board of appeals shall schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act).

(g) A board of appeals may not act upon appeals, requests for variance or requests for extension of time relating to accessibility under the act.

(h) The fee for an appeal in a municipality which has adopted an ordinance for the administration and enforcement of the Uniform Construction Code or is a party to an agreement for the joint administration and enforcement of the Uniform Construction Code will not exceed the actual costs of publishing the hearing notice, court reporter services and other necessary administrative services under section 501(c) of the act (35 P. S. § 7210.501(c)(4)).

§ 403.122. Appeals, variances and extensions of time.

* * * * *

(e) A board of appeals shall hold a hearing within 60 days from the date of an applicant's request unless the applicant agreed in writing to an extension of time. A board of appeals shall convene a hearing within 30 days of receipt of an appeal or request for variance or extension of time involving the construction of a one- or two-family residential building.

* * * * *

(j) The board of appeals shall provide a written notice of its decision to the owner and to the building code official. A board of appeals shall render a written decision regarding an appeal or request for variance or extension of time involving the construction of a one- or two-family residential building within 5 business days, or within 10 business days in cities of the first class, of the latest hearing. The appeal shall be deemed granted if a board of appeals fails to act within this time period.

* * * * *

[Pa.B. Doc. No. 09-2367. Filed for public inspection December 24, 2009, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF CHIROPRACTIC

[49 PA. CODE CH. 5]

Needle Acupuncture

The State Board of Chiropractic (Board) amends § 5.81(1)(xv) (relating to unprofessional and immoral conduct) to read as set forth in Annex A.

Description and Need for the Rulemaking

Section 102 of the Chiropractic Practice Act (act) (63 P. S. § 625.102) generally defines chiropractic as a branch of the healing arts dealing with the relationship between the articulations of the vertebral column, as well as other articulations, and the neuro-musculo-skeletal system and the role of these relations in the restoration and mainte-

nance of health. This definition explicitly excludes surgery from the scope of chiropractic practice. Without statutory support for the practice of needle acupuncture to be considered part of the practice of chiropractic (as it is in some other jurisdictions), the Board previously prohibited its licensees from advertising or practicing needle acupuncture. Because the Board may take disciplinary action against a licensee who has displayed misconduct in the practice of chiropractic or committed unprofessional conduct, the Board achieved this prohibition by defining misconduct to include advertising or practicing needle acupuncture.

Under the Acupuncture Licensure Act (63 P. S. §§ 1801—1806.1), a qualified person may become licensed by the State Board of Medicine or the State Board of Osteopathic Medicine to practice acupuncture. Unlike dentists, podiatrists and veterinarians as provided in section 3(h) of the Acupuncture Licensure Act (63 P. S. § 1803(h)), a chiropractor seeking to practice acupuncture must become licensed with one of these medical boards under the Acupuncture Licensure Act and be subject to regulation of that medical board. Although it is not the practice of chiropractic, the Board sees no compelling basis to prohibit the practice of acupuncture by a licensed chiropractor who is licensed with a medical board to practice acupuncture and is acting in accordance with that medical board's regulations concerning the practice of acupuncture.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 39 Pa.B. 1004 (February 21, 2009) with a 30-day public comment period. The Pennsylvania Chiropractic Association and the Pennsylvania Medical Society submitted written comments supporting the proposed rulemaking. 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) as part of its review of proposed rulemaking under the Regulatory Review Act.

The HPLC noted that Act 91 of 2008 amended the Acupuncture Registration Act to redesignate registration as licensure. The HPLC suggested revising the references to reflect licensure and not registration. IRRC agreed with the HPLC and recommended these changes. The Board has revised the final-form rulemaking to reflect licensure under the Acupuncture Licensure Act. Also, because the State Board of Medicine is currently promulgating final-form rulemaking 16A-4924 (acupuncture licensure) that will amend its regulations to, among other things, reflect licensure rather than registration of acupuncturists, the Board has revised this final-form rulemaking to refer to those amended regulations. See 38 Pa.B. 2059 (May 3, 2008). However, because the State Board of Osteopathic Medicine has not yet amended its regulations to reflect licensure, the Board continues to cite that Board's regulations referring to registration.

Fiscal Impact and Paperwork Requirements

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

Effective Date

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

Statutory Authority

The final-form rulemaking is authorized under sections 302(3), 506(a)(4) and 506(a)(11) of the act (63 P. S. §§ 625.302(3), 625.506(a)(4) and 625.506(a)(11)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 11, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 1004, to IRRC and the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on November 18, 2009. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 19, 2009, and approved the final-form rulemaking.

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) 783-7155, or st-chiropractic@state.pa.us.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (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 39 Pa.B. 1004.

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

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 5, are amended, by amending § 5.81 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*.

KATHLEEN G. McCONNELL, D.C.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 6915 (December 5, 2009).)

Fiscal Note: Fiscal Note 16A-4317 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 5. STATE BOARD OF CHIROPRACTIC

Subchapter H. DISCIPLINARY ACTION

§ 5.81. Unprofessional and immoral conduct.

A licensee who engages in unprofessional or immoral conduct is subject to disciplinary action in accordance with section 506 of the act (63 P. S. § 625.506).

(1) Unprofessional conduct includes the following:

(i) Revealing personally identifiable facts obtained as the result of a doctor-patient relationship without the prior consent of the patient, except as authorized or required by law.

(ii) Performing a chiropractic service incompetently or performing a chiropractic service which the licensee knows or has reason to know that the licensee is not competent to perform.

(iii) Advertising a chiropractic practice in a manner which is intended or has the tendency to deceive the public.

(iv) Knowingly permitting, aiding or abetting a person who is not licensed to perform activities, requiring a license in health care practice.

(v) Continuing to practice chiropractic or to indicate the ability to practice chiropractic while one's license is unregistered or inactive or is suspended or revoked.

(vi) Impersonating another health care practitioner.

(vii) Offering, undertaking or agreeing to cure or treat a disease by a secret method, procedure, treatment or preparation or the treating of a human condition by a method, means or procedure which the licensee refuses to divulge to the Board upon demand of the Board.

(viii) Delegating a radiological procedure to a person whom the chiropractor knows or has reason to know is not qualified to perform the procedure, under section 522 of the act (63 P. S. § 625.522) and § 5.62 (relating to auxiliary personnel who may perform radiological procedures).

(ix) Failing to exercise direct supervision over auxiliary personnel authorized to perform radiological procedures.

(x) Willfully engaging in sexual activity with a patient within the scope of the chiropractor/patient relationship or harassing, assaulting, abusing or intimidating a patient.

(xi) Abandoning a patient. Abandonment occurs when a licensee withdraws services after a doctor-patient relationship has been established, by failing to give notice to

the patient of the licensee's intention to withdraw in sufficient time to allow the patient to obtain necessary chiropractic care.

(xii) Ordering excessive tests, treatment or use of treatment and diagnostic facilities not reasonably warranted by the condition of the patient.

(xiii) Failure to include the word chiropractor, chiropractic, D.C. or a derivative thereof in advertisements, letterhead, signs and other printed material.

(xiv) Practicing or advertising adjunctive procedures without a certificate to use adjunctive procedures issued by the Board.

(xv) Practicing or advertising needle acupuncture, unless the licensee is licensed to do so by the State Board of Medicine or the State Board of Osteopathic Medicine and acting in accordance with the Acupuncture Licensure Act (63 P. S. §§ 1801—1806.1) and regulations of the State Board of Medicine in §§ 18.11—18.18 (relating to licensure and practice of acupuncturists and practitioners of oriental medicine) or regulations of the State Board of Osteopathic Medicine in §§ 25.301—25.308 (relating to registration and practice of acupuncturists).

(2) Immoral conduct includes the following:

(i) Misrepresentation or concealment of a material fact in obtaining a license to practice chiropractic or the reinstatement thereof.

(ii) The commission of an act involving moral turpitude, dishonesty or corruption.

[Pa.B. Doc. No. 09-2368. Filed for public inspection December 24, 2009, 9:00 a.m.]

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Revisions Regarding Current Pharmacy Practice

The State Board of Pharmacy (Board) deletes § 27.3 (relating to location of office) and amends §§ 27.1, 27.2, 27.12, 27.17—27.19, 27.21, 27.25 and 27.31 to read as set forth in Annex A.

Effective Date

The amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are authorized under sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act (act) (63 P. S. §§ 390-(4)(j) and 390-6(k)(1) and (9)).

Background and Purpose

The Board undertook a wholesale review of its regulations to determine what provisions were outdated. Through careful review and with input from stakeholders, the Board decided to delete certain regulations and to update others to reflect current pharmacy practice.

Summary of Comments and Responses to Proposed Rule-making

The Board published notice of proposed rulemaking at 37 Pa.B. 5260 (September 29, 2007), with a 30-day public comment period. The Board received comments from Patricia Clancy Kienle and Jerry Mucheno, J.D., R.Ph. who wrote on behalf of the P-3 class of Wilkes University Nesbitt School of Pharmacy. The Board received com-

ments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review of proposed rule-making under the Regulatory Review Act (71 P.S. §§ 745.1—745.12). The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

§ 27.12. *Practice of pharmacy and delegation of duties.*

With regard to § 27.12, one commentator offered comment in support of the change that allows pharmacy interns to accept and transcribe oral orders. The commentator and IRRC suggested that the Board affirmatively add that duty to § 27.12(c)(3) in the list of procedures that pharmacy interns are allowed to perform. That list pertains specifically to processing ingredients. The Board believes that with the removal of the prohibition in § 27.12(c)(2), the intent is clear and declines to add this to the list. The Board does not want to go down the road of listing each specific task that a pharmacy intern may perform. Pharmacists may delegate many aspects of the practice of pharmacy to pharmacy interns; therefore so long as an action is not prohibited the intern may perform it.

IRRC asked whether the Board considered adding a specific penalty provision to § 27.12 for the failure of a pharmacist to supervise a pharmacy intern appropriately. Under section 5(a)(6) of the act (63 P.S. § 390-5(a)(6)), the Board has the authority to discipline a pharmacist who has “violated or knowingly permitted the violation of any provision of this act or regulation of the board.” Therefore, the Board does not intend to include a specific penalty provision in § 27.12 for failure to supervise a pharmacy intern. A disciplinary matter for failure to supervise a pharmacy intern would be treated as any other violation of a regulation and evaluated on a case-by-case basis.

§ 27.17. *Security for Schedule II controlled substances.*

One commentator commented that proposed § 27.17(a) does not allow properly trained pharmacy technicians to access or transport controlled substances. The Board notes, as indicated by the brackets, that this language in the current regulation is being removed. The change that was proposed, and remains unchanged in the final-form regulation, is to remove the specific prohibitions on who can have access to controlled substances.

IRRC noted that the changes to § 27.17 appear to be contradictory, first requiring Schedule II controlled substances to be secured in locked cabinets and then permitting them to be dispersed throughout the stock of noncontrolled substances. Another commentator also suggested a change in the wording of § 27.17(a) with regard to storing Schedule II controlled substances to enhance clarity. The Board intended to be consistent with the Drug Enforcement Administration’s (DEA) regulations in 21 CFR 1301.75(b) (relating to physical security controls for practitioners) and the Department of Health’s (Department) regulations in 28 Pa. Code § 25.63 (relating to security controls for practitioners and research personnel), both of which have been in place for over 30 years, to allow for dispersal as another method of obstructing the theft or diversion of controlled substances. In 1998, the Board had amended § 27.16(b)(3) (relating to construction and equipment requirements) to adopt this change; however, no similar amendment was made to § 27.17 at that time, or anytime since. Therefore, the amendments being made at this time are intended to promote internal consistency within the Board’s regula-

tions, not to change a substantive rule. The language has not been amended in response to these comments to be consistent with the regulations of the DEA and the Department relating to security for controlled substances, both of which use nearly identical language to that being adopted by the Board.

The HPLC asked for the Board’s reasoning for the safety measure of including controlled substances distributed throughout the stock of noncontrolled substances and noted that it did not appear to be an adequate safety measure. As noted, many pharmacies have dispersed their controlled substances throughout the stock of noncontrolled substances for years as the DEA and the Department have had this language in their regulations over 30 years and because similar language has been in § 27.16(b)(3) (relating to construction and equipment requirements) since 1998. See 28 Pa.B. 4532 (September 5, 1998). Dispersing controlled substances throughout the stock is considered to be more secure, as they are not easily identifiable as controlled substances when mixed in with the other stock of the pharmacy. If anyone illegally entered the pharmacy to procure controlled substances they would have to search throughout the stock of the pharmacy to find the controlled substances. Conversely, if all controlled substances were located in one area of the pharmacy, it would be easier to locate them and to procure large quantities of controlled substances illegally in a short period of time.

IRRC further commented that the Board should clarify what a “substantially constructed cabinet” is. The Board notes that this language has been in effect over 30 years in the DEA’s and the Department’s regulations as mentioned, as well as similar language in the Board’s existing regulation at § 27.16(b)(3). The Board has not received any inquiries from licensees or inspectors about what would be considered a substantially constructed cabinet. The Board believes the term is clear and is understood by the regulated community. For this reason, the Board has made no amendment to the final-form rulemaking in response to these comments.

IRRC asked how the Board would enforce these storage provisions. The Board will continue to enforce these provisions through routine inspections and investigating complaints. IRRC next asked whether the Board has considered specifying which categories of medical professionals can access Schedule II controlled substances in facilities under the jurisdiction of the Board. The Board discussed this in drafting the proposed regulation and decided to delete the language in § 27.17 that prohibited anyone except a licensed pharmacist or pharmacy intern or, in an institution, a licensed physician or registered nurse from having access to controlled substances. The Board declines to specify who can access Schedule II controlled substances and instead will leave it up to the pharmacy and pharmacist to determine who is authorized to be present in the pharmacy. In a typical retail pharmacy, the only people in the prescription area would normally be the pharmacist, pharmacy technicians and interns and any authorized staff people. In an institution, that list of people would include other medical professionals who are part of the health care team. The Board is comfortable leaving that decision to the discretion of the pharmacist who must still be present and supervising when other authorized personnel are in the pharmacy.

A commentator also commented that “other persons” in § 27.17(b) should be clarified. The Board has changed the regulation to specify, “authorized personnel.” The commentator also suggested that the Board affirmatively

express the ability of a pharmacy technician to assist in the processing of Schedule II prescriptions in this section. The Board declines to state affirmatively that pharmacy technicians may be in an area where controlled substances are stored. As controlled substances may be stored throughout the pharmacy, the Board feels it is unnecessary to make this change. Also, this section applies to more than just pharmacy technicians.

§ 27.18. *Standards of practice.*

A commentator commented on § 27.18(j), which the Board has amended to provide that prescriptions for Schedule II controlled substances may not be filled more than 6 months from the date of the prescription. The commentator asked the Board to verify that this change is within its purview. The Board feels confident that it is, having previously adopted similar regulations regarding how long prescriptions for Schedule III, IV and V substances are valid. IRRC asked what the Board's statutory authority is for amending § 27.18(j). The Board's authority to regulate the distribution of drugs and devices and the practice of pharmacy is found in section 6(k)(9) of the act. IRRC also asked how the Board determined that 6 months is an appropriate time frame to honor this type of prescription. Similarly, the HPLC asked what the Board's rationale for permitting Schedule II controlled substances to be filled no more than 6 months after the date of the prescription. The Board notes that currently there is no law or regulation that prescribes how long a prescription for a Schedule II controlled substance is valid. Six months is a time frame that other states use, for example Virginia and Arkansas both consider a Schedule II prescription to be valid for 6 months. See Code Ark. R. § 07-04-0004 (relating to time limit on a new Schedule II prescription); and 18 V.A.C. 110-20-290 (relating to dispensing of Schedule II drugs). The Board believes that 6 months is a reasonable time frame during which the Schedule II prescription may be valid.

A commentator suggested that the Board limit the validity of a prescription for a Schedule II drug to no later than 90 days after it was written. The Board declines to make this change. The Board is aware of the provisions of 21 CFR 1306.12(b)(1), which permit practitioners to issue multiple prescriptions authorizing a patient to receive a total of up to a 90-day supply of a Schedule II controlled substance, provided certain conditions are met. See 21 CFR 1306.12(b)(1). The Board is not attempting to override the Federal regulation. The final-form regulation would allow some lag time between the issue date of the prescriptions and the dates when they are actually filled. Given that there was no previous time limit as to how long a Schedule II prescription remained valid, the Board is comfortable with enacting the 6-month limitation. In any case, a pharmacist may refuse to fill a prescription if the pharmacist believes in his professional judgment that in the interest of the safety of the patient the prescription should not be filled. See § 27.18(c).

IRRC commented that amended § 27.18(l)(6) is vague and recommended that more specific language is needed in the final-form regulation. The Board has added examples of various types of shipping that could be used to preserve the integrity of the drug. IRRC also asked how the Board would enforce this provision. The Board will enforce it as it does many of the provisions of the act and regulations through routine inspections and investigating any complaints that are filed.

HPLC commented that the Board's use of "direct supervision" in § 27.18(n) seemed different than other

recently proposed regulations. The Board agrees and has changed § 27.18(n) to specify "direct, immediate and personal supervision".

IRRC asked why the Board replaced "pharmacist or pharmacy" with the word "person" in § 27.18(r)(6). The Board changed the wording to be consistent with use of the term "person" in the rest of § 27.18(r). HPLC inquired whether this section would have an impact on physicians offering coupons, specials and samples. This section would have no impact on physicians offering drugs for sale to their own patients. However, advertising to a larger population than just the prescriber's patient population could rise to the level of operating a pharmacy and the Board would be authorized to impose a civil penalty on a practitioner who violates the act.

§ 27.19. *Prospective drug review and patient counseling.*

IRRC and another commentator thought that amended § 27.19(d) was confusing with two subsections that gave examples of when a PDR is not required. The Board agrees and has amended this section.

§ 27.25. *Licensure by reciprocity.*

IRRC stated that in § 27.25 there appeared to be abbreviations for licensure exams and asked that the Board define the abbreviations used for the licensure exams. The Board has done so in § 27.1 (relating to definitions).

Other Changes

The Department of Public Welfare (DPW) forwarded comments to the Board after the close of the public comment period. DPW asked the Board to clarify whether a physician is required to date the prescription. The Board's current regulation at § 27.18(b)(1) requires prescriptions on file in the pharmacy to show the date the prescription was issued. The Board only regulates pharmacists and pharmacies and cannot put an affirmative duty on a licensee that it does not regulate. Therefore, so long as the prescription on file in the pharmacy is dated, the Board cannot require that the prescriber must date it. As a practical matter, if a prescription is presented to the pharmacy without a date, the pharmacist may contact the prescriber to confirm the validity of the prescription and enter the date either by hand or a computer-generated label and that becomes the date of the prescription.

DPW also commented that the phrase "authorized by the prescriber" in § 27.18 is ambiguous and suggests that the regulation should be clarified to state when the authorization may or must occur. The Board has amended the final-form regulation to specify that refills may be authorized at any time during the 1-year period during which the prescription is valid.

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.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 19, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 5260 to IRRC and the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period,

as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 18, 2009, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 19, 2009, and approved the final-form rulemaking.

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) 783-7156, or st-pharmacy@state.pa.us.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (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. 5260.

(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 27, are amended, by deleting § 27.3 and by amending §§ 27.1, 27.2, 27.12, 27.17—27.19, 27.21, 27.25 and 27.31, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

MICHAEL A. PODGURSKI, R.Ph.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 6915 (December 5, 2009).)

Fiscal Note: Fiscal Note 16A-5416 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 27. STATE BOARD OF PHARMACY GENERAL PROVISIONS

§ 27.1. Definitions.

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

ACPE—The Accreditation Council for Pharmacy Education.

* * * * *

FDLE—Federal Drug Law Examination.

* * * * *

Licensed person—A person holding a license issued by the Board.

* * * * *

MPJE—Multistate Pharmacy Jurisprudence Examination.

* * * * *

PDR—Prospective drug review performed to assure that a drug dispensed under a prescription is not likely to have an adverse medical result by attempting to identify potential drug therapy problems that might result from therapeutic duplication, drug-drug interactions, incorrect dosage, incorrect duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

* * * * *

§ 27.2. Other definitions.

The definitions contained in the act and also in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), including the term “controlled substances” and the schedules thereof, apply to this chapter. A requirement contained in this chapter for a controlled substance applies to the lowest schedule of a controlled substance now or subsequently classified as a controlled substance by either the DEA or the Secretary of the Department of Health.

§ 27.3. (Reserved).

STANDARDS

§ 27.12. Practice of pharmacy and delegation of duties.

* * * * *

(c) *Pharmacy interns.*

(1) A pharmacy intern may work only under the direct, immediate, personal supervision of a pharmacist in accordance with subsection (b)(2).

(2) A pharmacy intern may neither enter nor be in a pharmacy if a pharmacist is not on duty.

(3) A pharmacy intern working under the direct, immediate, personal supervision of a pharmacist may perform procedures which require professional skill and training. Examples of these procedures include: verifying ingredients, weighing ingredients, compounding ingredients and other similar processing of ingredients.

* * * * *

§ 27.17. Security for Schedule II controlled substances.

(a) Schedule II controlled substances shall be stored in securely locked, substantially constructed cabinets. However, Schedule II controlled substances may be dispersed throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances.

(b) The occasional entry of authorized personnel into an area where the controlled substances are accessible to clean, deliver or perform other necessary functions shall be allowed only when a licensed pharmacist is present and supervising.

(c) The pharmacist manager shall be responsible for assuring that licensed persons, employees and others who enter the prescription area know and abide by the standards of security and that the other measures are taken as may be necessary to insure their enforcement.

§ 27.18. Standards of practice.

* * * * *

(b) Prescriptions kept on file in the pharmacy must meet the following requirements:

(1) Prescriptions on file must show the name and address of the patient; the name and address or other identifier of the prescriber; the date the prescription was issued, if the prescription is for a controlled substance or if it was written with a PRN or ad lib refill designation; the name and quantity of the drug prescribed; directions for its use; cautions communicated to the ultimate consumer by means of auxiliary labels or other means when dispensed to the ultimate consumer; the date the prescription was compounded and dispensed; and the name or initials of the dispensing pharmacist.

(2) Prescriptions for controlled substances must show the DEA number of the prescriber. Prescriptions for Schedule II controlled substances must be written with ink, indelible pencil, typewriter, word processor or computer printer and must be manually signed by the prescriber. The pharmacist is responsible for compounding and dispensing nonproprietary drugs consistent with the Federal Controlled Substances Act (21 U.S.C.A. §§ 801—904), The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) and the regulations promulgated under these acts.

(3) If a prescription for a nonproprietary drug is refilled, a record of the refill must show the date of the refill, the name or initials of the dispensing pharmacist and the quantity dispensed. If the pharmacist dispenses a quantity different from that of the original prescription, the pharmacist shall indicate the changes on the back of the original prescription or must enter the changes in the computerized files of the pharmacy.

(4) Original prescriptions or readily retrievable images of the original prescriptions shall be kept for 2 years from the date of the most recent filling.

(5) In an institution, Schedule II controlled substances which the pharmacy dispensed and which were ultimately received by the patient shall be recorded and the record kept for 2 years.

* * * * *

(i) Prescriptions for nonproprietary drugs may be refilled for 1 year from the date of the prescription if refills have been authorized by the prescriber. A nonproprietary

drug which is refillable by statute on the basis of designation, such as ad lib, PRN or similar instruction, may be refilled for 1 year from the date of the prescription. Refills may be authorized at any time during the 1-year period.

(j) Prescriptions for Schedule II controlled substances may not be filled more than 6 months from the date of the prescription. Prescriptions for Schedule II controlled substances may not be refilled. A controlled substance in Schedule III, IV or V may not be filled or refilled more than five times in the 6-month period from the date of the prescription.

* * * * *

(l) Prescriptions sent through the mail to a pharmacy shall be compounded and dispensed in the following manner:

(1) Prescription medication shall be sent only in first class mail or common carrier, except where the purchaser is advised in advance that a slower means of transportation will be used and agrees thereto.

(2) The mailing of antibiotics which have been reconstituted is prohibited.

(3) The mailing of a medication or prescription drug or device generally accepted and recognized to be subject to significant deterioration of the original content due to heat, cold fermentation or prolonged agitation is permissible if it is shipped in a manner which would preserve the integrity of the drug, such as cold packs or other temperature control devices and sensors that would alert the patient if the integrity of the drug was compromised.

* * * * *

(n) A prescription by means of an oral order, telephone or otherwise, shall be received and transcribed by either a registered pharmacist or a pharmacy intern under the direct, immediate and personal supervision of a pharmacist.

(o) Except as provided under the definition of order, an oral prescription shall be reduced to writing immediately by the pharmacist or pharmacy intern and shall be filled by, or under the direction of the pharmacist. An order entered on the chart or medical record of a patient in an institution for the diagnostic care and treatment of a patient on an overnight basis, or on the chart or medical record of a patient under emergency treatment in an institution by or on the order of a practitioner authorized by statute to prescribe drugs or devices, shall be considered to be a prescription if the medication is to be furnished directly to the patient for self-administration. It is the responsibility of the prescriber to see that the chart or medical record contains the information required for a prescription and that it is signed by the prescriber himself at the time the drug is given or if he is not present, then on his next visit to the institution. A registered pharmacist may not compound, prepare, dispense, fill, sell, or give away a drug or device on the basis of a prescription or order in an institution or hospital unless the prescription or order is an original prescription or order or direct copy thereof issued by the authorized prescriber or practitioner who may be using electronic or computerized equipment.

* * * * *

(r) The following provisions apply to the advertisement and sale of drugs:

(1) A person may not advertise the filling or refilling of prescriptions for a consumer or patient in this Common-

wealth if that person is not licensed under the act or the prescription is not filled or refilled in a pharmacy licensed by the Board.

(2) A person may not promote to the public the sale of any controlled substances.

(3) Advertisements of prescription drugs and devices may not be false or misleading, and must be truthful, reasonable, informative and understandable to the public.

(4) A drug or device misbranded or adulterated in Federal law is misbranded and adulterated in Commonwealth law.

(5) An advertisement of a prescription must be for a commercially reasonable quantity.

(6) A person advertising special prices for prescriptions, dangerous drugs or nonproprietary drugs, preparations or products, devices and appliances, if using a percentage number such as 10% off, 20% off, and the like, as to selected items, shall state or publish a price list from which the percentage prices are derived, so the consumer or patient knows exactly what the retail price is.

(7) The patient has the right to request a copy of an original prescription. The copy must clearly indicate on its face that it is a copy and may not be used to obtain a new prescription or refill. Before a pharmacist provides a copy of a written prescription to a patient or an authorized agent of the patient, the person requesting the copy shall show the pharmacist acceptable authorization and identification, such as a driver's license. The pharmacist shall record in writing the date, to whom and by whom the copy was given.

(8) A violation of the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201-1—201-9.2) is a violation of this chapter.

* * * * *

(t) A pharmacist may only refill a prescription at a reasonable time prior to the time when the contents of the prescription shall be consumed according to prescriber's directions.

* * * * *

§ 27.19. Prospective drug review and patient counseling.

(a) *PDR Required.* A pharmacist shall perform a PDR before filling, delivering or sending a new prescription or drug order, except when a physician dispenses a drug to a patient being treated in the emergency room. The PDR requires that the pharmacist review a profile of the patient maintained in the pharmacy in accordance with subsection (f) prior to dispensing the medication to the patient or caregiver.

(b) *Purpose.* The purpose of the PDR is to help assure that a drug dispensed under a prescription is not likely to have an adverse medical result. The PDR accomplishes this by attempting to identify potential drug therapy problems that might result from therapeutic duplication, drug-drug interactions, incorrect dosage, incorrect duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

(c) *Scope.*

(1) The PDR is required for prescriptions and drug orders.

(2) The following are examples of situations in which a PDR is required:

(i) A patient visits a physician in the physician's office and receives a prescription. The patient has the prescription filled in a retail pharmacy.

(ii) A pharmacist fills a prescription for a patient who lives in a personal care home.

(iii) A pharmacist in a hospital pharmacy fills an outpatient prescription for a hospital employee.

(iv) A patient is treated on a nonemergency basis in an outpatient clinic of a hospital and is given a prescription. The patient has the prescription filled either in the hospital pharmacy or in a retail pharmacy.

(v) A pharmacist fills a prescription for a patient in a nursing home.

(vi) A pharmacist in a hospital dispenses a drug which will be administered to a patient in the hospital.

(3) The following are examples of situations in which a PDR is not required:

(i) A physician dispenses a drug to a patient being treated in the emergency room.

(ii) A pharmacist dispenses a radiopharmaceutical to a physician who will administer it to a patient.

(iii) A medical practitioner dispenses a drug.

(iv) A pharmacist dispenses a drug to a medical practitioner which the practitioner will administer to a patient.

(d) *Offer to counsel.*

(1) An offer to counsel shall be made to each patient or caregiver when the pharmacist fills, delivers or sends a new retail or outpatient prescription.

(2) The pharmacist or designee of the pharmacist shall orally make the offer in person if a patient or caregiver comes to the pharmacy. If the pharmacist in the exercise of professional judgment in the interest of a patient believes that an oral offer would be less effective than a written offer, the pharmacist may substitute a written offer. The following are examples of situations in which a pharmacist might substitute a written offer:

(i) The patient or caregiver is hearing impaired.

(ii) The patient or caregiver is not an English speaker.

(3) If neither the patient nor caregiver comes to the pharmacy, the offer to counsel shall be made in one of the following ways:

(i) The pharmacist or designee may telephone the patient or caregiver.

(ii) The pharmacy delivery person may orally make the offer to the patient or caregiver.

(iii) The pharmacist may send a written offer to counsel together with the filled prescription which is delivered or sent to the patient.

(4) A written offer to counsel must include the telephone number of the pharmacy.

(5) A pharmacy shall provide toll-free telephone service if its primary patient population is beyond the local or toll-free exchange.

(6) A mail order pharmacy shall make the offer to counsel either by telephone or by sending a written offer together with the filled prescription. The written offer must include a toll-free telephone number of the pharmacy which a patient or caregiver may use to obtain counselling.

(7) The obligation to make an offer to counsel will be fulfilled by making one offer in accordance with this subsection.

(e) *Counselling.*

(1) Only a pharmacist may counsel.

(2) If a patient or caregiver who comes to the pharmacy indicates that he wants counselling, the pharmacist shall counsel the patient or caregiver in person, or, at the discretion of the patient or caregiver, by telephone.

(3) If the filled prescription is sent or delivered to the patient or caregiver, counselling shall be by telephone.

(4) The following are examples of matters which a pharmacist in the exercise of professional judgment might deem significant and discuss with the patient or caregiver:

(i) The name and description of the medication.

(ii) The route of administration, dosage form and duration of drug therapy.

(iii) Special directions and precautions for preparation, administration and use by the patient.

(iv) Common severe side effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

(v) Techniques for self-monitoring drug therapy.

(vi) Proper storage.

(vii) Prescription refill information.

(viii) Action to be taken in the event of a missed dose.

(5) If a pharmacist discovers a specific problem with a medication during the course of a PDR, the pharmacist shall intervene to attempt to resolve the problem.

(f) *Patient profile.*

(1) The pharmacist or designee of the pharmacist shall make a reasonable effort to obtain, record and maintain the following information about each patient:

(i) The name, address, telephone number, date of birth (or age) and gender.

(ii) Individual history, if significant, including known allergies and drug reactions, and a list of medications and relevant devices, as provided by the patient or caregiver.

(iii) Pharmacist comments relative to the individual's drug therapy.

(2) The patient profile may be maintained electronically or manually.

(3) The pharmacist or designee of the pharmacist shall begin a patient profile when the pharmacist fills a prescription for a new patient or for a current patient for whom a profile had not previously been maintained.

(4) The patient profile shall be maintained for at least 2 years after the last entry.

(5) The Board will consider a single request for information for a patient profile made to a patient or caregiver a reasonable effort to obtain the information outlined in this subsection.

(g) *Refusal to accept counselling or to provide information.*

(1) A pharmacist is not required to provide counselling or obtain information for the patient profile if the patient or caregiver refuses the offer to counsel or refuses to

divulge information for the patient profile. If a patient or caregiver fails to respond to an offer to counsel or a request for information, the failure to respond will be deemed a refusal.

(2) The pharmacist or designee shall document the refusal of a patient or caregiver to accept counselling or provide information. The documentation must include the name or initials of the pharmacist or designee noting the refusal. The following kinds of documentation are acceptable:

(i) A notation made by the pharmacist or designee on the prescription or patient profile or the electronic records of the pharmacy.

(ii) A writing signed by the patient or caregiver.

(h) *Confidentiality.*

(1) Information gained by a pharmacist, pharmacy or employee of a pharmacy about a patient under this section shall be regarded as confidential. The information shall be maintained in accordance with section 8(10) of the act (63 P. S. § 390-8(10)).

(2) The pharmacist or pharmacy may reveal the information if one of the following circumstances occurs:

(i) The patient consents to the disclosure.

(ii) The Board or its authorized agents require the information for any proceeding under the act.

(iii) State or Federal law or regulations require or authorize the disclosure.

(iv) A court orders the disclosure.

PHARMACISTS

§ 27.21. Application for examination and licensure.

(a) A candidate for licensure to practice pharmacy by examination applying to take the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE) shall obtain an application for licensure from the Board, complete the application and file the application with the Board.

(b) The applicant shall include in the application proof of graduation with a B.S. or advanced degree in pharmacy granted by an ACPE accredited school or college; affidavits of all internship experience gained prior to submitting the application; and the application fee.

(c) The applicant shall also complete and submit the examination fees and examination registration forms to the test administrator.

(d) Affidavits of internship experience shall be filed before authorization to take the exam is given.

§ 27.25. Licensure by reciprocity.

(a) An applicant for licensure by reciprocity shall comply with section 3(g) of the act (63 P. S. § 390-3(g)).

(b) Except as provided in subsection (c), an applicant for licensure by reciprocity who received a license to practice pharmacy in any other state, territory or possession of the United States, after January 26, 1983, shall be required to demonstrate that the applicant passed the FDLE.

(c) If an applicant licensed after January 26, 1983, cannot demonstrate that the applicant passed the FDLE, the applicant shall be required to demonstrate that the applicant passed the Pennsylvania MPJE.

**RENEWAL OF PHARMACIST LICENSE AND
PHARMACY PERMIT****§ 27.31. Biennial renewal.**

(a) A holder of a pharmacy permit shall renew the permit every 2 years, in odd-number years. Renewal requires completion of a form mailed to the holder by the Board in advance of the renewal period, and payment of the specified fee.

(b) A licensed pharmacist shall renew the license every 2 years, in even-numbered years. Renewal requires completion of a form mailed to the pharmacist by the Board in advance of the renewal period or completion of an online electronic form, and payment of the specified fee. A pharmacist shall also submit proof of compliance with the continuing education requirements of § 27.32 (relating to continuing education).

(c) A pharmacist or holder of a pharmacy permit who fails to timely renew shall cease practice or operation until the license or permit is renewed. The holder may be subject to disciplinary action, and will be assessed an additional fee of \$5 for each month or part of month after which renewal occurs beyond the date specified by the

Board. Notice of lapsed pharmacy permits shall be forwarded to other Commonwealth agencies, including the Department of Health, the Department of Public Welfare and the Department of Aging.

(d) A pharmacist allowing the license to lapse may so notify the Board on the renewal form. Reasons shall be briefly stated, and the pharmacist's pocket license and display license shall be surrendered to the Board with the renewal form. A pharmacist who has had a lapsed license for 1 year or more, and who then seeks to reactivate the license, will be required to show current proficiency to practice pharmacy. The full-time practice of pharmacy in another state, during the period of lapsed licensure in this Commonwealth, will be evidence of current proficiency. A holder of a lapsed license who engaged in activities outside the profession of pharmacy during the lapsed period shall complete hours of continuing education equivalent to the hours which he would have been required to take had he held an active license.

[Pa.B. Doc. No. 09-2369. Filed for public inspection December 24, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 39]

Education and Training for Applicants and Insurance Producers

The Insurance Department (Department) proposes to rescind Chapter 39 (relating to continuing education for insurance agents and brokers) and to adopt Chapter 39a (relating to education and training for applicants and insurance producers) to read as set forth in Annex A. The proposal is made under the authority of sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) regarding the general rulemaking authority of the Department and sections 604-A, 608-A and 698-A of The Insurance Department Act of 1921 (40 P. S. §§ 310.4, 310.8 and 310.98) regarding license prerequisites, license renewals and regulations.

Purpose

The purpose of this rulemaking is to rescind Chapter 39 and adopt Chapter 39a to clarify existing training and education requirements for insurance producers, and to establish new training requirements for insurance producers and insurers writing long-term care insurance and insurance producers selling flood insurance. Chapter 39 was adopted in 1994 to establish standards for continuing education of agents and brokers. Act 147 of 2002 established new guidelines for prelicensing and continuing education for insurance producers (formerly agents and brokers). Federal law (*see* the Deficit Reduction Act of 2005 (Pub. L. No. 109-171) (42 U.S.C.A. § 1396(p)) enacted February 8, 2006) requires that an individual who sells a long-term care partnership policy receives training and demonstrates evidence of an understanding of the policies and how they relate to other public and private coverage of long-term care. Further, Federal law provides that all resident insurance producers who sell Federal Flood Insurance policies shall comply with the minimum training requirements of section 207 of the Bunning-Bereuter-Blunenauer Flood Insurance Reform Act of 2004 (42 U.S.C.A. § 4011 nt) and basic flood education requirements as outlined at 70 FR 52117 (Sept. 1, 2005) or later requirements as are published by the Federal Emergency Management Agency (FEMA).

Explanation of Regulatory Changes

Section 39a.1 (relating to definitions) clarifies the terms established by The Insurance Department Act of 1921 (40 P. S. §§ 1—326.7) and further defines “partnership policies” for purposes of long-term care insurance training requirements.

Section 39a.2 (relating to purpose) establishes that the purpose of this chapter is to implement the requirements and standards for education and training programs for applicants and insurance producers.

Section 39a.3 (relating to applicability) clarifies who is responsible for completing the education and training requirements.

Section 39a.4 (relating to administration of the education program) authorizes the Insurance Commissioner (Commissioner) to contract with an entity or individual to serve as the program administrator for insurance producer education and establishes the responsibilities of the Commissioner and program administrator.

Section 39a.5 (relating to sponsors) establishes qualifications for sponsors and establishes advertising standards with which sponsors must comply.

Section 39a.6 (relating to courses) establishes that the Commissioner will only approve courses that contribute directly to the professional competence or ethics of students. This section also describes the types of courses that will not be approved for training and continuing education. This section also provides examples of courses or programs which may meet the Commissioner’s standards for an approved course.

Section 39a.7 (relating to credit hours) establishes eligibility requirements to receive credit for course completion and provides that the Commissioner will determine the number of credit hours assigned to each course.

Section 39a.8 (relating to instructors) establishes the qualifications and responsibilities of instructors.

Section 39a.9 (relating to training requirements for insurance producers) establishes that the training requirements of this section, relating to long-term care insurance and flood insurance, are separate and independent from the continuing education requirements for insurance producers.

Section 39a.10 (relating to penalties for failure to comply with continuing education requirements) establishes that a producer will receive notice of credit hours needed to satisfy the continuing education requirement 90 days prior to the expiration of his license and that failure to comply with continuing education requirements by the expiration date of the license shall be deemed a voluntary termination of the insurance producer’s license.

Section 39a.11 (relating to fees) establishes fees for initial approval of a sponsor, approval of each course offered by a sponsor, and for the sponsor’s reporting of course completion.

Section 39a.12 (relating to powers of the Commissioner) establishes that the Commissioner may disqualify or deny, suspend or revoke the approval of a sponsor, instructor, course or program of courses if the sponsor, instructor, course or program of courses is not compliant with this chapter. In addition, this section establishes the remedies that the Commissioner may impose if a producer or student falsifies or misrepresents information concerning training and education.

Affected Parties

The proposed rulemaking will affect all applicants and licensed insurance producers and insurers writing long-term care insurance in this Commonwealth.

Fiscal Impact

State Government

There will be no increase in cost to the Department as a result of the adoption of proposed rulemaking.

General Public

Since the proposed rulemaking concerns the continuing education and prelicensing of insurance producers and applicants, it will have no adverse economic impact on the general public.

Political Subdivisions

There will be no fiscal impact on political subdivisions as a result of the adoption of the proposed rulemaking.

Private Sector

Compliance with the proposed chapter should not result in increased insurance industry record keeping costs.

Paperwork

The Department does not believe that the proposed rulemaking will impose additional paperwork requirements on licensees. Insurers may see a minimal requirement in the capturing of information not previously required. As this is a Federal requirement, the costs associated with the recordkeeping due to the regulation will be minimal.

Effectiveness/Sunset Date

The rulemaking will become effective upon the first of the month 2 months after the final-form publication in the *Pennsylvania Bulletin*.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, Bureau of Administration, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 14, 2009, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Senate Banking and Insurance and the House Insurance Committees (Committees). In addition to the submitted proposed rulemaking, the Department has, as required by the Regulatory Review Act, provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

IRRC will notify the Department of any objections to any portion of the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor, and the General Assembly to review these objections before final publication of the regulations.

JOEL SCOTT ARIO,
Insurance Commissioner

Fiscal Note: 11-240. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 31. INSURANCE****PART I. GENERAL PROVISIONS****CHAPTER 39. CONTINUING EDUCATION FOR INSURANCE AGENTS AND BROKERS (Reserved)**

(Editor's Note: As part of the proposal, the Department is proposing to rescind §§ 39.1—39.12, 39.21 and 39.22 which appear in 31 Pa. Code pages 39-1—39-10, serial pages (267845)—(267852) and (287701) and (287702).)

§§ 39.1.—39.12. (Reserved).

§ 39.21. (Reserved).

§ 39.22. (Reserved).

CHAPTER 39a. EDUCATION AND TRAINING FOR APPLICANTS AND INSURANCE PRODUCERS**Sec.**

§ 39a.1. Definitions.

§ 39a.2. Purpose.

§ 39a.3. Applicability.

§ 39a.4. Administration of education program.

§ 39a.5. Sponsors.

§ 39a.6. Courses.

§ 39a.7. Credit hours.

§ 39a.8. Instructors.

§ 39a.9. Training requirements for insurance producers.

§ 39a.10. Penalties for failure to comply with continuing education requirements.

§ 39a.11. Fees.

§ 39a.12. Powers of the Commissioner.

§ 39a.1. Definitions.

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

Act—The Insurance Department Act of 1921 (40 P. S. §§ 1—326.7).

Applicant—An individual applying for an insurance producer license.

Approved course—An educational program presented by means of classroom, Internet-based or correspondence study, and certified by the Commissioner as meeting the education requirements of this chapter.

Commissioner—The Insurance Commissioner of the Commonwealth.

Credit hour—Fifty minutes of classroom instruction or the equivalent thereof as determined by the Commissioner.

Department—The Pennsylvania Insurance Department.

Home state—As defined in section 601-A of the act (40 P. S. § 310.1).

Instructor—An individual responsible for teaching an approved course.

Insurance producer—A person licensed to sell, solicit or negotiate insurance in accordance with the act.

License—A document issued by the Department authorizing the named recipient to conduct business as an insurance producer in this Commonwealth.

License period—The period of time from the issue date to the expiration date stated on the license.

Nonresident insurance producer—As defined in section 601-A of the act.

Partnership policies—Long-term care insurance policies that satisfy the requirements in the Deficit Reduction Act of 2005 (Pub. L. No. 109-171) (42 U.S.C.A. § 1396(p)).

Person—

(i) An individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, beneficial association and any other legal entity engaged in the business of insurance, including insurance producers and adjusters.

(ii) The term also includes health care plans as defined in 40 Pa.C.S. Chapters 61, 63, 65 and 67 and in the Health Maintenance Organization Act (40 P. S. §§ 1551—1568). For purposes of this chapter, health care plans,

fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

Preexamination education—Education required under section 604-A of the act (40 P. S. § 310.4), regarding to license prerequisites.

Program administrator—The person or entity responsible for the administration of the education contract.

Resident insurance producer—A licensed insurance producer whose home state is this Commonwealth.

Sponsor—A person offering or providing an approved course.

Student—An individual subject to the preexamination education requirements of section 604-A of the act or a licensed insurance producer subject to the continuing education requirements of section 608-A of the act (40 P. S. § 310.8) regarding license renewals.

Successfully complete—To complete an approved course for which a valid course completion certificate is issued.

§ 39a.2. Purpose.

The purpose of this chapter is to implement the provisions of sections 604-A and 608-A of the act (40 P. S. §§ 310.4 and 310.8) regarding license prerequisites and to license renewals, by establishing requirements and standards for education, including continuing and preexamination education, and training programs for applicants and insurance producers.

§ 39a.3. Applicability.

This chapter applies to applicants and insurance producers not exempt under sections 604-A or 608-A of the act (40 P. S. §§ 310.4 and 310.8), regarding license prerequisites and to license renewals.

§ 39a.4. Administration of education program.

(a) The Commissioner may contract with a competent individual or entity to serve as program administrator. The responsibilities of the program administrator include:

- (1) Reviewing sponsor qualifications.
- (2) Course content.
- (3) Credit hour assignment for continuing education courses.
- (4) Recording successful course completion by insurance producers.
- (5) Performing other services deemed appropriate by the Commissioner.

(b) The Commissioner will:

- (1) Approve sponsor registration, courses and assignment of credit hours to approved courses.
- (2) Approve only sponsors who are of sound business reputation and who agree to satisfy the requirements of this chapter pertaining to sponsors.
- (3) Approve only courses that impart substantive and procedural knowledge relating to the insurance field, satisfying the standards in § 39a.6 (relating to courses).
- (4) Approve only instructors that satisfy the standards in § 39a.8 (relating to instructors).
- (5) Show no bias or favoritism towards a sponsor, course or instructor.

§ 39a.5. Sponsors.

(a) A sponsor shall apply for registration on an application approved by the Commissioner.

(b) A sponsor shall have the responsibility to:

- (1) Ensure compliance with this chapter.
- (2) Provide the name, address, phone number and e-mail, if available, of a contact person for each course submitted for approval.
- (3) Provide the name of each course instructor and identify the qualifications under § 39a.8 (relating to instructors) that the instructor satisfies.
- (4) Notify the Commissioner of a change in information on applications for course or instructor approval.
- (5) Ensure that the course provides students with current and accurate information.
- (6) Provide students with the following information in writing:
 - (i) The course title.
 - (ii) The date, time, location and applicable web site when the course is offered.
 - (iii) The name, address and telephone number of a contact person for each course.
 - (iv) A general outline of the subject matter being covered.
 - (v) Other information the sponsor believes may benefit the students.
 - (vi) A form for requesting continuing education credits, if applicable.
 - (7) Provide a textbook or a detailed outline of the subject matter being taught.
 - (8) Supervise and evaluate courses and instructors.
 - (9) Investigate complaints relating to courses or instructors.
 - (10) Maintain accurate records of courses offered, instructors, student attendance and student course completion for at least 4 years from the date of course completion.
 - (11) Provide the student with a course completion certificate on a form or in a format approved by the Commissioner, within 30 calendar days of a student's successful completion of a course.
 - (12) Notify the Commissioner or the program administrator in a prescribed format of students who have successfully completed a course within 10 business days of the date of course completion.
- (c) A sponsor shall comply with the following advertising standards:
 - (1) A sponsor may not advertise a course that has not been approved by the Department, unless the advertisement prominently displays or announces pending review and approval by the Department.
 - (2) A sponsor shall prominently display or announce in an advertisement the number of credit hours assigned to the course and the fee for the course.
 - (3) A sponsor may not engage in false, misleading or deceptive advertising.
 - (d) A sponsor shall comply with the following standards regarding fees:
 - (1) If a course is cancelled for any reason, the sponsor shall refund the fees within 30 calendar days of cancellation or, at the request of the student, transfer the fee to another course offered by the sponsor.

(2) A sponsor shall provide each student with a written refund policy that addresses withdrawal from or failure to complete a course.

(e) A sponsor that is a business or organization employing students or having students as members may not require the students to attend the sponsor's course to receive continuing education credit.

(f) A sponsor shall apply for course approval on an application approved by the Commissioner. The application shall be filed at least 60 calendar days before the date the course is to begin. The sponsor shall be notified within 30 calendar days of the date of the receipt of an application regarding approval or disapproval. If the Commissioner or program administrator requests additional information to review the application, the sponsor will have up to 30 calendar days to comply with the request. If the request is not satisfied within the 30 calendar-day period, the application shall be considered voluntarily withdrawn.

§ 39a.6. Courses.

(a) The Commissioner will approve only courses that contribute directly to the professional insurance competence or ethics of students. Accordingly, the following types of courses will not be approved:

(1) A course in mechanical, office or business skills, including typing, speed reading, or the use of calculators or other machines or equipment.

(2) A course in sales promotion.

(3) A course in motivation, salesmanship, stress management, time management, psychology, communication or writing.

(4) A course relating solely to office management, client relations or improving the operation of the student's business.

(b) Courses or programs must meet the Commissioner's standards for an approved course. Examples of courses or programs which may meet the Commissioner's standards for an approved course are:

(1) Any part of the Life Underwriter Training Council (LUTC) course curriculum.

(2) Any part of the American College diploma curriculum for Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC) or Master in Financial Sciences (MSFS) or courses required for or to maintain CLU, ChFC or MSFS designations.

(3) Any part of the College of Financial Planning diploma curriculum for Certified Financial Planning (CFP) program.

(4) Any part of the Insurance Institute of America curriculum.

(5) Any part of the American Institute for Chartered Property Casualty Underwriters (CPCU) program.

(6) Any part of the National Association of Health Underwriters Registered Health Underwriter (RHU) program.

(7) Any part of the Health Insurance Association of America (HIAA) program.

(8) Any part of the Academy of Life Underwriting Education Council curriculum (LUEC) program.

(9) Any part of the Certified Insurance Counselor (CIC) program.

(10) Any part of the Blue Cross and Blue Shield Association's Certified Health Consultant curriculum.

(11) Any part of the Accredited Adviser in Insurance (AAI) designation program.

(12) Any part of the Certified Insurance Service Representative (CISR) curriculum.

§ 39a.7. Credit hours.

(a) The Commissioner will determine the number of credit hours to be assigned to each approved course. Credit hours will not include time spent on meals, breaks or other activities unrelated to the course.

(b) To receive credit, a student shall complete the requirements of an approved course, including attendance or participation (if other than a classroom format) and examination requirements. For courses that do not use a classroom format, a course will not be considered completed until the sponsor has received all necessary forms from a student. Students should further advise the sponsor to file with the Department a verification of course completion for the student to obtain credit.

(c) A student may not earn credit for attending a subsequent offering of the same course within the same licensing period.

(d) The instructor of an approved course shall earn twice the number of approved credit hours for that course. The instructor may not earn credit for instructing a subsequent offering of the same course within the same licensing period.

(e) A student shall maintain records of credits earned for at least the two most recently completed licensing periods in addition to the current licensing period.

(f) Preexamination education credits shall be valid for 1 year from the date the course is successfully completed.

§ 39a.8. Instructors.

(a) The instructor shall possess one or more of the following qualifications:

(1) A minimum of 3 years experience in the subject matter being taught.

(2) A degree in the subject matter being taught.

(3) A minimum of 3 years experience as an insurance producer in the subject matter being taught.

(b) An individual shall be prohibited from acting as an instructor if a suspension or revocation of that individual's license is in force.

(c) Individuals desiring to become instructors shall provide the sponsor with a signed statement verifying that the individual has not committed any act prohibited under section 611-A of the act (40 P. S. § 310.11), regarding prohibited acts, and specifying the individual's qualifications to be an instructor.

(d) Instructors shall have the responsibility to:

(1) Comply with this chapter.

(2) Provide students with current and accurate information.

(3) Provide accurate records of successful course completion to the course sponsor within 10 working days.

§ 39a.9. Training requirements for insurance producers.

(a) *General information.* The training requirements of this section are separate and independent from the continuing education requirements for insurance produc-

ers. The satisfaction of these training requirements by a nonresident insurance producer in the individual's home state shall be deemed to satisfy the training requirements in this Commonwealth.

(b) *Long term care insurance.*

(1) An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident and health and has completed the training required by paragraph (4).

(2) An individual already licensed as an insurance producer and selling, soliciting or negotiating long-term care insurance on _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) may not continue to sell, solicit or negotiate long-term care insurance unless the individual has completed the training required under paragraph (4).

(3) A course designed to provide the training required under paragraph (4) may be approved as a continuing education course under section 602-A(a)(2) of the act (40 P. S. § 310.2(a)(2)) regarding powers and duties of Department.

(4) The following apply to the training required by this paragraph:

(i) An insurance producer:

(A) Who has not yet completed an 8-hour training course on long-term care insurance shall complete at least 8 hours of training in the first full licensing cycle after _____. (*Editor's Note:* the blank refers to the effective date of adoption of this proposed rulemaking.)

(B) That sells, solicits or negotiates long-term care partnership policies shall complete, as part of the 8 hour requirement, a 1-hour, Pennsylvania-specific course related to the Pennsylvania Medical Assistance Program (Medicaid) prior to engaging in any marketing activity of partnership policies.

(ii) The ongoing training requirement must be at least 4 hours in every subsequent 24 month licensing cycle.

(5) The training required under paragraph (4) must consist of topics related to long-term care insurance, long-term care services and, if applicable, qualified State long-term care insurance partnership policies, including:

(i) State and Federal regulations and requirements and the relationship between qualified State long-term care insurance partnership policies and other public and private coverage of long-term care services, including Medicaid.

(ii) Available long-term services and providers.

(iii) Changes or improvements in long-term care services or providers.

(iv) Alternatives to the purchase of private long-term care insurance.

(v) The effect of inflation on benefits and the importance of inflation protection.

(vi) Consumer suitability standards and guidelines.

(6) Completion of the training required under paragraph (4) shall be sufficient to demonstrate evidence of an insurance producer's understanding of the topic specified in paragraph (5)(i).

(7) The training required under paragraph (4) may not include training that is product-specific to any insurer or company or include any sales or marketing information, materials or training, other than those required by State and Federal law.

(c) *Requirements for insurers.* Insurers writing long-term care insurance in this Commonwealth shall do the following:

(1) Obtain proof that an insurance producer has received the training required by this section before permitting the insurance producer to sell, solicit or negotiate the insurer's long-term care insurance products.

(2) Maintain records as required under paragraph (1) in accordance with the Commonwealth's record retention guidelines for insurers as published in the *Pennsylvania Bulletin*.

(3) Make the information required under paragraph (1) available to the Commissioner upon request.

(d) *Flood insurance.* Resident insurance producers who sell Federal flood insurance policies shall comply with the minimum training requirements of section 207 of the Bunning-Bereuter-Blunenauer Flood Insurance Reform Act of 2004, (42 U.S.C.A. § 4011 nt) (Pub. L. No. 108-264) and basic flood education as outlined at 70 FR 52117 (Sept. 1, 2005) or later requirements as published by the Federal Emergency Management Agency (FEMA).

(e) *Compliance.* An insurance producer or insurer that fails to comply with this section shall be subject to penalties in accordance with sections 611-A(2) and 691-A of the act (40 P. S. §§ 310.11(2) and 310.91), regarding prohibited acts and enforcement by the Department.

§ 39a.10. Penalties for failure to comply with continuing education requirements.

(a) An insurance producer will be notified by the Department, 90 days prior to the expiration date stated on the individual's license, of the number of credit hours needed to satisfy the continuing education requirements.

(b) Failure to comply with continuing education requirements by the expiration date of the license shall be deemed a voluntary termination of the insurance producer's license.

§ 39a.11. Fees.

(a) Fees will be established under subsection (b) or (c) for initial approval of a sponsor, approval of each course offered by a sponsor and for the sponsor's reporting of course completion. Following initial approval, each sponsor and the sponsor's course will be subject to recertification every 2 years for which fees will be established. Fees will reflect the administrative costs for the education program.

(b) If the Department administers the education program, the fees described in subsection (a) will be established by regulation.

(c) If the Department contracts with a competent individual or entity to serve as program administrator in accordance with § 39a.4 (relating to administration of education program) for the administration of the continuing education program, the fees described in subsection (a) will be established by contract pursuant to the standards and procedures established for procurement of contractual services by Commonwealth agencies and will be published as a notice in the *Pennsylvania Bulletin*.

§ 39a.12. Powers of the Commissioner.

(a) The Commissioner may disqualify or deny, suspend or revoke the approval of a sponsor, instructor, course or program of courses if the sponsor, instructor, course or program of courses is not in compliance with this chapter.

(b) If the Commissioner determines that a student has knowingly falsified an education report, has misrepresented any fact, information or material submitted to the Commissioner under the education requirements, or has knowingly submitted a false education report, the Com-

missioner may suspend or revoke the individual's license and impose appropriate civil penalties under section 691-A of the act (40 P. S. § 310.91), regarding enforcement by the Department.

(c) The Commissioner may audit, monitor and review courses with or without notice to the sponsor.

[Pa.B. Doc. No. 09-2370. Filed for public inspection December 24, 2009, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Agriculture

The Executive Board approved a reorganization of the Department of Agriculture effective December 7, 2009.

The organization chart at 39 Pa.B. 7220 (December 26, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-2371. Filed for public inspection December 24, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Liquor Control Board

The Executive Board approved a reorganization of the Liquor Control Board effective December 4, 2009.

The organization chart at 39 Pa.B. 7221 (December 26, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-2372. Filed for public inspection December 24, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Public Welfare

The Executive Board approved a reorganization of the Department of Public Welfare Deputy Secretary for Administration effective December 8, 2009.

The organization chart at 39 Pa.B. 7222 (December 26, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-2373. Filed for public inspection December 24, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Public Welfare

The Executive Board approved a reorganization of the Department of Public Welfare Deputy Secretary for Medical Assistance Programs effective December 8, 2009.

The organization chart at 39 Pa.B. 7223 (December 26, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

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

[Pa.B. Doc. No. 09-2374. Filed for public inspection December 24, 2009, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Public Welfare

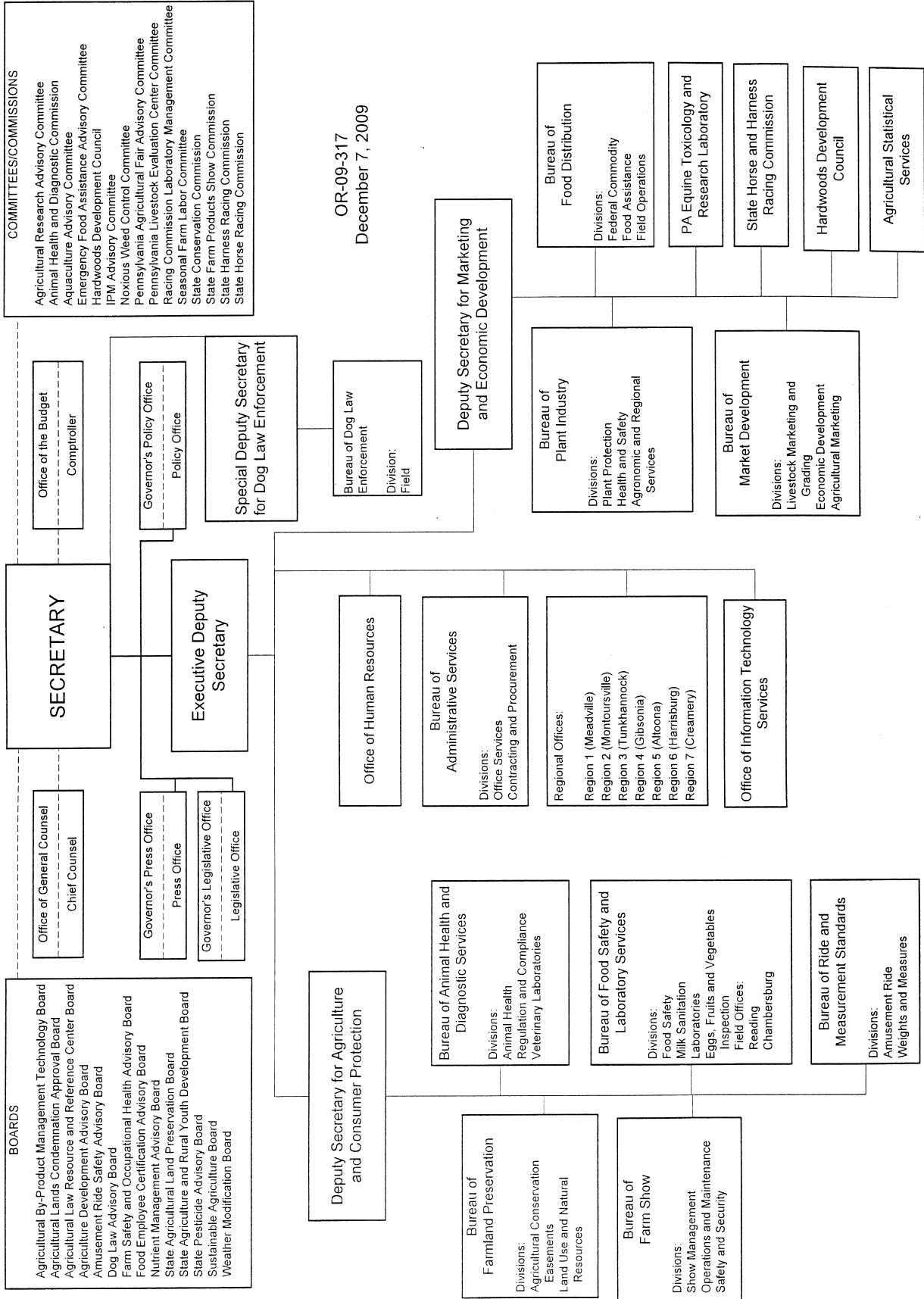
The Executive Board approved a reorganization of the Department of Public Welfare effective December 8, 2009.

The organization chart at 39 Pa.B. 7224 (December 26, 2009) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of code).

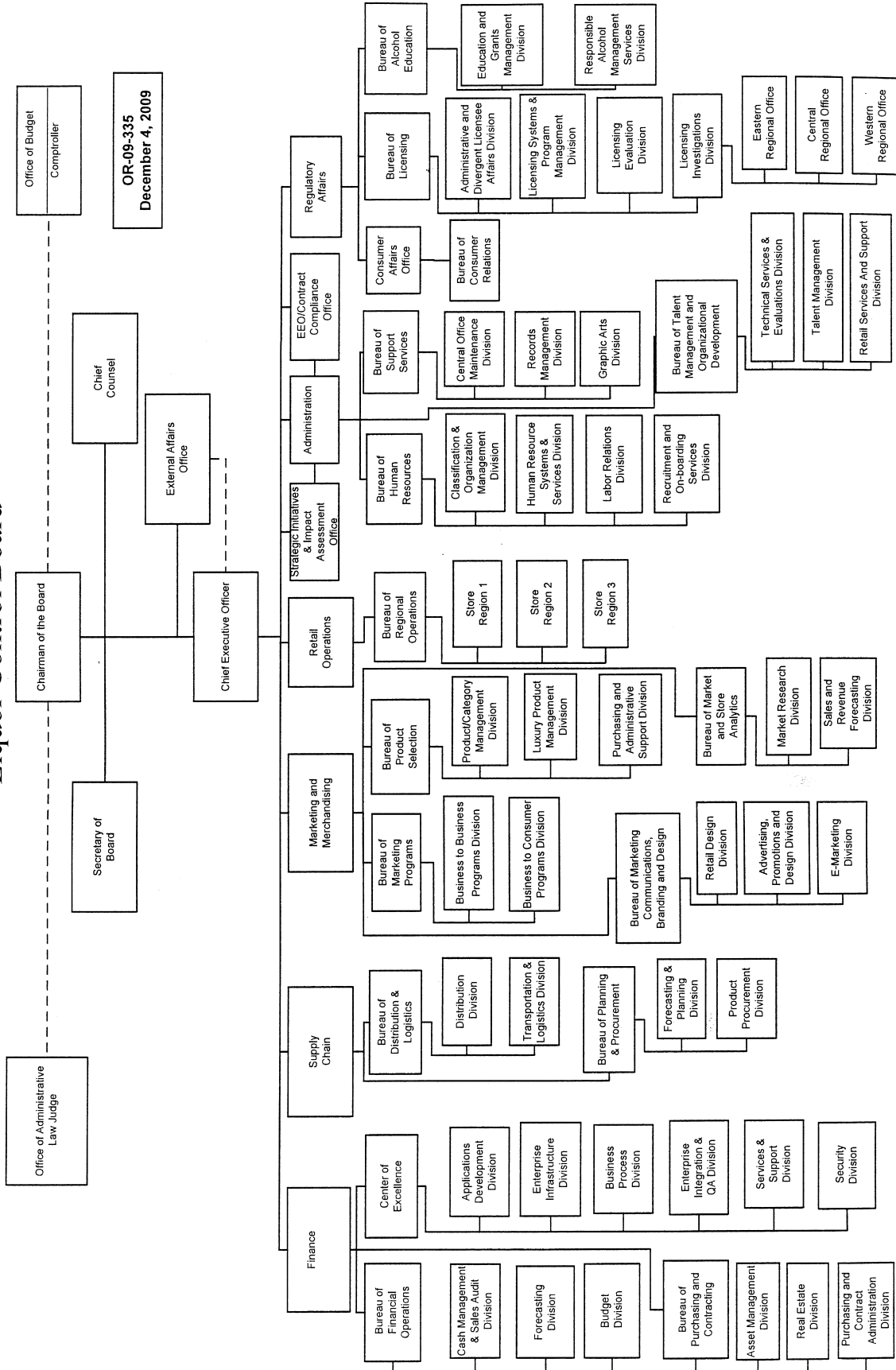
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania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

[Pa.B. Doc. No. 09-2375. Filed for public inspection December 24, 2009, 9:00 a.m.]

DEPARTMENT OF AGRICULTURE



Liquor Control Board

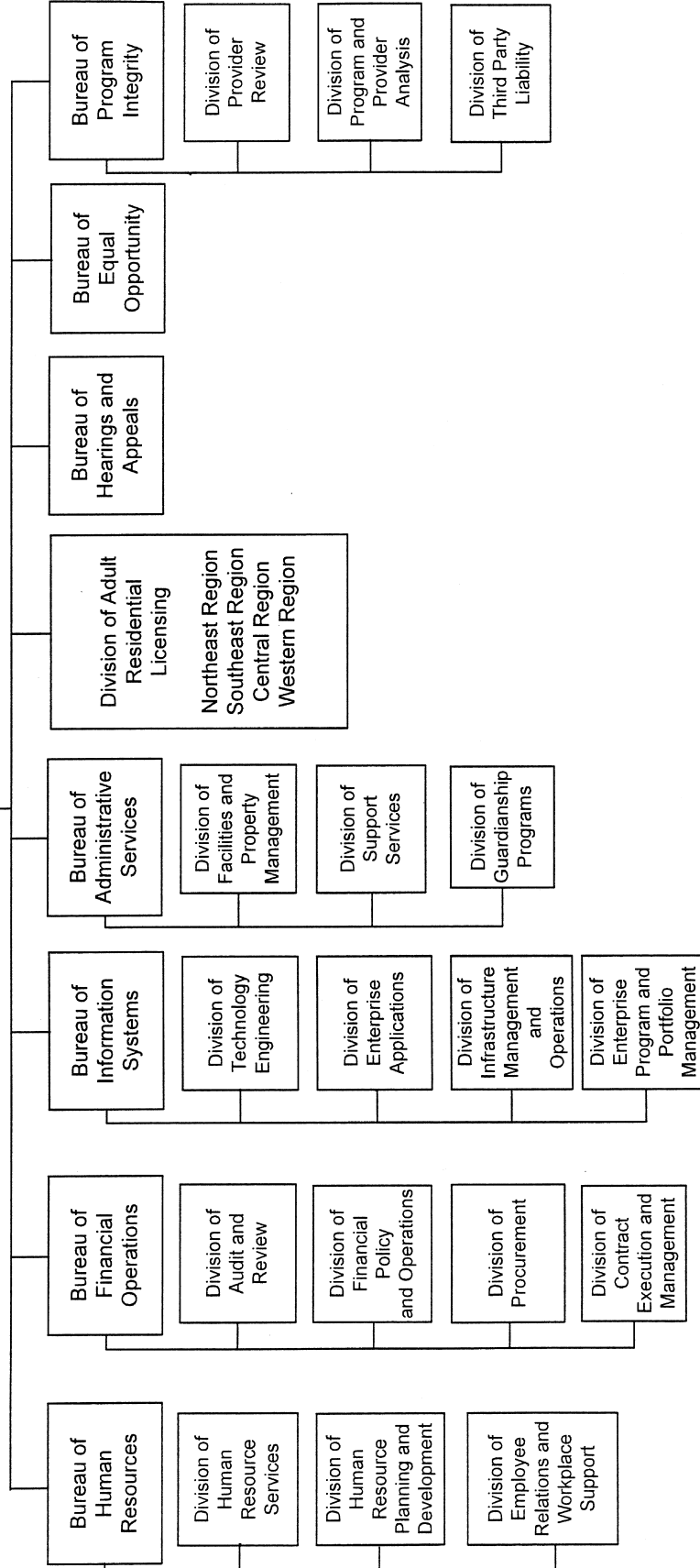


OR-09-335
December 4, 2009

DEPARTMENT OF PUBLIC WELFARE
DEPUTY SECRETARY FOR ADMINISTRATION

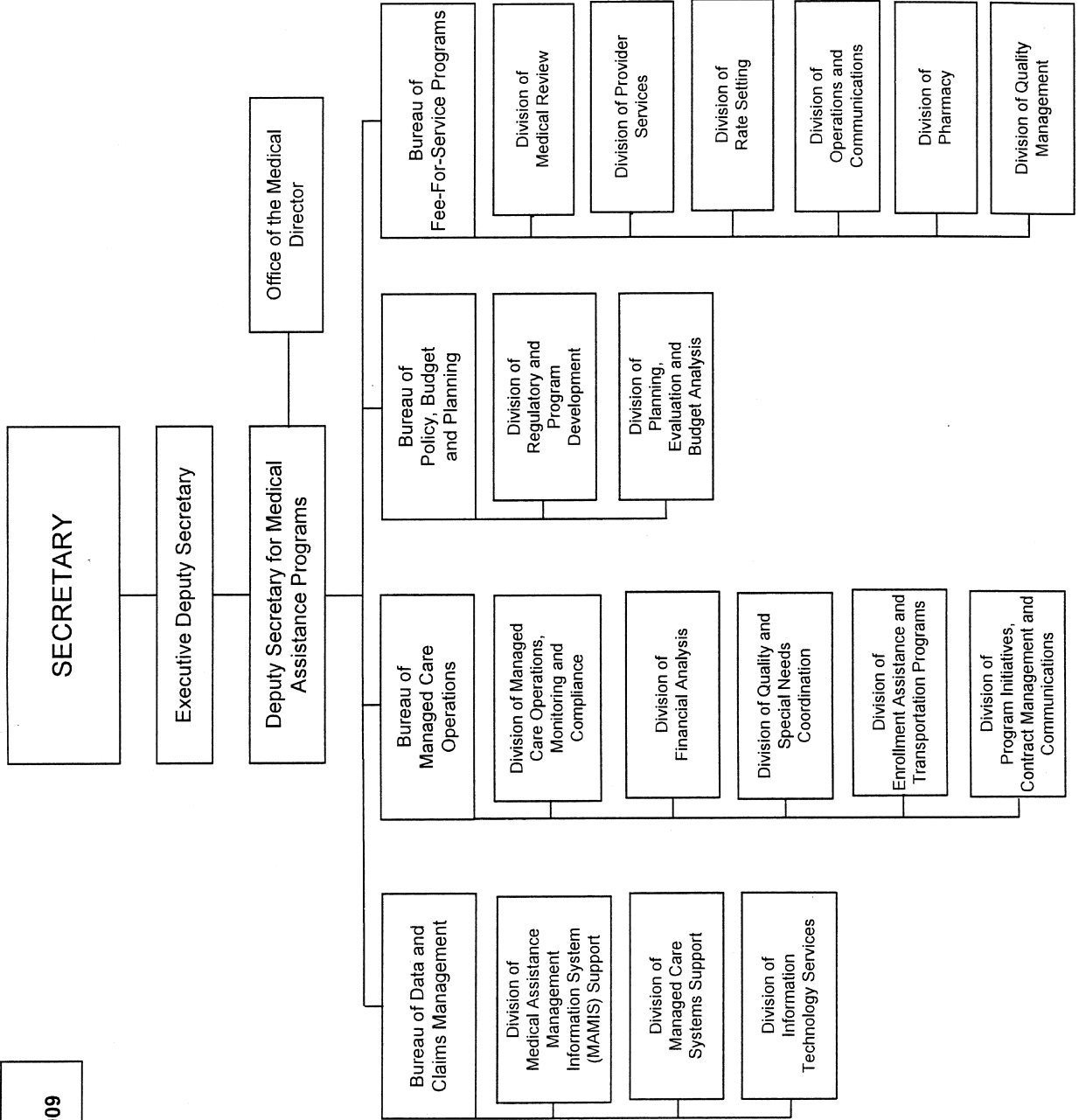
DEPUTY SECRETARY
FOR
ADMINISTRATION

OR-09-324
December 8, 2009

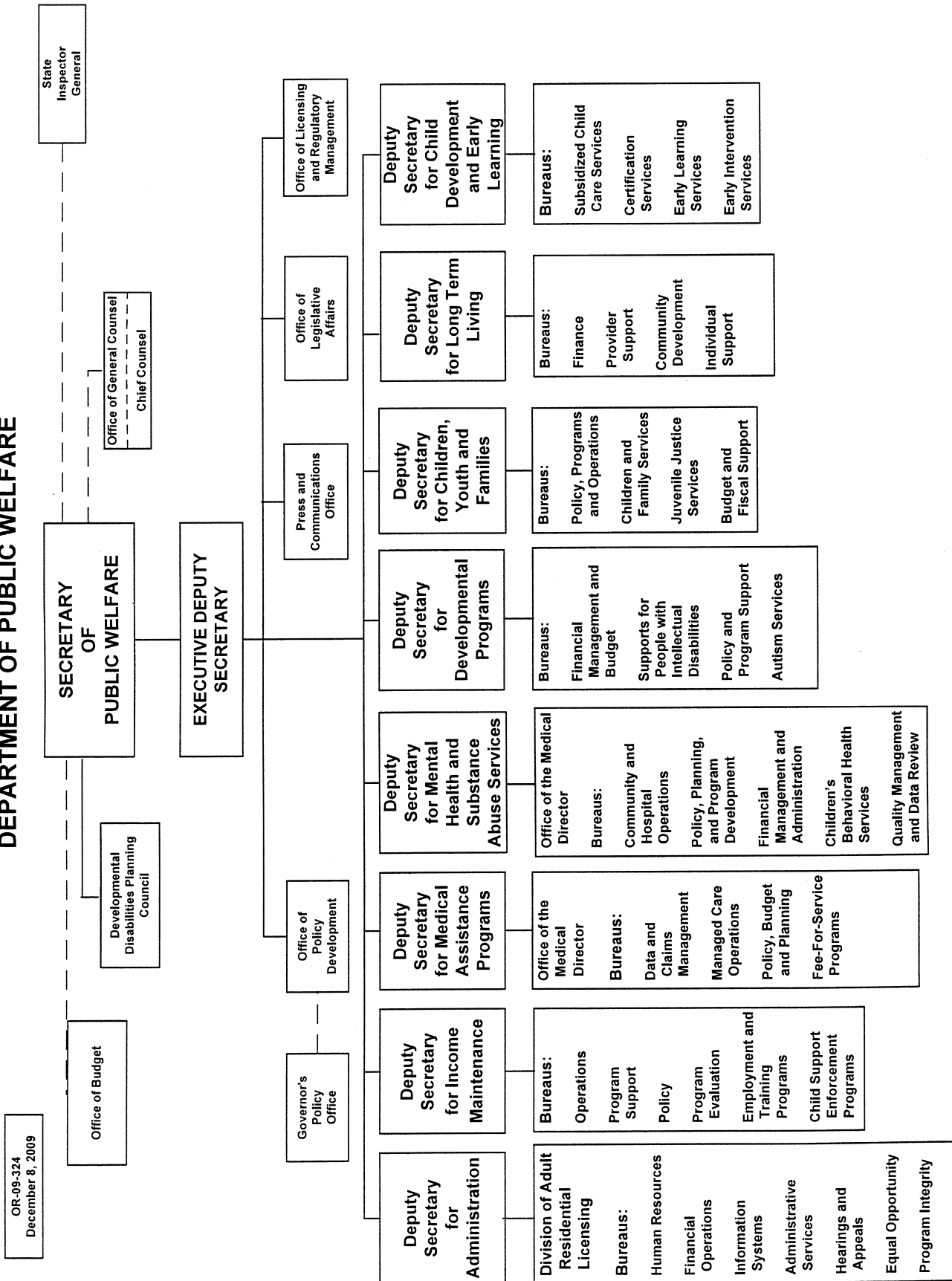


DEPARTMENT OF PUBLIC WELFARE
DEPUTY SECRETARY FOR MEDICAL ASSISTANCE PROGRAMS

OR-09-324
December 8, 2009



DEPARTMENT OF PUBLIC WELFARE



OR-09-324
December 8, 2009

NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 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 December 15, 2009.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
12-10-2009	United-American Savings Bank Pittsburgh Allegheny County	Filed
	Application for approval to convert from a State-chartered mutual savings bank to a State-chartered stock savings bank.	

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-2376. Filed for public inspection December 24, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of The University of Southern California of Los Angeles, California to Operate in Pennsylvania

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S.A. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of the University of Southern California (USC) in Los Angeles, CA to have a Certificate of Authority approving the operation of its Rossier School of Education by contract with 2tor, Inc. to provide its program in Teaching leading to a Master of Arts in Teaching (MAT) degree online with the Guided Practice portion conducted in Harrisburg, Pittsburgh, Philadelphia, Mifflintown and West Grove, PA. Individual faculty at the school districts would be contracted by USC to serve as a 'Master Teacher' mentor to one or more USC program students.

In accordance with 24 Pa.C.S.A. § 6503(e), the Department will act upon this application without hearing,

unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Carol M. D. Gisselquist, Higher Education Specialist, (717) 787-4448, 333 Market Street, Harrisburg, PA 17126-0333 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, contact Carol M. D. Gisselquist at (717) 787-4448 to discuss how the Department may best accommodate their needs.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 09-2377. Filed for public inspection December 24, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0081264 (Sew)	Mountainview Thoroughbred Racing Association—Penn National Race Track 730 Bow Creek Road P. O. Box 32 Grantville, PA 17028	Dauphin County East Hanover Township	UNT Swatara Creek 7D	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0081451 (Sew)	Red Lion Area School District Clearview Elementary School 696 Delta Road Red Lion, PA 17356-9185	York County Chanceford Township	West Branch Toms Run 7I	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0221759 (Sewage)	Robert L. Shuttleworth SFTF Jerry Road Wilcox, PA 15870	Elk County Jones Township	Unnamed Tributary to Swamp Creek 17-A	Y
PA0025551 (Sewage)	Dewdrop Campground STP 222 Liberty Street Warren, PA 16365-2304	Warren County Mead Township	Allegheny Reservoir 16-B	Y

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

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

Application No. PA 0021806, Sewage, **Annville Township**, P. O. Box 320, Annville, PA 17003. This facility is located in Annville Township, **Lebanon County**.

Description of activity: The application is for issuance of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Quittapahilla Creek, is in Watershed 7-D, and classified for trout stocking fishes, water supply, recreation, and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Swatara Creek, approximately 17 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.75 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	8.5		17
(11-1 to 4-30)	Report		Report
Total Residual Chlorine	0.5		1.63
Total Phosphorus	2.0		4.0
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	

Chesapeake Bay Requirements

	<i>Concentration (mg/l)</i>	<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Annual</i>
Ammonia-N	Report	Report	Report
Kjeldahl-N	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	XXX
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen	XXX	Report	13,698*
Net Total Phosphorus	XXX	Report	1,826*

* The permit contains conditions which authorize the permittee to apply nutrient reduction credits, to meet the Net Total Nitrogen and Net Total Phosphorus effluent limits, under the Department of Environmental Protection's (Department) Trading of Nutrient and Sediment Reduction Credits Policy and Guidelines (392-0900-001, December 30, 2006). The conditions include the requirement to report application of these credits in Supplemental Discharge Monitoring Reports submitted to the Department.

You may make an appointment to review the Department's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

Application No. PA 0261408, Sewage, **Ross F. Garner**, 343 East Louther Street, Carlisle, PA 17013. This facility is located in North Middleton Township, **Cumberland County**.

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

The receiving stream, Wertzville Run, is in Watershed 7-B, and classified for warm water fishes, water supply, recreation, and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water Company is located on the Conodoguinet Creek, approximately 17 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 MGD are:

Parameter	Average		Instantaneous Maximum (mg/l)
	Monthly (mg/l)	Weekly (mg/l)	
CBOD ₅	25		50
Total Suspended Solids	30		60
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		

You 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.

PA0216984, Sewage, **Shannock Valley General Services Authority**, 111 South Center Street, P. O. Box 168, NuMine, PA 16244. This application is for renewal of an NPDES permit to discharge treated sewage from NuMine Waste Water Treatment Plant in Cowanshannock Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Cowanshannock Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply, and recreation. The first downstream potable water supply intake from this facility is the Kittanning Suburban Joint Water Authority on the Allegheny River.

Outfall 001: existing discharge, design flow of 0.065 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
May 1 to Oct 31	10.0			20.0
Nov 1 to Apr 30	25.0			50.0
Fecal Coliform				
May 1 to Sep 30	200/100 ml as a geometric mean			
Oct 1 to Apr 30	2,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. WQG026128, Sewerage, **Jenner Township**, 2058 Lincoln Highway, Boswell, PA 15531. This proposed facility is located in Jenner Township, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

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

Luzerne County Conservation District: R485 Smith Pond Road, Lehman, PA 18627-0250, 570-674-7991.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI024009003	Calvary Church of Philadelphia Gary Gordon 13500 Philmont Ave. Philadelphia, PA 19116-1118	Luzerne	Buck Township	Lehigh River HQ-CWF, MF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041409016	Dave Palmer S&A Homes, Inc. Saybrook Subdivision 2121 Old Gatesburg Road State College, PA 16803	Centre	Ferguson Township	Big Hollow CWF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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

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

Application No. 0909523 , Public Water Supply.	
Applicant	Pennsylvania-American Water Company
Township	Lower Makefield
County	Bucks
Responsible Official	David R. Kaufman 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Consulting Engineer	Pennsylvania-American Water Company 4 Wellington Boulevard Wyomissing, PA 19610
Application Received Date	December 2, 2009
Description of Action	Reviewing of disinfection of water supplies to assure maximum safety to the consumer.

Application No. 5109507 , Public Water Supply.	
Applicant	Culligan Store Solutions, LLC
Township	City of Philadelphia
County	Philadelphia
Responsible Official	Jeanne Cantu 1030 Lone Oak Road Suite 110 Eagan, MN 55121-2251
Type of Facility	PWS

Consulting Engineer Culligan Store Solutions, LLC
1030 Lone Oak Road
Suite 110
Eagan, MN 55121-2251

Application Received Date December 2, 2009

Description of Action A drinking water system for processing using the following methods: Particle filtrations, carbon adsorption, reverse osmosis and ultraviolet light.

Application No. 4609527, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
Township Whitmarsh
County **Montgomery**
Responsible Official Joseph Thurwanger
762 West Lancaster Avenue
Bryn Mawr, PA 19010-3489

Type of Facility PWS
Consulting Engineer C.E.T.
1240 North Mountain Road
Harrisburg, PA 17112

Application Received Date November 30, 2009

Description of Action Construction of a new station, including new submersible well pumps and new pitless adapters.

Application No. 1509513, Public Water Supply.

Applicant **Avon Grove Charter School**
Township Kemblesville
County **Chester**
Responsible Official Randy S. Eddinger
1697 Swamp Pike
Gilbertsville, PA 19525

Type of Facility PWS
Consulting Engineer Ruby Engineering
3605 Island Club Drive
Unit #9
North Port, FL 34288-6611

Application Received Date November 30, 2009

Description of Action Nitrate selective anion resin installed to reduce drinking water nitrates below the EPA primary health standard.

Application No. 1509509, Public Water Supply.

Applicant **Pennsylvania-American Water Company**
Township Caln
County **Chester**
Responsible Official David R. Kaufman
4 Wellington Boulevard
Suite 2
Wyomissing, PA 19610

Type of Facility PWS
Consulting Engineer Hatch Mott MacDonald
27 Bleeker Street
Milburn, NJ 07041-1008

Application Received Date August 13, 2009

Description of Action Interconnection with Downingtown Municipal Water Authority, including water main and pump station.

Application No. 2309506, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
Township Nether Providence
County **Delaware**
Responsible Official Marc A. Lucca
762 West Lancaster Avenue
Bryn Mawr, PA 19010-3402

Type of Facility PWS
Consulting Engineer Hatch Mott MacDonald
27 Bleeker Street
Millburn, NJ 07041-1008

Application Received Date July 24, 2009

Description of Action Construction of a new residuals treatment facility to improve dewatering of residuals at the Crum Creek Water Treatment Plant.

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

Permit No. 4509508, Public Water Supply.

Applicant **Monroe Realty Company**
1500 Main Ave.
Peckville, PA 18452

Township or Borough Chestnuthill Twp.
Monroe County

Responsible Official Ronald Dushney
Type of Facility Public Water System
Consulting Engineer David D. Klepadlo, P. E.

Application Received Date 11/12/09

Description of Action The installation of treatment for manganese and arsenic at the Monroe Plaza.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Stan-

dard, 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.

Wawa Convenience Store #192, Bristol Township, **Bucks County**. Curt Herman, Austin James Associates, Inc., P. O. Box U, Pocono Pines, PA 18350 on behalf of Matthew S. Winters, Wawa, Inc., 260 West Baltimore Pike, Wawa, PA 19603 has submitted a Notice of Intent to Remediate. Soil and Groundwater at the suite has been impacted with the release of unleaded gasoline and MTBE. The intended future use of the site is nonresidential. A Notice of Intent to Remediate was to have been published in the *Bucks County Courier Times* on November 13 2009.

919 Wallace Street, City of Philadelphia, **Philadelphia County**. Michael Christie, Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440, Darryl Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwd, PA 19004, Dorothy J. and Michael D. Staples, 443 Cooper Beech Circle, Elkins Park, PA 19027 on behalf of Jack Levin, Roselawn Abstract, LP, 1411 Walnut Street, Third Floor, Philadelphia, PA 19102 has

submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of inorganic. The future use of the site will be nonresidential for warehousing. A Notice of Intent to Remediate was to have been published in *The Philadelphia Daily News* on November 7, 2009.

5500 Germantown Avenue, City of Philadelphia, **Philadelphia County**. William Schmidt, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, Jennifer Higgins, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, Marc Guerin Citizens Bank of Pennsylvania, 1701 JFK Boulevard, Philadelphia, PA 19103 on behalf of Trustees of Green Street, 5511 Green Street, Philadelphia, PA 19144 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of no. 2 fuel oil.

Ward Residence, East Goshen Township, **Chester County**. Michael Sarcinello, Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. The future use of the site is residential.

Hudson Residence, City of Philadelphia, **Philadelphia County**. Thomas P. Schultz, Lewis Environmtanl Group, P. O. Box 639, Royersford, PA 19468, David Slabeck, Slabeck Fuel Company, 3541 Cedar Street, Philadelphia, PA 19134 on behalf of Helen Hudson, 143 Van Kirk Street, Philadelphia, PA 19134 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of no. 2 fuel oil. A summary of the Notice of Intent to Remediate was to have been reported in the *Philadelphia Inquirer* on November 13, 2009.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Gichner Shelter Systems, York Township, **York County**. Synergy Environmental, Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19468, on behalf of Gichner Shelter Systems, Inc., 490 East Locust Street, Dallastown, PA 17313, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with sulfochromate etch solution released from a containment pit. The current and future use of the site is the manufacture of specialty aluminum shelters for commercial and military uses. The applicant intends to remediate the site to the Site-Specific Standard.

Mohnton Knitting Mills, Mohnton Borough, **Berks County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Mohnton Knitting Mills, 22 Main Street, Mohnton, PA 19540, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil discovered during the removal of a 6,000-gallon underground storage tank. The site will be remediated to a Residential Statewide Health Standard. Current and future use is commercial.

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.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.

42-1580: Temple-Inland—Mt. Jewett (R. R. 1, Hutchins Road, Mt. Jewett, PA 16740) for operation of a portable log chipper and the use of polymeric diphenylmethane diisocyanate resin (pMDI) at their facility in Mt. Jewett Borough, McKean County. This is a Title V facility.

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. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

15-0136: Thomas Medical Products, Inc. (65 Great Valley Parkway, Malvern, PA 19355) for operation of a medical devices manufacturing facility in Malvern Borough, **Chester County**. The primary source of air emissions are volatile organic compounds (VOC) associated with solvent use for preparation, cleaning, and sterilization of medical devices. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

09-0090A: Praxair Distribution Mid-Atlantic, LLC, d/b/a GTS—WELCO (1 Steel Road East, Morrisville, PA 19067) for an increase in volatile organic compound emissions from an existing gas cylinder spray coating operation at its facility in Falls Township, **Bucks County**. The potential volatile organic compound emissions from this facility are expected to increase from 2.75 tons per year to 7.02 tons per year on a 12-month rolling basis from the proposed increase in activity for this project. The facility is now subject to the coating restrictions, testing, monitoring and recordkeeping requirements from 25 Pa. Code § 129.52 that were not applicable when this source emitted less than 3 pounds per hour, 15 pounds per day, and 2.75 tons per year on a 12-month rolling basis.

46-0048E: Wyeth Pharmaceuticals (500 Arcola Road, Collegeville, PA 19426) for modification to the formaldehyde emissions rate for one (1) 2,000-kW #2 fuel oil/diesel fired electric generator authorized to operate under Plan Approval 46-0048D at an existing facility in Upper Providence Township, **Montgomery County**. The facility is a major facility. The increase in permitted formaldehyde emissions is equivalent to 0.00187 ton per year. No modification to the engine nor change in any condition other than the formaldehyde emissions rate is authorized under this Plan Approval modification.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

67-03143C: ESAB Welding and Cutting (1500 Karen Lane, Hanover, PA 17331) for a mill scale dust collector system for their facility in Penn Township, **York County**. The plan approval will include restrictions, monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

PA-30-00055A: Shannopin Materials, LLC (308 Dents Run Road, Morgantown, WV 26501) to allow the construction of a coal slurry reclamation project and the construction of a coal/limestone barge loading/unloading facility at the Shannopin Dock site in Monongahela Township, **Greene County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval to allow the construction of a coal slurry reclamation project and the construction of a coal/limestone barge loading/unloading facility at their Shannopin Dock site in Monongahela Township, Greene County.

Sources at this facility will include excavators, 5 stockpiles, conveyors, transfer points, and end-loaders. Facility shall be limited to 625 tons/hour and a total throughput of 400,000 tons per 12 month rolling total. Annual emissions from the facility are estimated to be 46 tons of total particulate matter and 14 tons of PM10. BAT for this operation consists of dust suppression activities such as the use of water sprays, enclosures, roadway paving, tarping, truck wash and best operating practices. The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapters 121—145. The Department believes that the facility will meet these requirements by complying with Plan Approval conditions relating to restrictions, monitoring, recordkeeping, reporting and work practice standards:

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Barbara Hatch, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

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. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00245: Neptune Chemical Pump Co. (204 DeKalb Pike, Lansdale, PA 19446) for operation of two (2) paint spray booths at Montgomery Township, **Montgomery County**. This action is a renewal of a State Only Operating Permit (Natural Minor), which was originally issued on February 18, 2005. The renewal contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Matthew Williams, New Source Review Chief—Telephone: 814-332-6940.

10-00304: JSP International—East Butler (150 Eastbrook Lane, Butler, PA 16002) for re-issuance of a Natural Minor Operating Permit to operate a polystyrene foam product manufacturing facility in Summit Township, **Butler County**. The facility's primary emission sources are the four (4) boilers used to provide heat for the process.

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 Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH ¹		greater than 6.0; less than 9.0	
Alkalinity greater than acidity ¹			

¹The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

32743710 and NPDES Permit # PA0214884, Helvetia Coal Company, (P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774), to renew the permit for the Refuse Disposal Area No. 1 in Center Township, **Indiana County** and related NPDES permit for reclamation only. No additional discharges. Application received: October 16, 2009.

30743702 and NPDES Permit # NA, Consolidation Coal Company, (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317), to revise the permit for the Blacksville No. 1 Mine Refuse Area in Wayne Township, **Greene County** to add acreage to install a pipeline to carry mine water from the Blacksville No. 1 Mine pool in West Virginia. Coal Refuse Disposal Support Acres Proposed 2.0. No additional discharges. Application received: August 7, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

26080107 and NPDES Permit No. PA0251810, Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for commencement, operation and reclamation of a bituminous surface mine, located in Wharton Township, **Fayette County**, affecting 61.4 acres. Receiving streams: unnamed tributaries to Stony Fork, classified for the following use: HQ-CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: November 25, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

13890201R4 and NPDES Permit No. PA0594580, Panther Creek Partner, (1001 Industrial Road, Nesquehoning, PA 18240), renewal of an existing coal refuse reprocessing, refuse disposal and prep plant operation in Nesquehoning Borough, **Carbon County** affecting 428.0 acres, receiving streams: First Hollow Run and Nesquehoning Creek. Application received: November 30, 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

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, Telephone 570-826-2511.

E40-704. Donna Bryant, P. O. Box 286, Shawanese, PA 18654, in Harveys Lake Borough, **Luzerne County**, U.S. Army Corps of Engineers, Baltimore District (Harveys Lake, PA Quadrangle Latitude: 41° 21' 12"; Longitude: -76° 1' 14").

To construct and maintain a 1,920 square foot dock extending approximately 4 feet into Harveys Lake (HQ-CWF) and supported by eleven (11) wooden pilings for the purpose of providing a safer shoreline and a mooring area for boats.

The project is located approximately 3.59 miles north west of the intersection of SR 415 and SR 115 (Harveys Lake, PA Quadrangle Latitude: 41° 22' 5.6"; Longitude: 76° 3' 12.4") in Harveys Lake Borough, Luzerne County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E08-459. Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, TX 77002-5089. Water Obstruction and Encroachment Joint Application, 300 Line Project, in Asylum, Burlington, Granville, Monroe and West Burlington Townships, **Bradford County**, ACOE Baltimore District (Towanda, PA Quadrangle N: 41° 43' 22"; W: 76° 28' 12").

To construct, operate and maintain 22.5 miles of 30" natural gas pipeline within the North Branch of the Susquehanna River watershed (Warm Water Fishery). Construction of the pipeline loops will require forty (40) stream and thirty-seven (37) wetland crossings. The project is centered approximately 1 mile north of the Village of Monroeton in Bradford County.

E53-425. Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, TX 77002-5089. Water Obstruction and Encroachment Joint Application, 300 Line Project, in Alleghany, Ulysses and Hector Townships, **Potter County**, ACOE Baltimore District (West Pike, PA Quadrangle N: 41° 50' 27"; W: 76° 42' 17").

To construct, operate and maintain 12.95 miles of 30" natural gas pipeline within the Alleghany (Cold Water Fishery) and West Branch of the Susquehanna River watershed (Warm Water Fishery). Construction of the pipeline loops will require twenty-five (25) stream and fifty-five (55) wetland crossings. The project is centered approximately 4.8 miles north of the Village of West Pike in Potter County.

E59-491. Tennessee Gas Pipeline Company, 1001 Louisiana Street, Houston, TX 77002-5089. Water Obstruction and Encroachment Joint Application, 300 Line Project, in Clymer, Charleston, Richmond and Sullivan Townships, **Tioga County**, ACOE Baltimore District (Keenyville, PA Quadrangle N: 41° 48' 54"; W: 77° 17' 22").

To construct, operate and maintain 20.94 miles of 30" natural gas pipeline within the West Branch of the Susquehanna River watershed (Warm Water Fishery). Construction of the pipeline loops will require thirty-six (36) stream and seventy-five (75) wetland crossings. The project is centered approximately 2.8 miles north of the Village of Wellsboro Junction in Tioga County.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E56-354. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17107-7676. To construct and maintain culvert crossing, two lane single-span bridge and roadway stormwater outfalls in Somerset Township and Somerset Borough in **Somerset County**, Pittsburgh ACOE District. The applicant proposes to:

1. Construct and maintain a culvert crossing consisting of two parallel 49 inch by 33 inch elliptical, and one 57 inch by 38 inch, depressed 6 inches, 59 ft. Long, CMP culverts for the to be relocated two lane Laurel Crest Drive municipal road on an unnamed tributary to East Branch Coxes Creek (WWF) with a drainage area of 119 acres. This culvert crossing is located in Somerset Township (Somerset, PA Quadrangle N: 3.3 inches; W: 11.8 inches, Latitude: 40° 1' 1"; Longitude: 79° 5' 2").

2. Construct and maintain a two lane 39 ft. wide, 47 ft. long, single span bridge, skewed 60 degrees, having a total length of 47 ft. and a minimum underclearance of 3.3 ft. over an unnamed tributary of East Branch Coxes Creek (WWF) with a drainage area of 3.08 square miles. This bridge is located 0.3 mile east of the above culvert crossing in Somerset Borough (Somerset, PA Quadrangle N: 3.3 inches; W: 11.3 inches, Latitude: 40° 1' 5"; Longitude: 79° 4' 52").

3. In addition, construct and maintain roadway stormwater outfalls, and a total of 0.37 acre of PEM/PSS wetland will be filled and maintained in the East Branch Coxes Creek basin. Wetland mitigation is proposed to be

provided at PennDOT's Louie Beach Advanced Wetland Compensation Site, Somerset County (Somerset, PA Quadrangle N: 3.3 inches; W: 11.5 inches, Latitude: 40° 1' 13"; Longitude: 79° 4' 54").

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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 pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0247464 (Sew)	East Hanover Township Board of Supervisors 8848 Jonestown Road Grantville, PA 17028	Dauphin County East Hanover Township	Bow Creek 7-D	Y

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0031810 (Sew)	Eastern Lebanon County School District ELCO High School 180 Elco Drive Myerstown, PA 17067	Lebanon County Jackson Township	UNT to Tulpehocken Creek 3-C	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0113484 (Sewage)	William Robinson 16064 Route 6 Mansfield, PA 16933	Richmond Township Tioga County	UNT to N. Elk Run CWF	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N
PA0216721 Sewage	George E. and Patricia N. Meerhoff Thomas E. and Kelly G. Meefhoff 1118 Old Route 31 Mount Pleasant, PA 15666	Westmoreland County Mount Pleasant Township	UNT of Jacobs Creek	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0101516	Oil City Area School District Oakland Elementary School P. O. Box 929 Oil City, PA 16301	Oakland Township Venango County	Unnamed tributary to Two Mile Run 16-E	Y

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

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

NPDES Permit No. PA0012823, Industrial Waste, **PPL Martins Creek, LLC**, Two North Ninth Street, Mail Stop GENPL6, Allentown, PA 18101-1179. This proposed facility is located in Lower Mt. Bethel Township, **Northampton County**.

Description of Proposed Action: Issuance of NPDES Permit renewal.

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

NPDES Permit No. PA0027189, Sewage, **Lower Allen Township Authority**, 120 Limekiln Road, New Cumberland, PA 17070-2428. This proposed facility is located in Fairview Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to the Susquehanna River in Watershed 7-E.

NPDES Permit No. PA0027022, Amendment No. 1, Sewage, **Altoona City Authority**, 20 Greenwood Road, Altoona, PA 16601-7114. This proposed facility is located in Allegheny Township, **Blair County**.

Description of Proposed Action/Activity: Authorization to discharge to the Beaverdam Branch in Watershed 11-A.

NPDES Permit No. PA0027014, Amendment No. 1, Sewage, **Altoona City Authority**, 20 Greenwood Road, Altoona, PA 16601-7114. This proposed facility is located in Logan Township, **Blair County**.

Description of Proposed Action/Activity: Authorization to discharge to the Little Juniata River in Watershed 11-A.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3664.

PA0208779, Industrial Waste, SIC, 3111, **Clearfield Leather, Inc.**, 120 Cooper Road, Curwensville, PA 16833-1542. This existing facility is located in Curwensville Borough, **Clearfield County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated industrial wastewater.

The receiving stream, West Branch Susquehanna River, is in the State Water Plan watershed 8B and classified for: Warm Water Fishes (WWF). The nearest downstream public water supply intake for RRI Energy is located on West Branch Susquehanna River is 16 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.125 MGD.

Parameter	Mass Units (lbs/day)			Concentration (mg/l)		
	Average Monthly	Maximum Daily	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow	Report	Report				
pH			6.0			9.0
5 Day BOD	69	150		Report	Report	165
Ammonia-N				Report	Report	
TSS	99	216		Report	Report	238
Oil and Grease	16	31		15	30	30
Total Chromium	1.5	3.8		Report	Report	4.8

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. 0609402, Sewerage, **Washington Township Municipal Authority**, P. O. Box 52, Barto, PA 19504. This proposed facility is located in Washington Township, **Berks County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewerage facilities consisting of duplex grinder submersible pumps, a wet, well, controls, and a force main.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 6509404, Sewerage, **L & T Enterprises, LLC**, 749 North Church Street, Mount Pleasant, PA 15666. This proposed facility is located in Donegal Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sewage treatment plant to serve an 84-room hotel.

WQM Permit No. 6509405, Sewerage, **Penn Township Sewer Authority**, 1032 Nike Site Road, Irwin, PA 15642. This proposed facility is located in Penn Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of 22 individual grinder pump units.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI021307003	Vacation Charters, LTD 1 Lake Drive Lake Harmony, PA 18624	Carbon	Kidder Township	Black Creek HQ-CWF, MF
PAI024007007	Brian Kane 18296 Saint George's Court Leesburg, VA 20176	Luzerne	Wright Township	Big Wapwallopen Creek HQ-CWF, MF
PAI024808019	Zion Wesleyan Church of Point Phillip 2459 Scenic Drive Bath, PA 18014	Northampton	Bath Township	Bushkill Creek HQ-CWF, MF

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
ESCP2209801	Harrisburg Authority 212 Locust Street Harrisburg, PA 17101	Dauphin	Rush Township	Clark Creek HQ-CWF

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Armstrong County Conservation District, Armsdale Administration Building, Suite B-2, 124 Armsdale Road, Kittanning, PA 16201, (724-548-3425).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050309002	Allegheny Mineral Corp. P. O. Box 1022 1 Glade Park East Kittanning, PA 16201	Armstrong	West Franklin Township	Buffalo Creek HQ-TSF

Cambria District Mining Office: District Mining Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI275609001	Earth Shapers, LLC 266 Scout Dam Road Ebensburg, PA 15931	Somerset County	Jenner Township	South Fork Bens Creek HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated 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 & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Hanover Township Lehigh County	PAR10Q141-R-2	Brian Sinwell Lehigh Northampton Airport Authority 3300 Airport Rd. Allentown, PA 18109	Catasauqua Creek CWF, MF	Lehigh County Conservation District 610-391-9583
Hamilton Township Franklin County	PAG2002804040-R	Derek Ashenfelder Volvo Construction Equipment 312 Volvo Way Shippensburg, PA 17257	Dennis Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Chambersburg Borough Franklin County	PAG2002809033	Chambersburg Borough 100 South Second Street Chambersburg, PA 17201	Conococheague Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Southampton Township Franklin County	PAG2002809003-1	Volve Road Machinery 312 Volvo Way Shippensburg, PA 17257	Rowe Run CWF-TSF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
St. Thomas Township Franklin County	PAG2002809035	Dwain Plessinger 9311 Huber Road St. Thomas, PA 17252	UNT to Wilson Run TSF-MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Union Township Lebanon County	PAG2003809015	Pennsylvania Air National Guard Attn.: Joel Sattazahn 142 Gettysburg Street Annville, PA 17003	Qureg Run—Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-5314 717-272-3908, Ext. 4
North Londonderry and South Londonderry Townships Lebanon County	PAG2003809014	Palmyra Area School District Attn.: Darcy Brenner-Smith 1125 Park Drive Palmyra, PA 17078	Spring Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042-5314 717-272-3908, Ext. 4
Limestone Township Union County	PAG2006009010	Leon G. Hoover 2370 Beaver Road Mifflinburg, PA 17844	Cedar Run CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Washington County Chartiers Township	PAG2006309026	Washington County Planning Commission 701 Courthosue Square 100 West Beau Street Washington, PA 15301	Chartiers Run WWF	Washington County Conservation District 724-228-6774

General Permit Type—PAG-3

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Manor Borough Westmoreland County	PAR806264	Paul W. Kerber 281 First Street North Huntingdon, PA	Brush Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 412-442-4000
Delaware Township Mercer County	PAG049525	Brenda K. Englert 7 District Road Greenville, PA 16125	Unnamed Tributary to Lawango Run 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

General Permit Type—PAG-8 (SSN)

Facility Location:
Municipality &
County

Banks Township
Indiana County

Applicant Name &
Address

Synagro
3239 Route 981
New Alexandria, PA
15670

Site Name

Lind Reclamation
Biosolids Site

Contact Office &
Phone No.

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

**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 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

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

Permit No. 2309506, Public Water Supply.
Applicant **Aqua Pennsylvania, Inc.**
762 West Lancaster Avenue
Bryn Mawr, PA 19010-3402
Township Nether Providence
County **Delaware**
Type of Facility PWS

Consulting Engineer Hatch Mott McDonald
27 Bleeker Street
Milburn, NJ 07041
Permit to Construct July 24, 2009
Issued
Permit No. 1509512, Public Water Supply.
Applicant **Pennsylvania American Water Company**
800 West Hersheypark Drive
Hershey, PA 17033
Township East Vincent
County **Chester**
Type of Facility PWS
Consulting Engineer Pennsylvania American Water Company
800 West Hersheypark Drive
Hershey, PA 17033
Permit to Construct October 30, 2009
Issued
Permit No. 1508512, Public Water Supply.
Applicant **Aqua Pennsylvania, Inc.**
762 Bryn Mawr Avenue
Bryn Mawr, PA 19010
Township Upper Providence
County **Montgomery**
Type of Facility PWS
Consulting Engineer C.E.T. Engineering Services, Inc.
1240 North Mountain Road
Harrisburg, PA 17112
Permit to Construct January 9, 2009
Issued
Permit No. 4609520, Public Water Supply.
Applicant **North Penn Water Authority**
300 Forty Foot Road
P. O. Box 1659
Lansdale, PA 19446
Borough Lansdale
County **Montgomery**
Type of Facility PWS
Consulting Engineer North Penn Water Authority
300 Forty Foot Road
P. O. Box 1659
Lansdale, PA 19446
Permit to Construct October 15, 2009
Issued

Operations Permit #4609503 issued to **Exelon Nuclear Limerick Generating Station**, 3146 Sanatoga Road, Pottstown, PA 19464. (PWSID #1460847) Limerick Township, **Montgomery County** on February 11, 2009, for the operation of Facilities approved under construction permit #4609503 for an additional filter to the existing Arsenic treatment system at Alley Deep Well No.1.

Operations Permit #4609522 issued to **Saint Luke Knolls**, 1697 Swamp Pike, Gilbertsville, PA 19525. (PWSID #1460086) Douglass Township, **Montgomery County** on June 22, 2009, for the operation of Facilities approved under construction permit #4609518 for the water softening system at Saint Luke Knolls.

Operations Permit #0909522 issued to **Perkasie Borough Authority**, 306 North Fifth Street, Perkasie, PA 18944. (PWSID #1090046) East Rockhill Township, **Bucks County** on November 9, 2009, for the operation of Facilities approved under construction permit #0908503 for the water softening system at Saint Luke Knolls.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0709507 MA, Minor Amendment, Public Water Supply.

Applicant	Bel Air Park Apartments
Municipality	Logan Township
County	Blair
Type of Facility	This permit approves the replacement of existing UV disinfection system with chlorination facilities.
Consulting Engineer	David M. Cunningham, P. E. Keller Engineers, Inc. 420 Allegheny Street Hollidaysburg, PA 16648
Permit to Construct Issued:	12/2/2009

Permit No. 3809512 E, Public Water Supply.

Applicant	Eastern Lebanon County School District
Municipality	Jackson Township
County	Lebanon
Type of Facility	Emergency permit for the installation of a temporary pressure filtration system.
Consulting Engineer	Michael E. Kissinger, P. E. Centerpoint Engineering, Inc. 2 Market Plaza Way Mechanicsburg, PA 17055
Permit to Construct Issued:	12/4/2009

Operations Permit issued to: **United Water Pennsylvania**, 7220015, Hummelstown Borough, **Dauphin County** on 12/8/2009 for the operation of facilities approved under Construction Permit No. 2205504.

Operations Permit issued to: **City of Lancaster—Conestoga Water Treatment Plant**, 7360058, Lancaster, **Lancaster County** on 12/8/2009 for the operation of facilities approved under Construction Permit No. 3606502.

Operations Permit issued to: **Fredericksburg Sewer & Water Authority**, 7380118, Bethel Township,

Lebanon County on 11/24/2009 for the operation of facilities approved under Construction Permit No. 3809508.

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

Williamsport Municipal Water Authority (Public Water Supply), **Lycoming County**: On December 7, 2009, the Department of Environmental Protection (Department) approved the Source Water Protection (SWP) program for the Williamsport Municipal Water Authority. The personnel involved with the development of this SWP are to be commended for taking these proactive steps to protect these water sources for their community. Development of the program was funded by the Department (David W. Garg, (570) 321-6581).

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

Borough or Township	Borough or Township Address	County
Springfield Township	9211 Susquehanna Trail South Seven Valleys, PA 17360	York County

Plan Description: Larkin Tract, DEP Code No. A3-67958-220-3. The plan consists of a one lot commercial development on 50.65 acres with total estimated sewage flows of 3,500 gpd tributary to the Exit II Wastewater Treatment Plant. The proposed development is located at the end of 2nd Amendment Drive and the east side of the Susquehanna Trail (SR 3001) across from Glen Valley Road in Springfield Township, York County. The plan was disapproved because the proposal does not meet the consistency requirements of Chapter 71, Section 71.53(d)(4). Specifically, the receiving wastewater treatment plant's tertiary treatment is dysfunctional, and it frequently experiences permit violations as reported in the Discharge Monitoring Reports (DMR).

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 nonresiden-

tial 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.

Florence Titus Elementary School, Warrington Township, **Bucks County**. Daniel Lewis, Spotts, Stevens and McCoy, Inc., Reading, PA 10610 on behalf of Michael Nickerson, Central Bucks School District, 320 West Swamp Road, Doylestown, PA 18901 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Wawa Convenience Store # 192, Bristol Township, **Bucks County**. Curtis Herman, Austin James Associates, Inc., Route 423, Pocono Pines, PA 18350 on behalf of Matthew Winters Wawa, Inc., 260 Baltimore Pike, Wawa, PA 19603 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Background and Statewide Health Standards.

Rite Aid 3637, City of Philadelphia, **Philadelphia County**. Bradley Wolf, BL Companies, Inc., 213 Market Street, 6th floor, Harrisburg, PA 17101, Robert Lerner, Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet the Statewide Health and Site-Specific Standards.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Bethlehem Commerce Center-Slag Bank 3, 530 East 3rd Street, Bethlehem City, **Northampton County**. Kenneth G. Robbins, HDR Engineering, 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 has submitted a Remedial Investigation Report (on behalf of his client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning

the remediation of soil found to have been impacted by VOCs, Semi-VOCs and Inorganic constituents as a result of historical operations at the former Bethlehem Steel Plant. The report was submitted in partial fulfillment of the Site-Specific Standard. A public notice regarding the submission of the Remedial Investigation Report was published in *The Morning Call* and *The Express Times* on October 30, 2009.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

US Bronze Foundry & Machine (South Parking Lot), Woodcock Township, **Crawford County**. Geosyntec Consultants, 10220 Old Columbia Road, Suite A, Columbia, MD 21046, on behalf of U.S. Bronze Foundry & Machine, Inc., 18649 Brake Shoe Road, P. O. Box 458, Meadville, PA 16335 has submitted a Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may

approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

5134 Lancaster Avenue, City of Philadelphia, **Philadelphia County**. Mark Kucynski, REPSG, 6901 Kingsessing Avenue, Philadelphia, PA 19142, Charlene Drake, REPSG, 6901 Kingsessing Avenue, Philadelphia, PA 19142 on behalf of Kurt O'Brien, SS Overbrook, LP, 7932 West Sand Lake Road, Orlando, FL 32819 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with unleaded gasoline. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on November 13, 2009.

Levittown Shopping Center Property, Tullytown Borough, **Bucks County**. Jeffery Smith, Langan Engineering and Environmental Services, 30 South 17th Street, Suite 1300, Philadelphia, PA 19103, Darryl Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Patrick Tandy, Levittown, LP, 580 White Plains Road, Tarrytown, NY 10591 has submitted a Remedial Investigation/Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Remedial Investigation/Final Report was approved by the Department of Environmental Protection on November 24, 2009.

Clement Property, Malvern Borough, **Chester County**. Stuart Wiswall, Keating Environmental Management, 123 John Robert Thomas Drive, Exton, PA 19341, Robert Clement, c/o Harry Weiss, Ballard Spahr Andrews & Ingersoll, 1735 Market Street, 51st Floor, Philadelphia, PA 19103 on behalf of Robert Fox, c/o Manko, Gold, Katcher & Fox, LLP, 410 City Avenue, Suite 500, Bala Cynwyd, PA 19004 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with BTEX, PHCS and MTBE. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on November 23, 2009.

Lot 2 Hawks Crest, Pennsbury Township, **Chester County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington Street, Suite 375 Norristown, PA 19401, Calvin Powell, Powell Drilling & Services, Inc., 20 Smithbridge Road, Chester Heights, PA 19017, Andrew Hubley Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Tom Spano, Grey Doves At Sunset, LP, 125 Wilmington-West Chester Pike, Chadd Ford, PA 19317 has submitted a Final Report concerning the remediation of site soil contaminated with inorganics. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 1, 2009.

Staffer Residence, East Fallowfield Township, **Chester County**. Philip Donmoyer, Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, Bridget Shadler, Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602 on behalf of David McIlmans, 17 East Gay Street, Suite 100, West Chester, PA 19381 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 3, 2009.

Willow Grove Home Depot, Upper Moreland Township, **Montgomery County**. Justin Lauterbach, RT Environmental Services, Pureland complex, Suite 306, 510 Heron Drive, P. O. Box 521, Bridgeport, NJ 08014, Christopher Ward, RT Environmental Services, Pureland complex, Suite 306, 510 Heron Drive, P. O. Box 521, Bridgeport, NJ 08014 on behalf of Charles Gallub, Develcom 204 Harding Road, P. O. Box 217, Bellmawr, NJ 08031 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic and other organics. The Final report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department of Environmental Protection on December 4, 2009.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Bellwood Ambulance Service Facility, Bellwood Borough, **Blair County**. ATC Associates, Inc., 101 Allegheny Street, Hollidaysburg, PA 16643, on behalf of Bellwood Ambulance Service, 601 North Third Street, Bellwood, PA 16617, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with gasoline. The combined report demonstrated attainment of the Site-Specific Standard, and was approved by the Department of Environmental Protection on December 8, 2009.

Cumberland Technology Park Site, Hampden Township, **Cumberland County**. BL Companies, 213 Market Street, 6th Floor, Harrisburg, PA 17101, on behalf of John and Kathryn Harbilas, 33 North Second Street, Harrisburg, PA 17011, submitted a Final Report concerning remediation of groundwater contaminated with chlorinated solvents. The Final Report did not demonstrate attainment of the Statewide Health and Site-Specific Standards, and was disapproved by the Department of Environmental Protection on December 9, 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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

GP11-09-0019: Oldcastle Lawn & Garden, Inc. (500 East Pumping Station Road, Quakertown, PA 18951) on December 10, 2009, to operate a 581-bhp diesel fuel/#2 fuel oil-fired nonroad engine Richland Township, **Bucks County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 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) on December 8, 2009, for construction of a new gas compressor station in Highland Township, **Elk County**. This is a State Only facility.

43-305D: Champion Carrier Corp. (2755 Kirila Road, Hermitage, PA 16148-9019) on December 7, 2009, for reactivation of Paint Booth No. 3 to coat steel parts at their facility in the City of Hermitage, **Mercer County**. The facility currently has a State Only Operating Permit No. 43-00305.

62-017R: United Refining Co. (15 Bradley Street, Warren, PA 16365) on December 7, 2009, to remove the external cyclones and expansion of the electric static precipitator that controls the FCC in Warren City, **Warren County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Sachin Shankar, New Source Review Chief—Telephone: 484-250-5920.

23-0003J: ConocoPhillips Co. (4101 Post Road, Trainer, PA 19061) on December 10, 2009, to operate a clean fuels/FCC upgrade project in Trainer Borough, **Delaware County**.

46-0025K: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) on December 10, 2009, to operate a replacement venturi scrubber in Upper Merion Township, **Montgomery County**.

46-0266: Hanson Pipe & Products, Inc. (201 South Keim Street, Pottstown, PA 19464) on December 10, 2009, to operate a concrete, sealing, and coating operation in Pottstown Borough, **Montgomery County**.

23-0082: Liberty Electric Power, LLC (1000 Industrial Hwy, Route 291, Eddystone, PA 19022) on December 10, 2009, to operate a power plant—500 MW in Eddystone Borough, **Delaware County**.

46-0259: PPL Renewable Energy, LLC (2 North Ninth Street, Allentown, PA 18101) on December 10, 2009, to operate an internal combustion engine in Whitemarsh Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: William R. Weaver, New Source Review Chief—Telephone: 717-705-4702.

06-05109A: Atlas Minerals & Chemicals (1227 Valley Road, P. O. Box 38, Mertztown, PA 19539) on December 8, 2009, for their second asphalt processing line in Longswamp Township, **Berks County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.

63-00549A: Arden Landfill, Inc. (625 Cherrington Parkway, Coraopolis, PA 15108-4321) on December 10, 2009, to extend the completion of stack testing of the Caterpillar engines at their Gas to Energy plant in Chartiers Township, **Washington County** until July 14, 2010. This Plan approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Thomas Huynh, Chief—Telephone: 215-685-9476.

V09-010: Allied Tube & Conduit Corp. (11350 Norcom Road, Philadelphia, PA 19154) on December 11, 2009, to operate a tube and conduit manufacturing facility in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emissions' sources include three mills, one space heater rated at 3.76 MMBTU/hr, and four space heaters rated at 801,000 BTU/hr each.

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.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact: Edward Braun, Chief—Telephone: 215-685-9476.

S09-014: LaSalle University—West Campus (One Penn Boulevard, Philadelphia, PA 19141) on December 7, 2009, for University facility in the City of Philadelphia, **Philadelphia County**. The synthetic minor facilities emission sources include three (2) 600 Horsepower boilers, one (1) 350 Horsepower Boiler, one (1) 100 kW emergency generator, and one (1) 600 kW emergency generator.

S09-006: Philadelphia University (School Land & Henry Avenue, Philadelphia, PA 19122) on December 7, 2009, for University facility in the City of Philadelphia, **Philadelphia County**. The synthetic minor facilities emission sources include nine (9) heating units less than 1 MMBTU/hr firing natural gas, thirteen (13) hot water heaters less than 1 MMBTU/hr firing natural gas, twenty-six (26) boilers less than 6 MMBTU/hr firing either natural gas or #2 oil and two (2) emergency generators firing #2 oil.

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. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00037: Cabot Supermetals (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on December 10, 2009, amended to incorporate raffinate solidification process and requirements from Plan Approval No. 46-0037Y into the Title V Operating Permit for a plant in

Douglass Township and **Montgomery County**. The amended Title V Operating Permit contains all of the applicable regulatory requirements including monitoring, recordkeeping, reporting and emission limits.

09-00122.: Arkema, Inc.—Altuglas International (100 PA Route 413, Bristol, PA 19007) on December 10, 2009, for a minor modification of TVOP No. 09-00122 for their facility in Bristol Township, **Bucks County**. The minor modification incorporates a condition that will permit the PM-1/PM-2 Scrubber system (Source C723) to operate in strict water and air conservation modes while effectively maintaining VOC and HAP emission control. The modified TVOP includes monitoring, recordkeeping, reporting, and work practice requirements designed to keep the facility operating within all applicable air quality requirements. Minor modification of TVOP No. 09-00122 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

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.

17921602 and NPDES Permit # PA0214191, King Coal Sales, Inc., (P. O. Box 712, Phillipsburg, PA 16866), to renew the permit for the Cunard Coal Preparation Facility in Morris Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received: June 22, 2009. Permit issued: December 9, 2009.

30830701 and NPDES Permit # PA021424, Consolidation Coal Company, (CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317), to renew the permit for the Dilworth Rock Disposal Area in Cumberland Township, **Greene County** and related NPDES permit. No additional discharges. Application received: July 15, 2009. Permit issued: December 9, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

32080102 and NPDES No. PA0262595. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, transfer of an existing bituminous surface mine from Alverda Enterprises, Inc. located in Pine Township, **Indiana County**, affecting 85.2 acres. Receiving stream(s):

Leonard Run classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 22, 2009. Permit issued: December 7, 2009.

56080109 and NPDES No. PA0262706. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface and auger mine in Somerset Township, **Somerset County**, affecting 320.7 acres. Receiving stream(s): UNTs to Wells Creek to Stonycreek River classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: October 29, 2008. Permit issued: December 7, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17080104 and NPDES Permit No. PA0256846. P & N Coal Co, Inc. (P. O. Box 332, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous and auger permit in Ferguson Township, **Clearfield County** affecting 233.6 acres. Receiving stream(s): Snyder Run to Chest Creek to the West Branch of the Susquehanna River. Application received: March 26, 2008. Permit issued: December 3, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

54030202R. Michael Coal Company, (P. O. Box 1, Wiconisco, PA 17097), renewal of an existing anthracite coal refuse reprocessing operation in Reilly Township, **Schuylkill County** affecting 70.6 acres, receiving stream: none. Application received: October 14, 2008. Renewal issued: December 8, 2009.

Noncoal Permits Actions

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

63800201 and NPDES Permit No. PA0125857. Lafarge North America, Inc. (555 Frost Road, Suite 100, Streetsboro, OH 44241). NPDES renewal issued for continued operation and reclamation of a large noncoal surface mining site located in Hanover and Jefferson Townships, **Washington County**, affecting 85.5 acres. Receiving stream: Harmon Run. Application received: October 15, 2009. NPDES Renewal issued: December 8, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118

7475SM10A1C8 and NPDES Permit No. PA0123242. Essroc Cement Corp., (3251 Bath Pike, Nazareth, PA 18064), correction to an existing quarry operation in Nazareth Borough and Upper Nazareth Township, **Northampton County** affecting 176.0 acres, receiving stream: unnamed tributary to East Branch Monocacy Creek. Application received: April 9, 2009. Correction issued: December 8, 2009.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P. S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

14094006. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Aikens Project Business Park located in Harris Township, **Centre County**. Permit issued: December 9, 2009. Permit expires: December 31, 2010.

17094014. Douglas Explosives, Inc. (664 Graham Station Road, Philipsburg, PA 16866), gas exploration blasting (Roaring Rock 3D) located in Bradford Township, **Clearfield County**. Permit issued: December 8, 2009. Permit expires: December 7, 2010.

41094007. P G E (120 Market St., Warren, PA 16365), blasting for a pit for gas well drilling located in Gamble Township, **Lycoming County**. Permit issued: December 8, 2009. Permit expires: July 30, 2010.

41094008. P G E (120 Market St., Warren, PA 16365), blasting for a pit for gas well drilling located in Cummings Township, **Lycoming County**. Permit issued: December 8, 2009. Permit expires: July 30, 2010.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

23094101. American Infrastructure, Inc. (P. O. Box 98, Worcester, PA 19490), construction blasting for Llanerch Quarry Reclamation Class 1 in Haverford Township, **Delaware County** with an expiration date of December 1, 2010. Permit issued: December 7, 2009.

36094181. TJ Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of February 27, 2010. Permit issued: December 7, 2009.

36094182. TJ Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of March 27, 2010. Permit issued: December 7, 2009.

58094108. Meshoppen Blasting, Inc. (P. O. Box 127, Meshoppen, PA 18630), construction blasting for Chief Teel 2 in Springville Township, **Susquehanna County** with an expiration date of December 31, 2009. Permit issued: December 7, 2009.

52094002. Northeast Blasting, (403 Middle Creek Road, Honesdale, PA 18431), construction blasting for A & B Homes House Foundation in Dingman Township, **Pike County** with an expiration date of November 1, 2010. Permit issued: December 7, 2009.

58094016. PGS Onshore, (417 Grow Avenue, Montrose, PA 18801) and Omni Energy Services, (P. O. Box 3761, Lafayette, LA 70502), construction blasting for Friendsville 3D PPV Test in Apolacon and Franklin Townships, **Susquehanna County** with an expiration date of December 30, 2009. Permit issued: December 7, 2009.

09094108. Geological Technologies, Inc. (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Hilltown Township Walmart in Hilltown Township, **Bucks County** with an expiration date of December 3, 2010. Permit issued: December 8, 2009.

36094183. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for

Woodcrest Villa in East Hempfield Township, **Lancaster County** with an expiration date of June 30, 2010. Permit issued: December 8, 2009.

38094127. Warren's Excavating & Drilling, Inc. (P. O. Box 214, Myerstown, PA 17067), construction blasting for a single dwelling in Jackson Township, **Lebanon County** with an expiration date of December 4, 2010. Permit issued: December 8, 2009.

36094184. TJ Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of March 3, 2010. Permit issued: December 9, 2009.

36094185. TJ Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of March 3, 2009. Permit issued: December 9, 2009.

36094186. TJ Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21797), construction blasting for Hawthorne Ridge in Lancaster Township, **Lancaster County** with an expiration date of March 7, 2009. Permit issued: December 9, 2009.

36094187. Gerlach's Drilling & Blasting, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Toy Train Museum in Paradise Township, **Lancaster County** with an expiration date of December 20, 2010. Permit issued: December 9, 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 pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 P. S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E36-863: Charles Doubts, Lancaster County Administrator, 150 North Queen Street, Lancaster, PA 17608-3480, Middle Creek Bridge Replacement, Ephrata Township, **Lancaster County**, ACOE Baltimore District.

To remove a single-span steel Pratt Truss bridge having a clear span of 36.5 feet, a width of 17.0 feet, and a minimum underclearance of 8.5 feet. The Pratt Truss bridge will be replaced by a timber covered bridge having a clear span of 60.5 feet, a width of 17.0 feet, and a minimum underclearance of 13.0 feet over Cocalico Creek (WWF) for the purpose of replacing a deteriorating bridge at a point just south of the intersection of Meadow Valley and Middle Creek Roads (Ephrata, PA Quadrangle 7.1 inches North; 15.1 inches W, Latitude: 40° 9' 52.13" N; Longitude: 76° 13' 57.1" W) in Ephrata Township, Lancaster County.

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.

E49-303. City of Sunbury, 225 Market Street, Sunbury, PA 17801. Sunbury River Front Revitalization Project, in City of Sunbury, **Northumberland County**, ACOE Baltimore District (Sunbury, PA Quadrangle Latitude: 40° 51' 02"; Longitude: 76° 48' 15").

To establish a bank stabilization/rehabilitation project consisting of demolition and removal of failed structures, construction of a walking/access and maintenance trail, riparian buffer/bank stabilization, salvage and reconstruction of the WPA (Work Progress Administration), installation of new boulder, concrete and WPA walls, construction of an amphitheater, a marina and a temporary cofferdam to facilitate the work in the Susquehanna River. This project is intended to restore a historical shoreline and to provide added recreational benefit to the resource along with increasing the habitat potential aquatic species. This permit authorizes the demolition and removal of failing concrete structures, paving and trees. Additionally, this permit authorizes the construction, operation and maintenance of a joint public walking/access and maintenance

trail consisting of 6,021 cubic yards of select fill to reshape the floodway in a terraced configuration. This shall establish the walking/access and maintenance trail and mimic the bank configurations upstream and downstream of the project reach. This area will have a 6 inch layer of topsoil applied and will have a permanent erosion control matting installed to deter future erosion. The riparian buffer/bank stabilization will consist of 4,250 linear feet of R-6 riprap placed at a 2:1 slope from the bed to the low water elevation (deflated condition). All riprap will be keyed into the bed of the river a minimum of 24 inches below bed and to a width of 36 inches. R-6 riprap will be placed at a 3:1 slope from the low water elevation to the high water elevation (inflated condition) at which point a 12 foot riparian buffer of select fill will be placed at a slope of 6:1 to an approximate elevation of 431 feet. The riparian buffer will be planted with 5,120 square yards of vegetation and will span a total length of 3,840 linear feet. The riparian buffer/bank stabilization shall extend no further than 50 linear feet riverward from the current conditions. This distance is measured from the normal high water elevation from the inflated dam conditions. Salvage and reconstruction of the WPA wall will consist of dismantling the existing wall and reconstructing it in the original location and dimensions along with re-pointing 10,328 square feet of existing joints. New boulder walls, new concrete walls and new WPA walls shall be constructed in various locations along the entire reach. These walls will be installed in locations that the existing wall does not exist or in areas where the WPA wall has collapsed beyond repair. A total of 704 linear feet of stone retaining wall/WPA wall shall be constructed and a total of 1,743 linear feet of Pre-cast concrete shall be installed. An amphitheater consisting of seating and steps to facilitate entertainment will be placed along the existing river bank. This structure is located in the floodway and will not be water dependent. The amphitheater measures 68 linear feet upstream to downstream along the river bank and will be sloped to support all requirements for public access. The marina will consist of a 16 slip, 8 feet by 20 feet floatable dock that will extend 25 feet channelward of the high water elevation. The marina will occupy 7,514 square feet of the Susquehanna River. Revegetation of all disturbed acres will include grass, erosion control matting and the installation of new trees and shrubs. This permit also authorizes a temporary cofferdam to be installed, maintained and removed in its entirety upon termination. This cofferdam shall be constructed of sand bags and will begin at station 25+00 and extend upstream to station 71+60 for a total linear distance of 4,660 linear feet and a total river impact of 1.3 acres. The cofferdam is not to exceed 6 feet in height and shall have a 6 inch land side key trench for the poly liner that is woven within the dam. There are no wetlands impacted by this project although it impacts 2.99 acres of the existing channel in the inflated condition of the fabric-dam and 1.2 acres during the deflated condition. The project will consist of a total of 14.13 acres of earth disturbance of the existing channel and floodway of the Susquehanna River. This project is located between Bainbridge Bridge and Race Street and runs along Front Street. This permit also includes 401 Water Quality Certification.

E57-118. Grace M. Rekito, R. R. 1, Box 1054, Mildred, PA 18632-9374. Water Obstruction and Encroachment Joint Permit, in Cherry Township, **Sullivan County**, ACOE Susquehanna River Basin District (Laporte, PA Quadrangle N: 41° 29' 5.9"; W: 76° 22' 55.4").

To construct and maintain 80 linear feet of 24-inch HDPE culvert pipe and riprap apron measuring 8 linear feet long by 11.33 linear feet wide by 1.66 linear feet deep in an UNT to Birch Creek, located 0.8 mile north of the intersection of SR 0487 and SR 1006. This project proposes to permanently impact 90 linear feet of the UNT to Birch Creek, which is, designated a Cold Water Fishery and Wild Trout stream and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects."

Cambria District: Environmental Program Manager; 286 Industrial Park Rd., Ebensburg, PA 15931-4119.

E0209-001. Department of Environmental Protection (Department), Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Rd.,

Ebensburg, PA 15931. Abandoned Mine Drainage Treatment Project, in Harmar Township, **Allegheny County**, Pittsburgh ACOE District.

The applicant proposes to construct an access road to access an abandoned mine drainage drilling and borehole project to be constructed by the Department Bureau of Abandoned Mine Reclamation. The project will include the filling of 0.02 acre of PEM wetland, the construction of a permanent 985 foot long access road in the floodway of Deer Creek by removal of soil material and replacement with stable road material to the same elevation, and the construction of a ditch and stream outfall to convey mine drainage from three (3) boreholes to be drilled into an abandoned deep mine (New Kensington West, Quadrangle N: 9.8 inches; W: 13.0 inches).

SPECIAL NOTICES

CATEGORICAL EXCLUSION

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

Project Information:

<i>Project Applicant</i>	<i>Project Applicant's Address</i>	<i>Project Location (Municipality)</i>	<i>Project Location (County)</i>
Olyphant Borough Lackawanna County	113 Willow Street Olyphant, PA 18447	Olyphant Borough	Lackawanna

Description: The Borough proposes to rehabilitate existing combined sewers in the central downtown area by separation of storm sewers, construction of new separate storm sewer pipelines and inlets, and construction of new sanitary sewer pipelines and laterals. Separated stormwater flows will be directed to a separate municipal stormwater system. The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this proposed project. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Project Information:

<i>Project Applicant</i>	<i>Project Applicant's Address</i>	<i>Project Location (Municipality)</i>	<i>Project Location (County)</i>
Central Wayne Regional Authority	100 4th Street Suite 8 Honesdale, PA 18431	Honesdale Borough	Wayne

Description: The Authority proposes to rehabilitate existing combined sewers and CSO's in the Borough by separation of storm sewers, construction of new separate storm sewer pipelines and inlets, and new sanitary sewer pipelines and laterals. The project will also eliminate four (4) CSO's. Separated stormwater flows will be directed to a separate municipal stormwater system. The project will reduce hydraulic overload at the Authority's WWTP and eliminate wet weather discharges to the Lacawaxen River and Dyberry Creek from four (4) CSO's. The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this proposed project. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

[Pa.B. Doc. No. 09-2378. Filed for public inspection December 24, 2009, 9:00 a.m.]

Board and Committee Meeting Schedules for 2010

The following is a list of 2010 meetings of advisory and other boards and committees associated with the Department of Environmental Protection (Department). These schedules and an agenda for each meeting, including meeting materials, will be available through the Public Participation Center on the Department's web site at <http://www.depweb.state.pa.us> (DEP Keywords: Public Participation, Participate). Prior to each meeting, the Department encourages individuals to visit their web site to confirm meeting date, time and location.

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

Agricultural Advisory Board

The Agricultural Advisory Board will hold bimonthly meetings on the following dates. The meetings will begin at 10 a.m. at the Department's South Central Regional Office, Susquehanna Room A, 909 Elmerton Avenue, Harrisburg, PA, unless otherwise noted.

February 17, 2010
 April 21, 2010
 June 16, 2010
 August 18, 2010

8 a.m. start
 Department of Agriculture
 Samuel E. Hayes, Jr.
 Livestock Evaluation Center
 1494 West Pine Grove Road
 Pennsylvania Furnace, PA 16865

October 20, 2010
 December 15, 2010

Contact: Frank Schneider, Bureau of Watershed Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5972, fschneider@state.pa.us.

Air Quality Technical Advisory Committee

The Air Quality Technical Advisory Committee will meet at 9:15 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

February 18, 2010
 April 29, 2010
 June 17, 2010
 August 5, 2010
 October 21, 2010
 December 16, 2010

Contact: Arleen Shulman, Bureau of Air Quality, Division of Air Resources Management, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 772-3436, ashulman@state.pa.us.

Board of Coal Mine Safety

The 2010 meetings of the Board of Coal Mine Safety will begin at 10 a.m. in the Department's training room in the Fayette County Health Center, 100 New Salem Road, Uniontown, PA. The meeting dates are as follows:

March 17, 2010
 June 16, 2010
 September 15, 2010
 December 15, 2010

Contact: Allison Gaida, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469 or e-mail agaida@state.pa.us.

Certification Program Advisory Committee (for Water and Wastewater System Operators)

The 2010 meetings of the Certification Program Advisory Committee will begin at 10 a.m. in Conference Room 105, First Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. The meeting dates are as follows:

June 2, 2010
 September 16, 2010
 December 6, 2010

Contact: Cheri Sansoni, Bureau of Water Standards and Facility Regulation, Certification and Licensing, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 772-5158, csansoni@state.pa.us.

Chesapeake Bay Advisory Committee

The Chesapeake Bay Advisory Committee will hold quarterly meetings on the dates as follows. Meetings will be held starting at 10 a.m. in the Susquehanna Room, South Central Regional Office, 909 Elmerton Avenue, Harrisburg, PA, unless otherwise noted.

March 4, 2010—Room 105
 Rachel Carson State Office Building
 400 Market Street
 Harrisburg, PA

May 3, 2010
 July 7, 2010
 October 4, 2010

Contact: Dave Reed, Bureau of Watershed Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5649, davreed@state.pa.us.

Citizens Advisory Council

Meetings of the Citizens Advisory Council meetings are held the third Tuesday of the month in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, except where noted. The meetings typically begin at 11 a.m. Prior to the meeting, it is recommended individuals check the meeting information on the CAC's web site at <http://www.depweb.state.pa.us/cac/> under "Meeting Information" to confirm meeting date, time and location.

January 19, 2010
 February 16, 2010
 March 16, 2010
 April 20, 2010
 May 19, 2010
 June 15, 2010
 July 20, 2010
 September 21, 2010
 October 19, 2010
 November 16, 2010

Contact: Patricia Davenport, Citizens Advisory Council, P. O. Box 8459, Harrisburg, PA 17105-8459, (717) 787-4527, padavenport@state.pa.us.

Coal and Clay Mine Subsidence Insurance Fund Board

The Coal and Clay Mine Subsidence Insurance Fund Board will hold meetings in 2010 as follows. The meetings will begin at 10 a.m. and will be held in the 10th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Prior to each meeting, it is recommended that individuals visit the Department's web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate") to confirm meeting date, time and location.

December 15, 2010

Contact: Lawrence Ruane, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 783-9590, lruane@state.pa.us.

Coastal Zone Advisory Committee

Meetings of the Coastal Zone Advisory Committee will be held as indicated. The meetings will begin at 9:30 a.m. in the 10th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Prior to each meeting, it is recommended that individuals visit the Department's web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate") to confirm meeting date, time and location.

January 13, 2010
 June 2, 2010

Contact: Jeff Dewey, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-4785, jdewey@state.pa.us.

Environmental Justice Advisory Board

The Environmental Justice Advisory Board will hold its 2010 meetings as indicated. The meetings are expected to begin at 8:30 a.m. in the Delaware Room, 16th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

February 4, 2010
 May 4, 2010
 August 3, 2010
 November 16, 2010

Contact: Tammy Adams, Office of Environmental Advocate, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-1856, taadams@state.pa.us.

Environmental Quality Board

Meetings of the Environmental Quality Board will be held in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, and will begin at 9 a.m. Meetings will only be held when there are a sufficient number of agenda items for consideration. The meeting dates are as follows:

January 19, 2010
 February 16, 2010
 March 16, 2010
 April 20, 2010
 May 19, 2010
 June 15, 2010
 July 20, 2010
 August 17, 2010
 September 21, 2010
 October 19, 2010
 November 16, 2010
 December 21, 2010

Contact: Michele Tate, Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 783-8727, mtate@state.pa.us.

Laboratory Accreditation Advisory Committee

The Laboratory Accreditation Advisory Committee will hold meetings in 2010 as indicated. The meetings will be held from 10 a.m. until 3 p.m. in Room 206 of the Bureau of Laboratories Building, 2575 Interstate Drive, Harrisburg, PA 17110. Prior to the meeting, it is recommended individuals check the meeting information on the Department's web site at <http://www.depweb.state.pa.us> (choose "Calendar of Events") to confirm meeting date, time and location.

March 11, 2010
 June 10, 2010
 September 9, 2010
 December 9, 2010

Contact: Aaren Shaffer Alger, Bureau of Laboratories, P. O. Box 1467, Harrisburg, PA 17105-1467, (717) 346-7200, aaalger@state.pa.us.

Low-Level Waste Advisory Committee

The Low-Level Waste Advisory Committee will meet on October 1, 2010, from 10 a.m. to 1 p.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Contact: Rich Janati, Bureau of Radiation Protection, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-2147, rjanati@state.pa.us.

Mine Families First Response and Communications Advisory Council

The Mine Families First Response and Communications Advisory Council is scheduled to hold its annual meeting

on April 22, 2010, in the Department's training room in the Fayette County Health Center, 100 New Salem Road, Uniontown, PA.

Contact: Allison Gaida, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469 or e-mail agaida@state.pa.us.

Mining and Reclamation Advisory Board

The Mining and Reclamation Advisory Board will hold quarterly meetings in 2008 as indicated. Meetings will begin at 10 a.m. and will be held in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, unless otherwise noted. The meeting dates are as follows:

January 7, 2010
 April 22, 2010
 July 1, 2010—(location TBA)
 October 28, 2010

Contact: James Charowsky, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-7007, jcharowsky@state.pa.us.

Oil and Gas Technical Advisory Board

The Oil and Gas Management Technical Advisory Board will hold two meetings as indicated. The meetings will be held from 10 a.m. to 1 p.m. in the 10th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, unless otherwise noted.

January 21, 2010
 March 18, 2010
 June 10, 2010

Rachel Carson State Office Building
 Room 105
 400 Market Street
 Harrisburg, PA

September 16, 2010

Contact: Carol Daniels, Bureau of Oil and Gas Management, P. O. Box 8765, Harrisburg, PA 17105-8765, (717) 772-2100, cardaniels@state.pa.us.

Radiation Protection Advisory Committee

The Radiation Protection Advisory Committee will hold two meetings in 2010 as indicated. The meetings will be held from 9 a.m. to 3 p.m. in the 14th Floor large Conference Room in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

April 8, 2010
 October 21, 2010

Contact: Joseph Melnic, Bureau of Radiation Protection, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-3720, jmelnic@state.pa.us.

Recycling Fund Advisory Committee

The Recycling Fund Advisory Committee will meet on the date listed. The meeting is expected to begin at 10 a.m. and will be held in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

September 9, 2010

Contact: Patricia Stape, Bureau of Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9871, pstape@state.pa.us.

Regional Water Resources Committees (for the State Water Plan)

Details concerning the 2010 meetings of the six Water Resources Regional Committees, created under 27 Pa.C.S. Chapter 31 (relating to water resources planning) to help guide the development of a new State Water Plan, are as follows:

Ohio Regional Water Resources Committee

February 1, 2010, beginning at 10 a.m.
Westmoreland Conservation District
218 Donohoe Road
Greensburg, PA 15601

Great Lakes Regional Water Resources Committee

February 2, 2010, beginning at 9 a.m.
Erie County Conservation District
Headwaters Park
1927 Wager Road
Erie, PA 16509

Delaware Regional Water Resources Committee

February 12, 2010, beginning at 9:30 a.m.
Department Southeast Regional Office
2 East Main Street
Norristown, PA 19401

Lower Susquehanna Regional Water Resources Committee

February 8, 2010, beginning at 9:30 a.m.
Department Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110

Upper Middle Susquehanna Regional Water Resources Committee

February 17, 2010, beginning at 10 a.m.
Department Northcentral Regional Office
208 West Third Street, Suite 101
Williamsport, PA 17701

Potomac Regional Water Resources Committee

February 19, 2010, beginning at 10 a.m.
Franklin County Administrative Annex
218 North Second Street
Chambersburg, PA 17201

Contact: Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, laumohr@state.pa.us.

Sewage Advisory Committee

The Sewage Advisory Committee will meet on the dates listed. All meetings will begin at 10:30 a.m. and will be held in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

March 10, 2010
June 9, 2010
September 15, 2010
November 10, 2010

Contact: John McHale, Bureau of Water Standards and Facility Regulation, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 783-2290, jomchale@state.pa.us.

Small Business Compliance Advisory Committee

The Small Business Compliance Advisory Committee will hold quarterly meetings as indicated. The meetings will begin at 10 a.m. in the 12th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Prior to the meeting, it is recommended individuals visit the Department's web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Small Business, Small Business Help"), to confirm meeting date, time and location.

Contact: Susan Foster, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-7019, sufoster@state.pa.us.

Small Water Systems Technical Assistance Center Advisory Board

The Small Water Systems Technical Assistance Center Advisory Board meetings for 2010 will be held at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

January 14, 2010
May 21, 2010
August 26, 2010
November 17, 2010

Contact: Janet Fisher, Bureau of Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-0122, janfisher@state.pa.us.

Solid Waste Advisory Committee

The Solid Waste Advisory Committee will meet on the following dates. All meetings are expected to begin at 10 a.m. and will be held in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

February 11, 2010
April 8, 2010
September 10, 2010 (joint meeting with the Recycling Fund Advisory Committee)
November 4, 2010

Contact: Patricia Stape, Bureau of Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9871, pstape@state.pa.us.

State Board for Certification of Sewage Enforcement Officers

The 2010 meetings of the State Board for Certification of Sewage Enforcement Officers have not been scheduled. Notices for upcoming meetings will be published in future editions of the *Pennsylvania Bulletin*.

Contact: Cheri Sansoni, Bureau of Water Standards and Facility Regulation, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 772-5158, csansoni@state.pa.us.

The 2010 meetings of the State Board for Certification of Water and Wastewater Systems Operators will begin at 10 a.m. in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8454. The meeting dates and locations are as follows:

March 26, 2010	Conference Call—11B Conference Room, 11th Floor
June 18, 2010	Meeting in 10th Floor Conference Room in RCSOB
September 24, 2010	Conference Call—8th Floor Conference Room
December 17, 2010	Conference Call—8th Floor Conference Room

Questions concerning the meetings can be directed to Cheri Sansoni at (717) 772-5158 or by e-mail to csansoni@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's web site at <http://www.depweb.state.pa.us> (DEP Keyword: Public Participation).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Cheri Sansoni at (717) 772-5158, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users), or (800) 654-5988 (voice users), to discuss how the Department may accommodate their needs.

Statewide Water Resources Committee

Meetings of the Statewide Water Resources Committee will be held in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, unless otherwise noted. Meeting dates are as follows:

April 28, 2010—Fish and Boat Commission Headquarters
1601 Elmerton Avenue
Harrisburg, PA 17110

September 29, 2010

Contact: Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628, laumohr@state.pa.us.

Storage Tank Advisory Committee

Meetings of the Storage Tank Advisory Committee will be held in the 14th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, and will begin at 10 a.m. Meetings will only be held when there are a sufficient number of agenda items for consideration. The meeting dates are as follows:

March 9, 2010
June 8, 2010
September 14, 2010
December 7, 2010

Contact: Charles M. Swokel, Chief, Division of Storage Tanks, Bureau of Waste Management, P. O. Box 8762, Harrisburg, PA 17105-8762, (717) 772-5806, (800) 42-TANKS (within the Commonwealth), cswokel@state.pa.us.

Technical Advisory Committee On Diesel-Powered Equipment

The Technical Advisory Committee on Diesel-Powered Equipment announces its schedule of 2010 meetings. All meetings will be held at 10 a.m. in the Fayette County Health Center in Uniontown, PA. The meeting dates are:

January 13, 2010
April 14, 2010
July 14, 2010
October 13, 2010

Contact: Allison Gaida, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469 or e-mail agaida@state.pa.us.

Water Resources Advisory Committee

The Water Resources Advisory Committee meetings for 2008 will be held at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

February 10, 2010
April 14, 2010
July 14, 2010
October 13, 2010

Contact: Phil Consonery, Bureau of Water Standards and Facility Regulation, P. O. Box 8466, Harrisburg, PA 17105-8467, (717) 772-2184, pconsonery@state.pa.us.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-2379. Filed for public inspection December 24, 2009, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program

The Department of Environmental Protection (Department) provides notice of the following actions regarding the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These actions were taken in relation to the Final Trading of Nutrient and Sediment Reduction Credits-Policy and Guidelines (Policy) (Department ID No. 392-0900-001) (See 36 Pa.B. 7999 (December 30, 2006)). The Policy called for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for NPDES permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

The actions described in this notice relate to: (1) submitted proposals; (2) approved proposals; and (3) registered credits, through December 7, 2009.

Background

Before a credit can be used by an NPDES permittee, a three-step process is followed: (1) the credit or offset proposal must be approved; (2) it must be verified; and (3) it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal to be submitted describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. All of the proposals, certifications and registrations described in this Notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certified credit or offset proposal as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 78 proposals that have

been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 55 have been approved, one has been withdrawn and the remaining need additional clarification prior to certification.

Proposals under Review

There are no new proposals.

Certifications

There are no new certifications.

Verifications and Registrations

<i>Buyer</i>	<i>Seller</i>	<i>Credits Registered</i>	<i>Credit Generating Activity</i>	<i>Compliance Year</i>
Tamarack Mobile Home Park	Chesapeake Nutrient Management	22 Phosphorous	Poultry manure export	October 2008—September 2009

For further information about the previous information or the Department's Nutrient Trading Program, contact Ann Smith, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Keywords: Nutrient Trading).

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-2380. Filed for public inspection December 24, 2009, 9:00 a.m.]

Proposed Revision to Pennsylvania's State Implementation Plan; Fine Particulate Matter "Infrastructure" Requirements

Section 110 of the Federal Clean Air Act (CAA) requires states to develop State Implementation Plans (SIP) and programs to meet the National Ambient Air Quality Standards (NAAQS) established by the United States Environmental Protection Agency (EPA) to protect public health and welfare. Section 110 of the CAA sets forth general elements for the implementation of SIPs. Section 110(a)(2) of the CAA requires states to submit SIP revisions to the EPA Administrator that provide for implementation, maintenance and enforcement of the NAAQS.

The Department of Environmental Protection (Department) is seeking comment on a SIP revision that describes the Commonwealth's compliance with section 110(a)(2) of the CAA (42 U.S.C.A. §§ 7410(a)(2)) addressing the NAAQS for fine particulates (PM_{2.5}) established by EPA in September 2006, and that also describes the Commonwealth's compliance with section 110(a)(2)(G) addressing the PM_{2.5} NAAQS promulgated by EPA in 1997. States are required to submit these SIP revisions 3 years from the date a new or revised NAAQS is signed by EPA. The proposed SIP revision is available on the Department's web site at www.depweb.state.pa.us (choose Air Plans) or through the contact persons listed.

The Department will hold a public hearing to receive comments on the proposed SIP revision only if a request for a public hearing is received from a member of the public. A request for a public hearing must be received by 4 p.m. on Monday, January 25, 2010. If a request for a public hearing is received by 4 p.m. on Monday, January 25, 2010, the public hearing will be held on Thursday, January 28, 2010, at 2 p.m. at the Department's Southcentral Regional Office, 909 Elmerton Avenue, Susquehanna Room A, Harrisburg, PA. If no request for

public hearing is received by 4 p.m. on Monday, January 25, 2010, the hearing will be cancelled and notice of the cancellation will be published on Tuesday, January 26, 2010, by 12 p.m., on the Department's web site at www.depweb.state.pa.us (DEP Keywords: Air Plans). Interested parties may also call (717) 787-9495 to find out if the hearing has been cancelled.

Persons wishing to request a public hearing or who wish to present testimony at a scheduled hearing should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, yhouse@state.pa.us to reserve a time. The Department will consider a request to present testimony at a scheduled hearing to be a request for a public hearing. If a public hearing is held, persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Yvette House at yhouse@state.pa.us or (717) 787-9495. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

The Department must receive comments no later than Friday, January 29, 2010. Written comments should be sent to the attention of Arleen Shulman, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, or ashulman@state.pa.us.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-2381. Filed for public inspection December 24, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Craig Mezrow, MS, MD, FACS for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Craig Mezrow, MS, MD, FACS has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.3.1.3 (size and location Class C operating room), A1.2.1(b) (single waiting room), 2.4.2.2 (space requirement), 2.4.2.1 (Phase II recovery), 2.5.7.3 (general equipment and supply), 2.5.7.4 (stretcher storage), 2.6.2 (staff clothing change area), 2.7.1 (outpatient surgery change area) and 5.2.1.1 (corridor width).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before they decide whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-2382. Filed for public inspection December 24, 2009, 9:00 a.m.]

Application of The Washington Hospital for Exception; Correction

A notice for The Washington Hospital was incorrectly published at 39 Pa.B. 6599 (November 14, 2009) as a request for exception to 28 Pa. Code § 107.2 (relating to medical staff membership). The request for exception should have been for 28 Pa. Code § 143.5 (relating to medical supervision of podiatric patients).

The request is on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c) (relating to requests for exceptions).

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-2383. Filed for public inspection December 24, 2009, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Disproportionate Share and Supplemental Hospital Payments

Purpose of Notice

The Department of Public Welfare (Department) is providing final notice of the distribution of funding for Fiscal Year (FY) 2009-2010 inpatient disproportionate share hospital (DSH), outpatient DSH and direct medical education payments based upon the final FY 2009-2010 Commonwealth budget.

The Department published notice of its intent to reduce funding for inpatient DSH, outpatient DSH and direct medical education payments for FY 2009-2010 at 39 Pa.B. 5669 (September 26, 2009). The Department also indicated that it would provide notice of the actual amount of funds available for these payments based on the enacted budget for FY 2009-2010. The Department received no public comments during the 30-day public comment period, and will implement the actual funding allocations detailed in this final notice.

The Department is allocating \$35.690 million in State General Funds for inpatient DSH payments with no change in the current methodology for determining eligibility for those payments. For FY 2009-2010, the aggregate amount of inpatient DSH payments is not to exceed \$78.977 million in total funds.

The Department is allocating \$17.082 million in State General Funds for outpatient DSH payments with no change in the current methodology for determining eligibility for those payments. For FY 2009-2010, the aggregate amount of outpatient DSH payments is not to exceed \$50.022 million in total funds.

The Department is allocating \$21.860 million in State General Funds for direct medical education payments with no change in the current methodology for determining eligibility for those payments. For FY 2009-2010, the aggregate amount of direct medical education payments is not to exceed \$64.011 million in total funds.

Fiscal Impact

The FY 2009-2010 savings, as a result of these reductions is \$35.069 million (\$11.976 million in State General Funds).

ESTELLE B. RICHMAN
Secretary

Fiscal Note: 14-NOT-627. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 09-2384. Filed for public inspection December 24, 2009, 9:00 a.m.]

DEPARTMENT OF REVENUE

Interest Rate Notice

Under the provisions of sections 806 and 806.1 of the Fiscal Code (72 P. S. §§ 806 and 806.1), the Secretary of Revenue announces that, for the year commencing January 1, 2010, all underpayments of tax which became due and payable to the Commonwealth on and after January 1, 1982, shall bear interest at the rate of 4% per annum. All overpayments of the tax imposed under Article III of the Tax Reform Code of 1971 (72 P. S. §§ 7301—7361), which became due and payable to the Commonwealth on and after January 1, 1982, shall bear interest at the rate of 4% per annum. All other overpayments of tax which became due and payable to the Commonwealth on and after January 1, 1982, shall bear interest at the rate of 2% per annum. These rates will remain constant until December 31, 2010. These rates will be codified under 61 Pa. Code § 4.2(a) (relating to rate of interest).

These rates have been established based upon the rate established by the Secretary of the Treasury of the United States under the provisions of section 6621(a)(2) of the Internal Revenue Code to be effective January 1, 2010.

Although the Tax Reform Act of 1986 amended the Internal Revenue Code section 6621, by requiring that the Secretary of the Treasury of the United States establish quarterly rates of interest to become effective for Federal purposes on the first month of each calendar quarter, these amendments do not affect Commonwealth law. The Fiscal Code requires that the interest rate be established effective January 1 of each calendar year without regard to any change in the Federal interest rate during the calendar year.

STEPHEN H. STETLER,
Secretary

[Pa.B. Doc. No. 09-2385. Filed for public inspection December 24, 2009, 9:00 a.m.]

Taxable and Exempt Property

The Department of Revenue (Department) is hereby giving notice to the public, in accordance with the provisions of 61 Pa. Code §§ 52.1 and 58.1 (relating to purchases of medicines, medical supplies, medical equipment and prosthetic or therapeutic devices; and publication of the list of taxable and exempt tangible personal property) of additions, deletions and revisions to the list of taxable and exempt property under the sales and use tax provi-

sions of the TRC published at 36 Pa.B. 5746 (September 9, 2006). Under §§ 52.1 and 58.1, this list is required to be published by notice at least once every 3 years. In addition, quarterly the Department will publish notice of any additions, deletions or revisions to the list.

Copies of the Retailers' Information Booklet may be obtained by calling the 24-hour answering service numbers for forms ordering: Nationwide (800) 362-2050; and TT only (800) 447-3020.

Index to Categories

<i>Title</i>	<i>Category</i>
Books and Stationery	(1)
Business Supplies and Equipment	(2)
Clothing and Accessories	(3)
Cosmetics and Toilet Goods	(4)
Farming Supplies and Equipment	(5)
Flowers, Seeds, Fertilizers, and the like	(6)
Food and Beverages Sold From a Caterer or Establishment Serving Ready-to-Eat Food	(7)
Food and Beverages Sold From Other than a Caterer or Establishment Selling Ready-to-Eat Food	(8)
Hair Goods and Notions	(9)
Hobby Supplies, Toys, Games, Radios, Recorders, and the like	(10)
Home Sewing, Millinery and Craft Supplies	(11)
Household Goods and Supplies	(12)
A. Soaps and Detergents	
B. Cleaning and Polishing Preparations	
C. Paper Goods	
D. Wrapping Supplies	
Infant Supplies	(13)
Jewelry	(14)
Luggage, Handbags, Carrying Bags, Wallets, and the like	(15)
Medicine, Drugs and Medical Supplies; Prosthetic and Therapeutic Devices	(16)
Miscellaneous	(17)
Optical Goods	(18)
Pets	(19)
Religious Articles	(20)
Restaurant Equipment and Supplies	(21)
Shoes and Shoe Accessories	(22)
Sporting Equipment, Clothing, Supplies and Recreational Equipment	(23)
Tobacco Products	(24)
Utilities and Fuel	(25)
Tires, Motor Vehicle, Leases and Rental (PTA Tax)	(26)
Vehicle Rental Tax (VRT)	(27)

Listing of Taxable and Exempt Property

T—TAXABLE

NT—NONTAXABLE

***—INDICATES CHANGE OR CLARIFICATION**

****—INDICATES NEW ITEM**

(1) *Books and Stationery*

Tax is imposed on books, stationery and stationery supplies, including Bibles and religious publications sold by religious groups.

T—Bibles

T—Comic books

T—Crossword, game books

T—Dictionaries

T—Greeting Cards

T—Instruction books for needle-craft, embroidery, knitting, and the like

NT—Mail order catalogues

NT—Newspapers of general circulation qualified to carry a legal advertisement

T—Periodicals and magazines not purchased by subscription

NT—Periodicals and magazines purchased by subscription

*T—School supplies, except when sold directly to a school district or qualified nonprofit educational institution

NT—Textbooks, when sold by a school or an authorized book store

(2) *Business Supplies and Equipment*

Generally, sales of business supplies and equipment used in construction, repair, and the like, of real estate are taxable.

T—Amusement and record playing devices

*T—Building materials, supplies, and equipment used in construction, repair, and the like, of real estate, except building machinery and equipment purchased by or for certain exempt entities

T—Business forms such as invoices, order books, and the like

T—Cash register receipt paper

T—Canned computer software and licenses to use, regardless of method of delivery

NT—Direct mail advertising materials, including calendars, matchbooks, and the like

T—Display cases and merchandising equipment

NT—Dry ice, when sold for internal packaging with the sale of property to others

T—Fans

T—Signs, circulars, show cards and posters

T—Vending machines and equipment

NT—Wrapping supplies used in connection with the sale of products

(3) *Clothing and Accessories*

Generally, clothing is nontaxable except the following: (1) Formal day or evening apparel; (2) Articles made of real, imitation or synthetic fur, where the fur is more than three times the value of the next most valuable component material; and (3) Sporting goods and clothing normally worn or used when engaged in sports (See Category 23).

T—Accessories and ornamental wear

NT—Aprons

NT—Belts and suspenders

*T—Biking clothing

NT—Boots and shoes, designed for everyday wear

T—Bridal apparel and accessories

T—Corsages and boutonnieres

T—Costumes—Halloween, Christmas, and the like

NT—Dress shields

T—Formal clothing, including mother of the bride and flower girl dresses.

T—Fur, articles made of fur on hide or pelt, or any material imitative of fur, and articles of which fur, real, imitation, or synthetic, is the component material of chief value; and fur trimmed articles, if the value of fur is more than three times the value of the next most valuable component material. Felt, wool or fabric is not taxable unless it resembles fur on the hide.

NT—Garters and garter belts

NT—Girdles

T—Gloves, baseball, golf, racquet, and the like

*NT—Gloves, cloth, leather, kid, for everyday wear

T—Gloves, sheepskin, fur, rubber

T—Graduation caps and gowns

NT—Gym suits

T—Handkerchiefs

NT—Headwear and millinery, all types

NT—Hosiery, pantyhose, and peds

NT—Hunting clothing, including camouflage and blaze orange

NT—Leotards and tights

NT—Leather wearing apparel

NT—Lingerie

**NT—Maternity clothing for everyday wear

NT—Neckwear, ties

NT—Nightgowns

T—Prom dresses

NT—Rainwear

NT—Receiving blankets

*NT—Repairing of wearing apparel

T—Safety clothing—(See Category 17)

NT—Scarves, for headwear and neckwear

NT—Scout uniforms and camp clothes

T—Sheepskin coats

NT—Stockings, including support-hose

NT—Suspenders

NT—T-shirts, imprinted

T—Tuxedos

T—Umbrellas

NT—Underclothing

NT—Work clothes, work uniforms

NT—Yard goods (to make clothing)

(4) *Cosmetics and Toilet Goods*

T—After shave creams, lotions, powders

T—Antiperspirants

T—Aromatherapy products (Candles, oils, washes, and the like)

T—Atomizers containing perfume and other liquids

T—Bath milks, oils, powders, salts, tablets, crystals, and the like

T—Bath and shower gels, and body shampoos

T—Bleach creams and lotions

T—Blush, rouges

T—Body lotion and creams
 T—Breath fresheners and breath sprays
 T—Bubble bath preparations
 T—Cocoa butter, if advertised or labeled for toilet purposes
 T—Colognes
 T—Compacts containing blush or powder, compact refills
 T—Cosmetics
 T—Creams, protective (having cosmetic claims or use as skin creams, antiperspirants)
 T—Creams, cleansing, beauty or cold
 T—Cuticle softeners and removers
 T—Deodorants (even though having a medicinal or curative value, if advertised or labeled for use as a body deodorant)
 T—Deodorants (for use in closets, bureau drawers, and the like, for imparting fragrance to clothing)
 NT—Deodorants, colostomy
 T—Dusting powders
 T—Eyebrow pencils
 T—Eyelash mascara and eyelash and brow dyes
 T—Eye shadows, eyeliner
 T—Face lotions, facial oils, face creams
 T—Face packs
 T—Face powders, in loose or cake and liquid form
 T—Foundation makeup
 T—Freckle removers, vanishing creams
 T—Hair conditioners and rinses
 T—Hairdressings, lotions, tonics, and pomades (regardless of whether they are colored or scented)
 T—Hair dyes, colorings, tints, rinses, and bleaches
 T—Hair gels and mousse
 T—Hair oils
 T—Hair removers
 NT—Hair restorative medications
 T—Hairsprays
 T—Hair straighteners
 *T—Hand lotions, creams, and sanitizers
 T—Lip balm and ointments
 T—Lipsticks, lipstick refills, liquid lip color, lip liner, and lip gloss
 T—Lotions, cleansing and beauty
 T—Manicure preparations and kits
 T—Mask preparations
 T—Massage creams
 T—Makeup remover
 T—Mouthwashes
 T—Nail bleaches
 T—Nail polish removers
 T—Nail polishes, nail lacquers, nail enamel
 T—Perfumes and perfume ingredient kits

T—Perfume novelties, containing perfume
 T—Permanent waving creams, lotions, neutralizer, and kits
 T—Powder bases (liquid, cream, and pressed)
 T—Sachets containing powder or aroma producing materials
 T—Scalp lotions, which are used or intended for use as a treatment for dry or oily hair
 T—Shampoos
 T—Shaving preparations, creams, lotions, powders, including medicated preparations
 T—Skin balms, bleaches, creams, fresheners, lotions, oils tonics, or whiteners
 T—Sun allergy cream
 T—Sunburn preventives—suntan creams, lotions, oils, sunblock, and the like
 NT—Sunburn treatment, lotions or creams
 T—Talcum powder
 *NT—Toothbrush, electric
 NT—Toothbrush, toothpaste, tooth cleaners, dental floss, and replacement brushes for electric toothbrush
 T—Water Piks
 T—Wave set, paste, powder, or lotion
 T—Wrinkle removing and concealing preparations

(5) *Farming Supplies and Equipment*

The tax is not imposed upon the sale of property to a farmer to be used or consumed directly in the business of producing agricultural products. Home gardening is not considered farming. See REV-1729, Farming Information, for additional information.

NT—Artificial breeding equipment and supplies
 *NT—Blacksmith/farrier services for commercial racehorses or horses used directly in farming
 T—Building supplies and materials used to build and repair barns, sheds, coops, and the like
 NT—Cleaners and disinfectants used in cleaning milking equipment and to sterilize milk cans to prevent spoilage. (Property used for general farm cleaning and maintenance is taxable.)
 NT—Equipment used to extract a product from productive animals or from the soil, such as harvesters, combines, binders, forage blowers, milking equipment, egg collecting equipment, corn shuckers, threshers, manure handling equipment
 NT—Equipment such as barn shovels, ensilage forks, wheelbarrows and feed carts
 NT—Feed and feed additives for productive animals
 NT—Fencing, portable when used directly for farm use
 T—Fencing, including gates, which become a permanent part of realty
 NT—Fertilizer and chemical additives to be added to soil
 T—Fire prevention and safety equipment
 NT—Fuel for use in heating poultry brooder and greenhouses
 NT—Fumigation services upon agricultural commodities or containers used for agricultural commodities

T—Greenhouses and mushroom houses (if permanently installed to the real estate)

NT—Grooming materials, equipment, and supplies when necessary for the health of productive animals

NT—Harnesses used to control productive animals on the farm

NT—Ice

NT—Livestock equipment to dispense chemicals, medicines, and feed additives

NT—Livestock feeding equipment such as tubs, buckets, cans, and the like, feed scoops, and portable watering devices

T—Maintenance facilities including tools, machinery and equipment to maintain machinery, equipment or building property, such as chain hoists, tire spreaders, drills, sanders, lumber, nails, wrenches, brooms, welding equipment, paint brushes and sprayers

NT—Milk strainers and strainer discs and towels (dispensars to store and dispense the discs are taxable)

T—Motor vehicles, if required to be licensed by the Department of Transportation

NT—Pest control services for agricultural purposes

NT—Property which becomes an ingredient or constituent of a farm product or is consumed by productive animals or plant growth, such as seeds, fertilizer, chemical additives, and the like, and property such as seeders, planters, plows, harrows, cultivators, sprayers, and similar equipment used to till soil, plant, seed and care for productive plants

NT—Property used to handle, store, or preserve farm products or productive animals on farm premises such as chemicals, grooming equipment (dehorners, debeakers, hoof trimmers, calf weaners, and the like)

T—Property used to transport or convey the farm product after the final farming operation

T—Refrigeration or cooling equipment used to store farm products

NT—Replacement parts such as tires, motors, belts, cutting edges, air filters, gears, and similar replacement parts installed on exempt equipment. Motor fuels, lubricants, compressed air, distilled water, abrasives, and similar supplies when used in operating exempt machinery are not taxable. Tools and equipment to apply parts and supplies are taxable.

NT—Seeds

NT—Silos

T—Water heater for cleaning dairy equipment and supplies

NT—Water pump for farm use

NT—Wrapping supplies and containers which are non-returnable to deliver self-produced farm products.

(6) *Flowers, Seeds, Fertilizers, and the like*

The tax is imposed upon the sale of property which is purchased by persons not engaged in the business of farming.

T—Fertilizer, sprays, insecticides

T—Gardening supplies

T—Seeds and bulbs

*T—Vegetable seeds, vegetable plants, flowers, and fruit trees

NT—Vegetable seeds, vegetable plants, and fruit trees purchased with food stamps

(7) *Food and Beverages Sold From a Caterer or Establishment Serving Ready-to-Eat Food*

Generally, tax is imposed on food and beverages for consumption on or off the premises, or on a take-out or to-go basis, or delivered to the purchaser or consumer, when purchased from a caterer or an eating establishment from which ready-to-eat foods and beverages are sold, such as a restaurant, cafe, lunch counter, private or social club, tavern, dining car, hotel, night club, fast food operation, pizzeria, fair, carnival, lunch cart, ice cream stand, snack bar, lunch truck, cafeteria, employee cafeteria, theatre, stadium, arena, amusement park, juice stand, carryout shop, coffee shop, popcorn stand, and other establishments, whether mobile or immobile.

NT—Alcohol, malt or brewed beverages, and wines. Tax is paid at time of purchase from a Liquor Control Board store or licensed malt beverage distributor.

NT—Candy and gum

T—All food and beverages, in any quantity, including both food and beverages prepared on the premises, and prepackaged food and beverages.

T—Food supplements and substitutes

NT—Ice

T—Nonalcoholic beverages

NT—Water

(8) *Food and Beverages Sold From Other Than a Caterer or Establishment Selling Ready-to-Eat Food*

A vending machine, delicatessen, grocery store, supermarket, farmers market, bakery, donut shop, pastry shop, convenience store and other similar establishments selling the following taxable items, whether sold for consumption on or off the premises or on a take-out or to-go basis, or delivered is considered to be an eating establishment:

NT—Bitters and grenadine

T—Brewed coffee

NT—Candy apples

NT—Candy and gum

NT—Caramel corn

NT—Coffee, cold bottled, and flavored

NT—Deli items such as meats and cheeses, potato salad, macaroni salad, and the like

NT—Food, fruit drinks, soft drinks, and sandwiches purchased with food stamps

NT—Food supplements in any form

NT—Fruit drinks, noncarbonated or reconstituted, containing at least 25% natural fruit juice

T—Fruit drinks, noncarbonated or reconstituted, containing less than 25% natural fruit juice

T—Hot beverages

T—Hot food items

T—Hot soup

T—Hot pizza

NT—Ice

T—Ice cream, yogurt, and other ice based products when hand dipped or hand served

T—Kettle Korn

T—Kool Aid

T—Meals—not including prepackaged frozen meals

T—Nonalcoholic beverages

NT—Party trays, vegetable, cheese, seafood, meat

T—Pumpkins—for decoration

NT—Pumpkins—for food

T—Salad bars, self-service

T—Sandwiches

T—Soft drinks, bottled and nonbottled (including soft drink mixes and powder, liquid or tablet form)

NT—Soy milk

T—Sports drinks

NT—Tea, all forms including liquid and powdered tea

NT—Sweeteners, artificial

NT—Water, including nonflavored mineral water

*T—Water, flavored

(9) *Hair Goods and Notions*

Generally, hair goods are taxable unless the item qualifies as clothing.

T—Hair goods and notions, such as barrettes, hair pins, hair nets, curlers, clips, hair bow holders, combs, brushes, chignons, bandeaux

T—Shower caps

T—Wigs and toupees (the service of cleaning, styling, and the like, also is taxable)

*(10) *Hobby Supplies, Toys, Games, Radios, and the like*

*T—Audio players, components and accessories, records, compact discs

T—Baseball, football cards, and the like

T—Bicycles and parts

T—Boats and equipment

T—Computer games and equipment

T—Games

T—Hobby supplies

T—Musical instruments and sheet music

T—Photographic and projection equipment and supplies

T—Photographic services, film developing, printing, processing, mounting, coloring, and the like

T—Playing cards

T—Pocket knives

T—Radios, TV sets, receiving equipment

T—Tape recorders and tapes

T—Toys

*T—Video cassettes and discs, recorders, and cameras

(11) *Home Sewing, Millinery and Craft Supplies*

Goods and items which are to become a component part of clothing are not taxable. Goods and items which become a component of articles other than clothing, such as formal wear and crafts, are taxable. Equipment and supplies used in sewing are taxable. Clothing is defined as articles designed for everyday wear.

T—Artificial flowers

NT—Buckles for clothing

T—Buckles for articles other than clothing

NT—Buttons for clothing

T—Buttons for articles other than clothing

T—Dress forms

NT—Dress patterns

NT—Fabrics for clothing

T—Fabrics for articles other than clothing

NT—Dye, clothing fabric

NT—Elastics for clothing

T—Elastics for articles other than clothing

NT—Embroidery of clothing

T—Embroidery hoops

T—Embroidery of formalwear and other items

NT—Hooks and eyes for clothing

T—Hooks and eyes for articles other than clothing

NT—Knitting yarn for clothing

T—Knitting yarn for articles other than clothing

NT—Laces, ribbons, edgings, trimmings for clothing

T—Laces, ribbons, edgings, trimmings for articles other than clothing

T—Needle-craft instruction books

T—Needles

T—Rug yarns

T—Scissors

T—Sewing kits

NT—Shoulder pads

T—Tape measures

T—Thimbles

NT—Thread for clothing

T—Thread for articles other than clothing

NT—Yard goods for clothing

T—Yard goods for articles other than clothing

T—Yarn holders

NT—Zippers for clothing

T—Zippers for articles other than clothing

(12) *Household Goods and Supplies*

T—Air fresheners

T—Ant traps

T—Basin stoppers

T—Batteries

T—Bedding

T—Books

- T—Boot caddy
 - T—Brooms
 - T—Buckets
 - T—Candles
 - T—Charcoal
 - T—Cloth dish towels
 - T—Cloth hand and bath towels
 - T—Cloth laundry bags
 - T—Clothesline
 - T—Clothespins
 - T—Coat hangers
 - T—Cookware, pots and pans
 - T—Cutlery
 - T—Decorations
 - T—Dinnerware
 - T—Dishpans
 - T—Dispensers
 - T—Door mat
 - T—Drinking glasses
 - T—Easter egg color/paint
 - T—Extension cords
 - T—Filters, disposable air
 - T—Fire extinguishers
 - T—Fly swatters
 - T—Fly tapes
 - T—Furnishings, appliances, fittings, ornaments, furniture, equipment, and accessories. Furnishings including bedding, rugs, lamps, hardware, electrical goods, mirrors, pillows, scarves for furniture, bookends, clocks, glassware, crockery, silverware, flatware and other household wares.
 - T—Fuses
 - T—Glue
 - T—Grill utensils, scrapers
 - T—Grill replacement parts
 - T—Hardware and tools
 - T—Household linens, blankets
 - T—Insecticide sprays
 - T—Ironing board and covers
 - T—Jars for canning and jar lids
 - T—Light bulbs
 - T—Lubricating oils
 - T—Matches
 - T—Metal and plastic cooking utensils and flatware
 - T—Mops
 - T—Moth balls and moth flakes
 - T—Mouse traps
 - T—Needles
 - T—Notebooks
 - T—Oilcloth
 - T—Paints, brushes, and painting equipment
 - T—Paint removers
 - T—Plants, vegetable and flower (see Category 6)
 - T—Polishing cloths
 - T—Refrigerator deodorants
 - T—Rubber gloves
 - T—Rug shampoo applicators
 - T—Salt, water softeners
 - T—Sandpaper
 - T—Scrub brushes
 - T—Seeds, vegetable and flower (see Category 6)
 - T—Shoe brushes
 - T—Sponges
 - T—Stationery
 - T—Static control spray, sheets
 - T—Thermometers
 - T—Thimbles
 - T—Tie racks
 - T—Toothpicks
 - T—Turpentine and paint thinner
 - T—Vacuum bottles
 - T—Vacuum cleaner bags, disposable
 - T—Vacuum cleaner parts
 - T—Ventilating fans and equipment
 - T—Water filters, replacement
 - T—Wax applicators
 - T—Wax paraffin
- A. Soaps and Detergents*
- T—Bleaches
 - T—Cleaner, septic tank, hand, oven, toilet bowl, or tile
 - T—Cleansers
 - T—Detergents
 - T—Drain opener
 - T—Dry cleaning kits
 - T—Pre-soaks
 - T—Rug shampoo
 - T—Soaps, scented and unscented
 - T—Softeners (fabric)
 - *T—Spot removers and stain treatments
 - T—Starch
 - T—Whiteners
- B. Cleaning and Polishing Preparations*
- T—Car cleaners and waxes
 - T—Glass cleaner
 - T—Polishes, floor, furniture, silver and similar items
 - T—Removers, rust or wax
 - T—Scouring pads
 - T—Steel wool
- C. Paper Goods*
- T—Cups, paper, plastic or styrene
 - NT—Disposable diapers and incontinence products

- T—Drop cloths, paper and plastic
- T—Facial tissue
- T—Filters, coffee
- T—Napkins
- T—Place mats
- T—Plates, paper, plastic, or styrofoam
- NT—Sanitary napkins, tampons, or similar items used for feminine hygiene
- T—Shelf paper, liners
- T—Straws
- T—Tablecloths
- NT—Toilet tissue
- T—Towels
- NT—Wet-wipes

D. *Wrapping Supplies*

- T—Aluminum foil
- T—Food bags
- T—Plastic wraps
- T—Tape, masking, scotch, plastic, freezer, duct
- T—Trash bags, paper and plastic
- T—Twine
- T—Wax paper
- T—Wrapping paper, including gift wrapping, ribbons, and the like

(13) *Infant Supplies*

- T—Accessories, nursing bottles, nipples, teething beads, teethingers
- NT—Bibs
- T—Car seats, infant
- T—Crib blankets
- T—Diaper bags
- *NT—Diaper cream
- NT—Diaper pins
- NT—Diapers, cloth and disposable
- NT—Diaper Service
- **NT—Formula
- **T—Furniture including cribs, high chairs and booster seats
- T—Liners, (nursing bottles)
- **T—Monitors
- NT—Receiving blankets for infants
- NT—Rubber pants

(14) *Jewelry*

- T—Earring backs
- *T—Jewelry, including those with religious symbols incorporated
- T—Ornaments and pins for hats and dresses
- **T—Jewelry repair

(15) *Luggage, Handbags, Carrying Bags, Wallets, and the like*

- T—Bags, carrying, athletic, book, and the like
- T—Handbags, pocketbooks and purses
- T—Knitting bags
- T—Leather goods, except clothing
- T—Luggage, briefcases
- T—Wallets and billfolds

(16) *Medicine, Drugs and Medical Supplies; Prosthetic and Therapeutic Devices*

The tax is not imposed on prescription or nonprescription medicines and drugs or medical supplies, crutches and wheelchairs for the use of people with disabilities, artificial limbs, artificial eyes and artificial hearing devices, when designed to be worn on the person of the purchaser or user, false teeth and materials used by a dentist in dental treatment, eyeglasses, when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser, and artificial braces and supports designed solely for the use of people with disabilities, or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including, but not limited to, hospital beds, iron lungs and kidney machines.

- T—Acne cleaners and acne pads
- NT—Acne treatments, lotions, creams
- T—Adhesive removers
- NT—Adhesives used for medical treatment
- T—Air cleaners and electrostatic machines
- NT—Alcohol, rubbing, swabs and wipes
- NT—Analgesics
- NT—Antacids
- NT—Antiseptics, for external use only
- NT—Applicators (See “Cotton applicators”)
- NT—Arch supports
- NT—Arm slings
- NT—Artificial eyes
- NT—Artificial limbs
- NT—Aspirin
- T—Autoclave

NT—Automobile accessories, when noted by the Department of Transportation upon the motor vehicle operator’s license of the purchaser that such accessories are necessary, and when charges for accessories are stated separately by the vendor on the sales invoice.

- NT—Automobile wheelchair lifts
- T—Baby powder
- NT—Bandages, dressings, gauze, and cotton
- T—Bath tub and bathroom safety devices
- *T—Batteries, unless purchased for use in medical equipment and from a medical supply house
- *NT—Bed boards
- NT—Bed drain bags
- NT—Bed pans
- NT—Bed trapeze bars

- NT—Benzoin
- T—Bidet toilet seats
- T—Blankets
- T—Blood agar plates
- NT—Blood glucose monitors used to treat diabetes (therapeutic devices)
- NT—Blood pack units
- T—Blood pressure testing apparatus
- NT—Bone pins
- NT—Braces and supports worn on the body to correct or alleviate a physical incapacity
- NT—Braille teaching texts
- T—Breast pumps
- NT—Breathing units, intermittent positive pressure
- NT—Burn ointment and lotion
- NT—Calamine lotion
- NT—Canes
- NT—Cardiac emergency kit
- NT—Cardiac pacemakers and electrodes
- NT—Castor oil
- NT—Catheters and accessories
- T—Chemical agents and related supplies for analysis of patients' specimens
- NT—Cod liver oil
- NT—Colostomy appliances
- NT—Colostomy deodorants
- NT—Commodes, chair bedside
- NT—Commode seats, elevated for use by incapacitated persons
- NT—Contact lenses, and wetting solutions
- T—Contact lenses cleaning solutions
- NT—Corn pads and plasters for the removal of corns
- NT—Cotton applicators, cotton rolls, cotton balls and cotton swabs
- NT—Cough and cold items, cough drops, cough syrups
- NT—Crutches
- NT—Crutch pads
- NT—Defibrillators
- T—Dehumidifiers
- NT—Dental floss
- NT—Dental materials used in dental treatment, including x-ray film, cotton, impression and materials
- T—Dentist chair
- NT—Dentist drills, disposable
- NT—Dentist materials which are transferred to the patient, including dentures, fillings, crowns, inlays, bridges and lingual or palatal bars
- T—Dentist replacement burs, drills, reusable
- NT—Denture products, including denture cleaners and adhesives
- T—Deodorants, personal and room
- T—Diagnostic equipment
- T—Diagnostic glassware and diagnostic testing materials
- NT—Dialysis machines
- NT—Diathermy machines
- NT—Dietary supplements and substitutes, in any form
- NT—Diet pills
- T—Disinfectants
- NT—Drapes, paper
- T—Ear plugs
- T—EKG mounts and EKG paper
- NT—Elastic bandages and braces
- T—Electrocardiocorder
- NT—Emesis basins or pans
- NT—Epsom salts
- T—Esophageal dilator
- T—Eucalyptus oil
- NT—Examining table paper
- T—Exercise equipment, including exercise bikes and treadmill exercisers
- NT—Eye ointment
- NT—Eye pads
- NT—Eye washes
- NT—Eyeglasses, prescription
- NT—False teeth
- NT—First aid kits
- NT—Fluidic breathing assistor
- NT—Food substitutes
- NT—Foot pads, insoles, all types
- NT—Foot products for treatment of infections
- NT—Gauze
- NT—Gloves, surgical, disposable
- NT—Glucose tablets
- NT—Glycerine
- NT—Gowns, medical
- NT—Hearing aids and batteries
- T—Heaters, portable, room
- NT—Heating pads
- NT—Hospital beds, having side rails, electric and non-electric with attachments
- NT—Hot water bottles
- T—Humidifiers
- NT—Hygienic needs, douche powder, vaginal preparations
- **NT—Hydrocortisone cream
- NT—Hydrogen peroxide
- NT—Ice bags
- NT—Ileostomy bags
- NT—Incontinence products, including incontinence pants
- NT—Infusion pumps

NT—Inhalation therapy equipment and equipment used to provide emergency breathing assistance

NT—Insulin

T—Intravenous stand

NT—IUD devices

T—Laboratory testing and analysis equipment and supplies

NT—Lactose intolerance medication

NT—Lamps, ultraviolet and infrared

NT—Lancets

NT—Laxatives and cathartics

NT—Lifters, patient

NT—Lubricating jelly

NT—Lymphedema pumps

T—MRI equipment

T—Mattresses, air

NT—Mattresses, alternating positive pressure

NT—Mattresses and covers for hospital beds

T—Medical alert cards

T—Medical alert systems

NT—Medicated powder

NT—Medicine cups, disposable

T—Microscopes

NT—Milk of magnesia

T—Mouthwashes

NT—Muscle stimulator, electronic for physical therapy

NT—Nasal cannula

T—Nasal speculum

T—Needle holder

NT—Needles, disposable

T—Needles and syringes, reusable

NT—Orthodontic brackets

T—Orthodontic trays

NT—Orthopedic splints

T—Overbed tables

NT—Oxygen and oxygen equipment, when used for medical treatment

NT—Pads, moist heat pad, alternating positive pressure pad, flotation pad, lambs wool pad

NT—Paraffin bath units, standard or portable

T—Percussors

NT—Pet medicines

NT—Petroleum jelly

NT—Physical therapy equipment, when designed exclusively for use in correcting or alleviating a physical incapacity

T—Plaque remover

T—Pore cleaners, medicated, pore strips

NT—Postural drainage boards

NT—Postural support chairs

NT—Pre-moistened wipes

NT—Prophylactics

NT—Prostheses (mammary, malar, chin, urinary, incontinence, and the like)

T—Pumice powder

NT—Pump, diaphragm, pressure vacuum

*T—Razor blades, unless disposable and used for medical procedure preparation

NT—Rectal preparations

T—Safety grab bars

NT—Sanitary napkins, tampons, and similar items

T—Sanitizer, air

T—Sauna baths

T—Scissors

T—Shaving products

T—Sheets, cloth

NT—Sheets, disposable

NT—Shoe insoles, orthopedically designed

NT—Sitz bath

NT—Smoking deterrents, gum and patch

T—Soaps

NT—Specimen containers, disposable

T—Sphygmomanometer

T—Sphygmostat

NT—Stair gliders for persons having a physical disability, installed in the purchaser's home and under to a physician's prescription

T—Stethoscope

NT—Styptic pencils

T—Suction machines and pumps

NT—Sunburn treatment lotions or creams

T—Sunglasses (unless prescription)

T—Suntan lotion, sunblock

NT—Suppositories

T—Surgical instruments

NT—Surgical instruments and supplies, single use disposable

NT—Surgical masks, disposable

NT—Sutures

NT—Syringes, disposable

T—Syringes, reusable

T—Tables, bedside

T—Tables, examining

T—Talcum powder

T—Teeth whitening strips

T—Telecaption equipment

NT—Test strips used in treatment of diabetes

T—Testing kits, pregnancy, UTI

*NT—Thermal pads, disposable

T—Thermometer, medical

NT—Thermometer covers, disposable

NT—Tongue depressor, disposable

NT—Toothache drops
 NT—Toothbrushes
 NT—Toothpaste
 **T—Tooth whitening kits
 NT—Tourniquets
 NT—Trachea tubes
 NT—Traction units, including bed stand, anklet, extension, pelvic or cervical units, head holder, fracture unit with trapeze bar set, weights, weight bags, pelvic lacing belt and over door traction equipment
 NT—Tubing, intravenous
 NT—Urine drain bag
 T—Vacutainers
 NT—Vaginal diaphragms
 T—Vapona strips
 T—Vaporizers
 NT—Vitamins
 NT—Walking bars and walkers
 NT—Wheelchairs, manual and motorized, scooters, and batteries
 T—Whirlpool baths and whirlpool pumps
 T—Wigs
 T—X-ray equipment and machines
 T—X-ray film and chemicals not used by dentists

(17) *Miscellaneous*

T—Antiques
 NT—Bullion, investment metal
 NT—Body tattooing and piercing
 NT—Caskets, burial vaults, markers, cremation urns and tombstones for human graves, including foundations
 T—Christmas trees
 T—Coin banks and coin holders
 NT—Coins, investment (numismatic coins and legal tender)
 T—Compressed air, dispensed
 T—Corkage fee
 NT—Coupon books sold to individual consumers
 T—Dry ice, except when sold as an internal packaging material to retailer, manufacturer, or processor
 NT—Safety equipment and devices designed and worn by production personnel employed in manufacturing, processing, mining, public utility, farming and dairying. Examples: asbestos suits, gloves, aprons, boots, masks, helmets, goggles, and similar items
 T—Equipment and devices worn by nonproduction personnel
 T—Fencing materials
 NT—Flags of the U.S. and Commonwealth. Bunting and others are taxable.
 T—Flags kits, that include poles or brackets
 T—Fuel for motor vehicles, except when subject to Liquid Fuel or Fuel Use Tax
 T—Global positioning satellite, equipment and service
 **NT—Gift cards

NT—Health club membership fees
 T—Hot tubs and spas, regardless of physician recommendation
 T—Lunch kits, vacuum bottles, and replacement parts
 T—Motor vehicle repair services (including labor), accessories, parts, supplies, lubricants, equipment, vehicle and emission inspection
 T—Paper money, which is not legal tender in U.S.A., is taxable on full purchase price
 T—Paper money, which is legal tender in U.S.A., is taxable on amount in excess of face value
 NT—Parking fees
 T—Party favors
 *NT—Pony rides and trail rides
 **T—Prepaid telephone cards
 T—Religious articles
 T—Scout supplies and training manuals, except when sold to a scout troop
 T—Souvenirs
 T—Stamps, uncanceled U.S.A. stamps are taxable on amount in excess of face value
 T—Stamps, cancelled U.S.A. stamps and all foreign stamps are taxable on the full purchase price
 NT—Tanning booth fees
 T—Trading stamp redemption for taxable property

(18) *Optical Goods*

NT—Contact lenses, and wetting solutions
 T—Contact lenses cleaning solutions
 NT—Eyeglasses, prescription
 T—Magnifying glasses
 T—Opera glasses and field glasses
 T—Sunglasses (prescription sunglasses are exempt)

(19) *Pets*

NT—Boarding, sitting, or walking
 T—Clippers and clipper lubricants
 T—Equipment (collars, leashes, and the like)
 T—Farrier services for pet horses
 NT—Flea collars, flea powder, flea and tick soap, and tick sprays
 T—Food, including food supplements and prescription food
 *T—Grooming, unless performed by a veterinarian for the purpose of or incidental to medical treatment
 NT—Medicines and medical supplies
 T—Pet caskets and urns
 NT—Pet cremation and burial services
 T—Sale or rental of pets, or adoption from shelters, which includes fees for shots and spaying or neutering
 T—Shampoo
 T—Veterinarian equipment
 NT—Veterinarian services
 T—Vitamins

(20) *Religious Articles*

Bibles, religious publications, and religious articles are subject to tax unless purchased by organizations qualifying as institutions of purely public charities which hold an exemption number prefixed by the number 75, and government entities.

*T—Bibles

T—Candles used in religious worship

T—Holy water bottles

T—Clergy vestments and choir and altar server clothing

T—Nativity scenes

T—Religious statues, medals and symbols used in religious worship

T—Religious publications sold by religious groups

T—Rosaries

T—Wines used in religious services

(21) *Restaurant Equipment and Supplies*

Equipment, implements and similar property for use in the preparation and service of food is taxable.

T—Carbonator for soda fountain operation

NT—Carbon dioxide for soda fountain

NT—Chef Hats

T—Disposable trays

T—Equipment used to prepare and serve food and beverages

T—Ice making equipment

T—Latex gloves

T—Napkins, wooden or plastic spoons, forks, straws, and similar articles for use in restaurants, vending machines, and other eating places

T—Placemats

T—Toothpicks

T—Vending machines and equipment

NT—Work uniforms

NT—Wrapping supplies, paper or plastic plates, cups, and similar articles for the delivery of food, used by restaurants or in vending machines

(22) *Shoes and Shoe Accessories*

Generally shoes designed for everyday wear are exempt. However, shoes designed for formal wear or sporting activities are taxable.

T—Bathing (swimming) shoes

NT—Overshoes

NT—Safety shoes

T—Shoe brushes, applicators, and shoe trees

T—Shoe clips

NT—Shoe dye

NT—Shoe laces

NT—Shoe polish

NT—Shoe repairs

T—Shoes for baseball, bowling, football, golf, soccer, hockey, dance, and the like

T—Shoes for formal wear, such as metallic cloth, brocade, satin, or silver leather, primarily for formal wear

NT—Slippers

NT—Shoe soles and heels for shoe repair

NT—Shower clogs

NT—Sneakers, jogging, tennis and aerobic shoes

(23) *Sporting Equipment, Clothing, Supplies and Recreational Equipment*

Tax is imposed on sporting and recreational equipment, clothing and supplies which are designed to be worn and are normally worn only when engaged in sports.

T—Accessories such as ammunition belts, hip waders, and fly vests

NT—Baseball caps and tee shirts

T—Bathing caps

T—Bathing suits

T—Beach coats

T—Bicycles, parts, accessories, and supplies

T—Boats, pleasure boats, and equipment and parts

NT—Bowling shirts

T—Bowling shoes, purchase and rental

T—Equipment and supplies for baseball, football, hockey, basketball, and other sports

T—Exercise equipment

T—Guns and ammunition

NT—Gym suits, outfits

T—Helmets

T—Hunting accessories

NT—Hunting clothing, including camouflage and blaze orange

NT—Jogging outfits, running shoes

T—Mats, floor

T—Protective equipment, knee pads, elbow pads, forearm pads, and the like

T—Sleeping bags

NT—Sneakers, jogging, tennis and aerobic shoes, and the like

NT—Snowmobile suits

T—Uniforms, baseball, football, soccer, basketball, hockey, and the like

NT—Warm-up suits, cloth sweat suits

T—Weights

T—Skates, ice, roller, in-line and sharpening

(24) *Tobacco Products*

T—Chewing tobacco, snuff

T—Cigarettes

T—Smoking accessories

T—Tobacco, cigars

(25) *Utilities and Fuel*

NT—Coal

NT—Coin-operated telephone charges

*T—Corn and corn pellets

- T—Firelogs, processed
- NT—Firewood, kindling and wood pellets for residential use
- NT—Fuel oil, gas, steam, or electricity purchased for residential use
- T—Fuel oil, gas, steam, or electricity purchased for commercial use
- T—Interstate and intrastate telephone services for residential or commercial use
- NT—Basic telephone service and subscriber line charges for residential use
- T—Basic telephone service and subscriber line charges for commercial use
- T—Utilities for office or business within home

(26) *Tires and Motor Vehicle Leases and Rentals Subject to Public Transportation Assistance Fund Taxes and Fees (PTA) (61 Pa. Code § 47.19).*

The following items are subject to a Public Transportation Assistance Fund Taxes or Fees as indicated below. The tax or fee is IN ADDITION TO any Sales or Use Tax which may be due. However, the Sales, Use, PTA Taxes or PTA Fees shall not be included within the tax base when imposing such taxes or fees.

Item	PTA Tax/Fee	Exemption
Tires, new tires for highway use (used tires and tires for off highway use are not subject to the fee).	\$1 fee upon the sale of each new tire.	Exempt only if purchased by a government entity.
Rentals of Motor Vehicles (the term rental shall mean the transfer of the possession of a motor vehicle for a period of less than 30 days).	\$2 fee upon each rental day.	Exempt, if lessee qualifies for Sales Tax Exemption.
Leases of Motor Vehicles (the term lease shall mean the transfer of possession of a motor vehicle for a period of 30 or more days).	3% tax upon the total lease payment including down payment and accelerated lease payments.	Exempt, if lessee qualifies for Sales Tax Exemption.

(27) *Vehicle Rental Tax (VRT) (61 Pa. Code § 47.20)*

Rental companies that have available for rental five or more motor vehicles designed to carry 15 or less passengers, or a truck, trailer, or semi-trailer used in the transportation of property, other than commercial freight that is rented without a driver, are responsible for collecting an additional 2% tax. This tax is imposed on the purchase price, as calculated for Sales Tax purposes, of each rental contract for a period of 29 consecutive days or less. The VRT is separate from, and in addition to, any applicable state or local Sales Tax or the \$2 daily PTA fees.

Rental companies may claim a refund up to the amount of tax remitted for licensing and titling fees paid to the Commonwealth during a previous calendar year.

STEPHEN H. STETLER,
Secretary

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DEPARTMENT OF TRANSPORTATION

Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority of 75 Pa.C.S. § 3368 (relating to speed timing devices), has approved for use, until the next comprehensive list is published, subject to interim amendment, the following electronic speed-timing devices (radar); electronic speed-timing devices (nonradar), which measure elapsed time between measured road surface points by using two sensors; and electronic speed timing devices (nonradar), which calculate average speed between any two points.

Under 75 Pa.C.S. § 3368(c)(2), the Department has approved, for use only by members of the State Police, the following electronic speed-timing devices (radar) when used in the stationary mode only:

- (1) Falcon Radar (identified on the radar housing as FALCON). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.
- (2) Falcon HR—Hand-held model. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.
- (3) H.A.W.K. Traffic Safety Radar System (identified on the radar housing as H.A.W.K.). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.
- (4) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.
- (5) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, KS 66214.
- (6) KR-10SP, Stationary Radar (identified on the radar housing as KR-10SP). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.
- (7) KR-10SP, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, KS 66214.
- (8) Pro 1000(DS), Manufactured by Kustom Signals, Incorporated, 1010 West Chestnut, P. O. Box 947, Chanute, KS 66720.
- (9) Model 100, Decatur RA-GUN (identified on the radar housing as RA-GUN). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.
- (10) Genesis-I. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.
- (11) Genesis Handheld (GHS). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.

(12) Genesis GHD Hand-held model. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.

(13) Genesis GVP-D battery operated model. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, IL 62522.

(14) Stalker Dual, Manufactured by Applied Concepts, Incorporated, 730 F Avenue, Suite 200, Plano, TX 75074.

(15) Stalker Dual SL. Manufactured by Applied Concepts, Incorporated, 730 F Avenue, Suite 200, Plano, TX 75074.

(16) Stalker Dual DSR Manufactured by Applied Concepts, Incorporated, 730 F Avenue, Suite 200, Plano, TX 75074.

(17) TS-3. Manufactured by MPH Industries, Incorporated, 316 East 9th Street, Owensboro, KY 42303.

(18) Vindicator, (VH-1), (Identified on the radar housing as Vindicator). Manufactured by MPH Incorporated, 316 East 9th Street, Owensboro, KY 42303.

(19) MPH Model K-15. Manufactured by MPH Industries, Incorporated, 316 East 9th Street, Owensboro, KY 42303.

(20) Stalker. Manufactured by Applied Concepts, Incorporated, 730 F Avenue, Suite 200, Plano, TX 75074.

(21) Eagle Plus. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215-3347.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing devices (nonradar) which measure elapsed time between measured road surface points by using two sensors:

(1) Electrical Speed Timing System. Manufactured by Richard Hageman, 98 South Penn Dixie Road, Nazareth, PA 18064.

(2) Model TK 100, Excessive Speed Preventor. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, PA 18822.

(3) Model TK 100, Excessive Speed Preventor. Manufactured by Targetron, Incorporated, 190 Angletown Road, Muncy, PA 17756.

(4) Speed Chek (identified on the housing as Speed Chek model one, Mfd. for: The Union Agency, Unionville, PA 19375). Manufactured by Sterner Lighting Systems, Incorporated, 351 Lewis Avenue, Winsted, MN 55395.

(5) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, PA 18822.

(6) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Targetron, Incorporated, 190 Angletown Road, Muncy, PA 17756.

(7) Enradd, Model EJU-91. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, Post Office Box 3044, York, PA 17404.

(8) Enradd, Model EJU-91 with Noncontact Road Switch System. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, Post Office Box 3044, York, PA 17404.

(9) Enradd, Model EJU-91 Wireless System. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, Post Office Box 3044, York, PA 17404.

Under 75 Pa.C.S. § 3368(c)(1) and (3), the Department has approved the use of electronic and mechanical stop-

watches as speed-timing devices for use by any police officer. The Department has approved these speed-timing devices upon submission of a certificate of stopwatch accuracy indicating that a stopwatch has been successfully tested in accordance with the requirements of 67 Pa. Code Chapter 105, Mechanical, Electrical and Electronic Speed-Timing Devices. The Department issues an approved speed-timing device certificate for the device, as required by 67 Pa. Code § 105.72 (relating to equipment approval procedure). The Department does not publish a listing of these approved speed-timing devices because they are approved individually by serial number and police department. Therefore, if a citation is contested, it is necessary for the police department to show both the certificate of stopwatch accuracy, which was issued within 60 days of the citation, and an approved speed-timing device certificate issued by the Department of Transportation, Bureau of Motor Vehicles.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing device (non-radar) which calculates average speed between any two points:

(1) VASCAR-plus. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, VA 23230.

(2) VASCAR-plus II. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, VA 23230.

(3) VASCAR-plus III. Manufactured by Traffic Safety Systems a division of Power Systems & Controls, Incorporated 3206 Lanvale Avenue, Richmond, VA 23230.

(4) VASCAR-plus IIIc. Manufactured by Traffic Safety Systems a division of Power Systems & Controls, Incorporated 3206 Lanvale Avenue, Richmond, VA 23230.

(5) V-SPEC-Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, Post Office Box 3044, York, PA 17404.

(6) Tracker by Patco. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, KS 66215.

The Department, under 75 Pa.C.S. § 3368(d) has appointed the following stations for calibrating and testing speed-timing devices until the next comprehensive list is published, subject to interim amendment.

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for radar devices, which may only be used by members of the State Police:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969 (Appointed: 12/22/01, Station R8).

Guth Laboratories, Incorporated, 590 North 67th Street, Harrisburg, Dauphin County, PA 17111-4511 (Appointed: 01/27/97, Station R2).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063 (Appointed: 08/15/03, Station R11).

Simco Electronics, 2125 South West 28th Street, Allentown, Lehigh County, PA 18103 (Appointed: 09/19/96, Station R9).

Wisco Calibration Services, Inc., 820 Washington Boulevard, Pittsburgh, Allegheny County, PA 15206 (Appointed: 07/14/99, Station R10).

Y.I.S. Inc., 1049 North Hartley Street, York, York County, PA 17402 (Appointed: 01/14/75, Station R3).

Y.I.S./Cowden Group, Inc., 1049 North Hartley Street, York, York County, PA 17404 (Appointed 8/20/04 Station number R12).

The Department has appointed, under 75 Pa.C.S. § 3368(b), the following Official Speedometer Testing Stations:

Auto Electric & Speedometer Service, 7019 Beaver Dam Road, Levittown, Bucks County, PA 19057 (Appointed: 03/14/74, Station S54).

Briggs-Hagenlocher, 1110 Chestnut Street, Erie, Erie County, PA 16501 (Appointed: 03/25/93, Station S39).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 11/25/63, Station S19).

George's Garage, 868 Providence Road, Scranton, Lackawanna County, PA 18508 (Appointed: 04/15/98, Station S8).

K & M Automotive Electric Service, 1004-24th Street, Beaver Falls, Beaver County, PA 15010 (Appointed: 11/13/67, Station S23).

Mahramus Specialty Auto Service, 286 Muse Bishop Road, Canonsburg, Washington County, PA 15317 (Appointed: 01/03/84, Station S7).

Maruti Auto Service, Inc., 4030 New Falls Road, Bristol, Bucks County, PA 19007 (Appointed November 4, 2008 Station S11).

Powl's Speedometer Service, Incorporated, 2340 Dairy Road, Lancaster, Lancaster County, PA 17601—Also authorized to use mobile units (Appointed: 06/09/97, Station S82).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 06/29/62, Station S67).

S & D Calibration Services, 1963 Route 837, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/22/83, Station S35).

Y.I.S./Cowden Group, Inc., 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed 8/20/04, Station S9).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices, which measure elapsed time between measured road surface points by using two sensors:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 04/07/93, Station EL3).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 02/27/92, Station EL22).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/14/02, Station EL1).

S & D Calibration Services, 115 Joyce Drive, McMurray, Washington County, PA 15317—Also authorized to use mobile units (Appointed: 09/14/82, Station EL11).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—Also authorized to use mobile units (Appointed: 05/07/91, Station EL21).

Mahramus Specialty Auto Service, 286 Muse Bishop Road, Cannonsburg, Washington County, PA 15317 (Appointed: 07/31/97, Station EL18).

Y.I.S./Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 02/20/80, Station EL7).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Stopwatch Testing Stations:

Beerbower Incorporated, 315 Allegheny Street, Hollidaysburg, Blair County, PA 16648 (Appointed: 09/02/77, Station W14).

Cal Tech Labs, 501 Mansfield Avenue, Pittsburgh, Allegheny County, PA 15205 (Appointed 12/22/07, Station W70).

Department of General Services, Bureau of Procurement, 2221 Forster Street, Harrisburg, Dauphin County, PA 17125 (Appointed: 03/09/79, Station W18).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 10/28/77, Station W29).

Leitzel's Jewelry, 607 East Lincoln Avenue, Myerstown, Lebanon County, PA 17067 (Appointed: 09/01/87, Station W58).

Mountz Jewelers, 1160 Walnut Bottom Road, Carlisle, Cumberland County, PA 17013 (Appointed: 09/21/87, Station W59).

Precision Watch Repair Company, 1015 Chestnut Street, Room 1010, Philadelphia, Philadelphia County, PA 19107 (Appointed: 09/24/80, Station W54).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 09/15/86, Station W56).

R & R Timing, 203 Shuster Hollow Road, Leechburg, Westmoreland County, PA 15656 (Appointed 6/16/04 Station W10).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/14/02, Station W1).

S & D Calibration Services, 115 Joyce Drive, McMurray, Washington County, PA 15317—Also authorized to use mobile units (Appointed: 10/10/89, Station W61).

Servinsky Jewelers, 610 Second Street, Cresson, Cambria County, PA 16630 (Appointed: 05/18/78, Station W40).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—Also authorized to use mobile units (Appointed: 05/07/91, Station W64).

Y.I.S./Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 08/30/89, Station W60).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices which calculates average speed between any two points:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 02/11/93, Station EM23).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 02/27/92, Station EM22).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/14/02, Station EM1).

S & D Calibration Services, 115 Joyce Drive, McMurray, Washington County, PA 15317—Also authorized to use mobile units (Appointed: 09/14/82, Station EM6).

Mahramus Specialty Auto Service, 286 Muse Bishop Road, Canonsburg, Washington County, PA 15317 (Appointed: 08/13/97, Station EM12).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—Also authorized to use mobile units (Appointed: 05/07/91, Station EM21).

Y.I.S./Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 12/20/80, Station EM5).

Comments, suggestions or questions may be directed to Jeanette Magaro, Acting Manager, Administrative and Technical Support Section, Vehicle Inspection Division, Bureau of Motor Vehicles, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104 or (717) 783-5842.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 09-2387. Filed for public inspection December 24, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

2010 Public Meeting Schedule

The Independent Regulatory Review Commission (Commission) will hold public meetings in 2010 as follows:

January 7, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
January 21, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
February 25, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
March 11, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
March 25, 2010	10 a.m.	14th Floor Conference Room 333 Market Street

April 8, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
April 22, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
May 13, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
June 3, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
June 17, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
July 15, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
August 5, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
August 19, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
September 16, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
October 7, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
October 21, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
November 4, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
November 18, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
December 2, 2010	10 a.m.	14th Floor Conference Room 333 Market Street
December 16, 2010	10 a.m.	14th Floor Conference Room 333 Market Street

Individuals planning on attending or speaking at a public meeting, notify the Commission no later than 72 hours prior to the date of the meeting. For any changes to the meeting schedule, refer to their web site at www.irrc.state.pa.us. If an executive session is deemed necessary, it shall be held immediately following the close of the public meeting in the 14th Floor Conference Room, 333 Market Street, Harrisburg. Persons in need of special accommodations, as provided for in the Americans With Disabilities Act of 1990, should contact Kristine Shomper at (717) 783-5419.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-2388. Filed for public inspection December 24, 2009, 9:00 a.m.]

Action Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, December 10, 2009, and announced the following:

Regulation Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective December 9, 2009

State Employees' Retirement Board #31-12: Death Benefits (amends 4 Pa. Code § 247.7(a))

Action Taken—Regulations Approved:

State Board of Medicine #16A-4924: Acupuncture Licensure (amends 49 Pa. Code Chapters 16 and 18)

State Board of Pharmacy #16A-5417: Continuing Education (amends 49 Pa. Code Chapter 27)

Pennsylvania Gaming Control Board #125-105: Jackpot and Credit Meter Payouts (amends 58 Pa. Code Chapter 465a)

Department of Labor and Industry #12-89: Uniform Construction Code (amends 34 Pa. Code Chapters 401 and 4030)

Approval Order

Public Meeting held
December 10, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*State Board of Medicine—
Acupuncture Licensure;
Regulation No. 16A-4924 (#2690)*

On April 21, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Medicine (Board). This rulemaking amends 49 Pa. Code Chapters 16 and 18. The proposed regulation was published in the May 3, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 2, 2009.

This regulation implements Act 186 of 2006 which allows a registered acupuncturist to treat a person for 60 days before the person obtains a diagnosis from a physician, dentist, or podiatrist. Before passage of Act 186, a patient needed a referral from a physician to be treated by an acupuncturist. Consistent with Act 91 of 2008, the regulation also replaces terms such as "registration" and "registrant" with "licensure" and "licensee."

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 422.8, 1803(b) and 1803.1) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
December 10, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*State Board of Pharmacy—
Continuing Education;
Regulation No. 16A-5417 (#2662)*

On January 9, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Pharmacy (Board). This rulemaking amends 49 Pa. Code Chapter 27. The proposed regulation was published in the January 19, 2008 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 2, 2009.

This regulation clarifies various provisions in the regulation relating to continuing education of pharmacists.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 390-3.1 and 390-6(k)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
December 10, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—
Jackpot and Credit Meter Payouts;
Regulation No. 125-105 (#2782)*

On August 12, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapter 465a. The proposed regulation was published in the August 22, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on November 5, 2009.

This final-form regulation amends the Board's rules pertaining to jackpot payouts. It also expands the scope of the regulations to cover credit meter payouts.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S.A. § 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.

Approval Order

Public Meeting held
December 10, 2009

Commissioners Voting: Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fine-man, Esq., by Phone; Silvan B. Lutkewitte, III; John F. Mizner, Esq.

*Department of Labor and Industry—
Uniform Construction Code;
Regulation No. 12-89 (#2804)*

On October 23, 2009, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapters 401 and 403. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation updates the Uniform Construction Code by adopting the 2009 versions of the International Code Council codes, makes amendments from several acts (Act 157 of 2006, Acts 9 and 37 of 2007) and corrects some minor errors in existing regulation.

We have determined this regulation is consistent with the statutory authority of the Department (35 P.S. § 7210.304) 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. 09-2389. Filed for public inspection December 24, 2009, 9:00 a.m.]

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 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 a copy can be obtained on the web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Public Received Meeting</i>
125-103	Pennsylvania Gaming Control Board Employees; Slot Machines; Accounting and Internal Controls; and Compulsive and Problem Gambling	12/10/09 1/21/10

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-2390. Filed for public inspection December 24, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

**The Hospital and Healthsystem Association of
Pennsylvania and Pennsylvania Medical Society**

**Appeal of The Hospital and Healthsystem
Association of Pennsylvania and Pennsylvania
Medical Society under the Medical Care Availability
and Reduction of Error (MCARE) Act (40 P. S.
§§ 1303.101—1303.910); Doc. No. MS09-11-006**

And Now, this 10th day of December, 2009, considering the motion of the Insurance Department, Medical Care Availability and Reduction of Error Fund (MCARE) to stay these proceedings and the appellants' response thereto, it is Ordered that argument on the motion will be conducted on January 7, 2010, at 1 p.m. in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. The argument will be informal in nature, will not be transcribed and no briefs or legal memoranda will be entertained at this time. The parties should be prepared to discuss the status and nature of related Commonwealth Court litigation, the reasons for and against a stay of this consolidated appeal, and future scheduling should I deny the motions for stay. The Hearings Administrator shall cause notice of this consolidated appeal involving the 2010 MCARE assessment to be published in the *Pennsylvania Bulletin*. This order is effective immediately.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2391. Filed for public inspection December 24, 2009, 9:00 a.m.]

Pennsylvania Compensation Rating Bureau; Workers' Compensation Loss Cost Filing

On December 15, 2009, the Insurance Department (Department) received from the Pennsylvania Compensation Rating Bureau (PCRB) a filing for a loss cost level change for Workers' Compensation insurance. This filing is made in accordance with section 705 of Act 44 of 1993. The PCRB requests an overall 0.68% increase in collectible loss costs, effective April 1, 2010, on a new and renewal basis. Also, the PCRB has calculated the Employer Assessment Factor effective April 1, 2010, to be 2.07%, as compared to the currently approved provision of 2.41%. Updates to a variety of other rating values to reflect the most recent available experience are also being submitted for approval.

The entire April 1, 2010, loss cost filing is available for review on the PCRB's web site at www.pcrb.com in the "Filings" section.

Interested parties are invited to submit written comments, suggestions or objections to Eric Zhou, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, gzhou@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2392. Filed for public inspection December 24, 2009, 9:00 a.m.]

OFFICE OF THE BUDGET

Statutory Cost of Living Increases for Salaries of State Officials and the Heads of Departments, Boards and Commissions

Section 3(e) of the Public Official Compensation Act, the act of September 30, 1983 (P. L. 160, No. 39) as amended by section 2 of the act of October 19, 1995 (P. L. 324, No. 51) mandates that the salaries of the Governor, Lieutenant Governor, State Treasurer, Auditor General, Attorney General, and the heads of the departments and members of boards and commissions shall be increased by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area for the most recent 12 month period for which figures have been officially reported by the United States Department of Labor, Bureau of Labor Statistics (BLS) immediately prior to the date adjustment is due to take effect.

As required by section 3(e) of the Public Official Compensation Law, the Governor has determined, based on the change in the CPI-U (PA-DE-NJ-MD) over the past 12 months as reported by BLS on November 18, 2009, that the salaries covered by that law shall not change effective January 1, 2010. The following chart lists the position, the salary prior to the adjustment, the percentage increase of the adjustment, and the new salary:

Cola Adjustment for Elected and Appointed Officials Receiving Salaries Contained in Act 1995-51

COLA ADJUSTMENT IS BASED ON THE PERCENT CHANGE IN THE CPI-U FOR PA-DE-NJ-MD, CMSA, FOR THE 12 MONTH PERIOD ENDING OCTOBER 2008

<i>Position</i>	<i>Salary Prior To 1/1/2010</i>	<i>Cola Adjustment¹</i>	<i>Salary Effective 1/1/2010</i>
Governor	\$174,914	-0.1%	\$174,914
Lieutenant Governor	\$146,926	-0.1%	\$146,926
State Treasurer	\$145,529	-0.1%	\$145,529
Auditor General	\$145,529	-0.1%	\$145,529
Attorney General	\$145,529	-0.1%	\$145,529
Large Agency Head	\$139,931	-0.1%	\$139,931
Secretary of Education			
Secretary of Environmental Protection			
Secretary of Health			
Secretary of Labor and Industry			
Secretary of Public Welfare			
Secretary of Transportation			
Secretary of Corrections			
Medium Agency Head	\$132,934	-0.1%	\$132,934
Secretary of Aging			
Secretary of Community and Economic Development			
Secretary of General Services			
Secretary of Revenue			
State Police Commissioner			
Secretary of Conservation and Natural Resources			
Small Agency Head	\$125,939	-0.1%	\$125,939
Adjutant General			
Secretary of Agriculture			
Secretary of Banking			
Secretary of the Commonwealth			
Insurance Commissioner			
Liquor Control Board			
Chairperson	\$71,084	-0.1%	\$71,084
Member	\$68,284	-0.1%	\$68,284
Civil Service Commission****			
Chairperson	\$79,987	-0.1%	\$79,987
Member	\$76,910	-0.1%	\$76,910
State Tax Equalization Board			
Chairperson	\$24,489	-0.1%	\$24,489
Member	\$22,738	-0.1%	\$22,738
Milk Marketing Board			
Chairperson	\$22,738	-0.1%	\$22,738
Member	\$21,864	-0.1%	\$21,864

<i>Position</i>	<i>Salary Prior To 1/1/2010</i>	<i>Cola Adjustment¹</i>	<i>Salary Effective 1/1/2010</i>
Securities Commission***			
Chairperson	\$38,259	-0.1%	\$38,259
Member	\$34,905	-0.1%	\$34,905
Athletic Commission			
Chairperson	\$18,369	-0.1%	\$18,369
Member	\$17,490	-0.1%	\$17,490
Board of Pardons			
Member	\$16,091	-0.1%	\$16,091
Public Utility Commission			
Chairperson	\$135,434	**	\$135,434
Member	\$132,934	-0.1%	\$132,934
Environmental Hearing Board*			
Chairperson	\$135,434	*	\$135,434
Member	\$132,934	*	\$132,934
Board of Claims*****			
Chairperson	\$129,190	-0.1%	\$129,190
Member	\$122,389	-0.1%	\$122,389

¹ Act 1995-51, Section 3(e) only provides for increases in the salaries of elected and appointed officials addressed by the act. Therefore, effective January 1, 2010, the salaries will not change.

* The Environmental Hearing Board is not listed in Act 1995-51, but separate legislation requires that the Board's members receive the same compensation as the PUC.

** Act 1995-51 requires that the PUC Chairperson shall receive \$2,500/yr. more than PUC Members.

*** Per Act 1998-51.

**** Per Act 2002-140 effective November 27, 2002.

***** Per Act 2002-118, effective October 2, 2002.

MARY A. SODERBERG,
Secretary

[Pa.B. Doc. No. 09-2393. Filed for public inspection December 24, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 11, 2010. 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 the approval of the right and privilege to *discontinue/abandon* operating as *common carriers* by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-2009-2142562. Clifford Weatherby (3692 SR 168, Volant, Lawrence County, PA 16156)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lawrence, to points in Pennsylvania, and return.

A-2009-2144993. Clifford H. Huffman (P. O. Box 93, 67 Main Street, Apt. B, Yatesboro, Armstrong County, PA 16263)—for the discontinuance of service and cancellation of his certificate, as a common carrier, by motor vehicle, authorizing the transportation of persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Indiana, Armstrong and Clearfield, to points in Pennsylvania, and return.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Jose Francisco Jose;
Doc. No. C-2009- 2144505*

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 Jose Francisco Jose, Respondent, maintains his principal place of business at 515 Winters Avenue, West Hazleton, PA 18202.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on May 13, 2008, at Application Docket No. A-00124154.

3. That, by Secretarial Letter issued on May 20, 2009, Respondent was directed to pay a civil penalty of two hundred fifty dollars (\$250.00). To date, Respondent has not submitted any payments to this Commission.

4. That Respondent violated 66 Pa.C.S. § 501(c) for failing to observe, obey and comply with a Commission Secretarial Letter issued on May 20, 2009, at C-2009-2050012.

A Certificate holder has an obligation to comply with the Commission's rules and regulations. A Certificate of Public Convenience is neither a contract nor a property; it is a privilege. Where that privilege is violated, the Commission may, for due cause, exercise its power to revoke a carrier's privilege to operate. *Paradise v. Pennsylvania Public Utility Commission*, 132 A.2d 754, 184 Pa. Superior Court 8 (1957).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission issue an Order which revokes the Certificate of Public Convenience held by Respondent at A-00124154.

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 to be able to prove the 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 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). 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 days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. The penalty could include the revocation of your Certificate of Public Convenience or other remedy.

C. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request the Commission to issue an Order imposing a penalty.

D. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. McNULTY,
Secretary

[Pa.B. Doc. No. 09-2394. Filed for public inspection December 24, 2009, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project No. 09-146.S—Insurance Brokerage Services until 2 p.m. on Thursday, February 4, 2010. The proposal documents can be obtained online at www.philaport.com under the Procurement link and will be available Tuesday, December 29, 2009. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

A nonmandatory facility tour is scheduled for 10 a.m. on Friday, January 8, 2010. Meet at the Tioga Administration Building, 3460 North Delaware Avenue, Philadelphia, PA 19134 (2nd floor). Attendance must be confirmed to the Procurement Department at (215) 426-2600.

JAMES T. McDERMOTT, Jr.,
Executive

[Pa.B. Doc. No. 09-2395. Filed for public inspection December 24, 2009, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Hoa Thi Hoang; Doc. No. 0551-45-2008

On November 5, 2009, Hoa Thi Hoang, license no. CO261948, of Mobile, AL, was revoked and ordered to pay a civil penalty of \$1,000, because she obtained her license by dishonest or unethical means.

Individuals may obtain a copy of the adjudication 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's (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

JANET G. M. SANKO,
Chairperson

[Pa.B. Doc. No. 09-2396. Filed for public inspection December 24, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

Safe Drinking Water; (Groundwater Rule; Long-Term 2 Enhanced Surface Water Treatment Rule; and Stage 2 Disinfectants and Disinfection Byproducts Rule)

Order

The Environmental Quality Board (Board) by this Order amends 25 Pa. Code Chapter 109 (relating to Safe Drinking Water). The amendments incorporate the provisions of the Federal Stage 2 Disinfectants and Disinfection Byproduct Rule (Stage 2 DBPR), the Long-Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and the Groundwater Rule (GWR) to retain primary enforcement authority (primacy). These revisions were initially proposed in three separate packages that have been merged for clarity and consistency.

The Stage 2 DBPR supplements the Stage 1 DBPR by requiring water systems to meet disinfection byproducts (DBPs) maximum contaminant levels (MCLs) at each monitoring site in the distribution system. These amendments will reduce the potential risks of cancer and reproductive and developmental health effects associated with DBPs by reducing peak levels of DBPs in public drinking water systems.

The LT2ESWTR will further protect public health against *Cryptosporidium* and other microbial pathogens in drinking water. These amendments will supplement existing microbial treatment regulations and target public water systems (PWSs) with higher potential risk from *Cryptosporidium*.

The GWR will provide for increased protection against microbial pathogens in public water systems that use groundwater sources by establishing a risk-targeted approach to identify groundwater sources that are susceptible to fecal contamination using *E. coli* as the indicator organism for source water monitoring. These amendments will build upon the existing Total Coliform Rule by establishing corrective actions, monitoring and source treatment provisions as part of the risk-based strategy.

This order was adopted by the Board at its meeting of September 15, 2009.

A. Effective Date

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

B. Contact Persons

For further information, contact Lisa Daniels, Chief, Division of Operations Monitoring and Training, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018, or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electroni-

cally through the Department of Environmental Protection's (Department) web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

The final-form rulemaking is being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

D. Background and Purpose

Stage 2 DBPR

Since the discovery of total trihalomethanes (TTHM) in drinking water in 1974, other DBPs have been identified and studied for their health effects. Many of these studies have shown DBPs to be carcinogenic and/or to cause reproductive or developmental effects in laboratory animals. Studies have also shown that high levels of the disinfectants themselves may cause health problems over long periods of time, including damage to both the blood and the kidneys. While many of these studies have been conducted at high doses, the weight of the evidence indicates that DBPs present a potential public health problem that must be addressed. In 1992, the U.S. Environmental Protection Agency (EPA) initiated a rulemaking process to address public health concerns associated with disinfectants, DBPs, and microbial pathogens. The EPA's most significant concern in developing regulations for disinfectants and DBPs was the need to ensure that adequate treatment is maintained for controlling risks from microbial pathogens. One of the major goals addressed in the rulemaking process was to develop an approach that would reduce the level of exposure from disinfectants and DBPs without undermining the control of microbial pathogens. The intention was to ensure that drinking water is microbiologically safe at the limits set for disinfectants and DBPs and that these chemicals do not pose an unacceptable health risk at these limits.

The Stage 1 DBPR regulated treatment practices at public water systems to eliminate or minimize disinfectant levels and DBPs that may cause harmful health effects. The Stage 1 DBPR established maximum residual disinfectant levels (MRDLs) for chlorine and chlorine dioxide. MCLs were also established for TTHM, five haloacetic acids (HAA5), bromate and chlorite. The Stage 1 DBPR also regulated pre-filtration treatment techniques for public water systems that use conventional filtration to reduce source water Total Organic Carbon (TOC), which may serve as a precursor to DBPs.

The EPA promulgated the Federal Stage 2 DBPR on January 4, 2006; minor corrective amendments were published on June 29, 2009. The Stage 2 DBPR augments the Stage 1 DBPR by targeting the highest risk systems for changes beyond those required for Stage 1 DBPR. The Stage 2 DBPR focuses on monitoring for, and reducing concentrations of, TTHM and HAA5. These two groups of DBPs act as indicators for the various byproducts of chemical disinfection. A reduction in TTHM and HAA5 generally indicates an overall reduction of DBPs.

The Stage 2 DBPR will reduce DBP peaks and provide for more consistent, equitable protection from DBPs across the entire distribution system. The Stage 2 DBPR requires PWSs to identify the higher risk monitoring locations through the Initial Distribution System Evalua-

tion (IDSE) and then lower DBP peaks in distribution systems by making operational or treatment changes as needed to meet the MCLs at all sampling locations. The Stage 2 DBPR changes how MCL compliance is determined. Instead of calculating a system level running annual average based on results from all samples collected in the distribution system, MCL compliance will be determined for each sample site as a locational running annual average (LRAA).

The Stage 2 DBPR also defines an operational evaluation level (OEL). The OEL is an LRAA threshold meant to help systems identify if they are in danger of exceeding the MCL in the following monitoring quarter. The process alerts the system to the potential of an MCL violation if DBP concentrations remain at their current level and encourages the system to consider whether operational changes are necessary to reduce DBP levels.

The OEL is the sum of the two previous quarters' TTHM or HAA5 results plus twice the current quarter's TTHM or HAA5 result, divided by four. An OEL exceedance occurs if the OEL for TTHM exceeds 0.080 mg/L or the OEL for HAA5 exceeds 0.060 mg/L at any monitoring location. If an OEL exceedance occurs, the system must conduct an operational evaluation and submit a written report of the evaluation to the Department no later than 90 days after the system is notified of the analytical result that caused the OEL exceedance.

LT2ESWTR

The EPA promulgated the Federal LT2ESWTR on January 5, 2006. The LT2ESWTR applies to PWSs supplied by surface water or groundwater under the direct influence of surface water (GUDI) sources. Surface water and GUDI sources have been shown to contain *Cryptosporidium* and other pathogens which pose a public health risk. In humans, *Cryptosporidium* may cause a severe gastrointestinal infection, termed *Cryptosporidiosis*, which can last several weeks. *Cryptosporidiosis* poses serious health and mortality risks for sensitive subpopulations including children, the elderly, pregnant women, organ transplant recipients and persons with weakened immune systems.

Cryptosporidium is common in the environment and is targeted by the LT2ESWTR because it is has been identified as the cause of a number of waterborne disease outbreaks in the United States. The EPA has concluded that existing treatment requirements do not provide adequate public health protection in filtered PWSs with the highest source water *Cryptosporidium* levels. Unlike other microbial contaminants, *Cryptosporidium* is resistant to inactivation using standard disinfection practices such as chlorination. The LT2ESWTR increases public health protection from *Cryptosporidium* by establishing a method to identify and adequately treat surface and GUDI sources with elevated levels of *Cryptosporidium*.

PWSs must monitor their source water (the influent water entering the treatment plant) to determine an average *Cryptosporidium* level. Larger systems must monitor for *Cryptosporidium*, *E. coli*, and turbidity at least once per month for 24 consecutive months. Small systems may initially monitor for *E. coli* as an indicator organism and are required to monitor for *Cryptosporidium* only if their *E. coli* levels exceed specified "trigger" values.

Applicable PWSs will be classified in one of four treatment categories (or "bins") based on the results of the source water *Cryptosporidium* monitoring. The higher the *Cryptosporidium* concentration of the source water,

the higher the bin classification. This bin classification determines the degree of additional *Cryptosporidium* treatment, if any, the filtered PWS must provide above and beyond existing treatment requirements. The EPA suspects that the majority of filtered PWSs will be classified in Bin 1, which carries no additional treatment requirements. PWSs classified in Bins 2, 3 or 4 must achieve additional 1.0-log to 2.5-logs of treatment for *Cryptosporidium* using at least one of 16 microbial toolbox options. The microbial toolbox provides feasible treatment options specifically targeted at *Cryptosporidium* and establishes design and operational standards for each option. The toolbox options include standards for *Cryptosporidium* inactivation and removal processes.

The EPA believes that implementation of the LT2ESWTR will significantly reduce levels of infectious *Cryptosporidium* in finished drinking water. In addition, the treatment technique requirements of this final-form rulemaking will increase protection against other microbial contaminants by improving overall filter plant treatment.

GWR

The EPA promulgated the Federal GWR on November 8, 2006. This final-form rulemaking will incorporate necessary Federal requirements to: (1) establish a risk-targeted approach to identify groundwater systems that are susceptible to fecal contamination; (2) define adequate treatment technique requirements for the inactivation and/or removal of viruses; (3) create guidelines including corrective action alternatives for systems to respond in a timely and appropriate manner to significant deficiencies identified by the Department during inspections; and (4) include additional requirements for notifying the public.

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

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

Groundwater systems in Pennsylvania were not previously regulated with respect to source water viral contamination. Community groundwater systems were only required to provide continuous disinfection and maintain a detectable disinfectant residual throughout the distribution system. Systems, particularly smaller systems, can potentially satisfy this requirement with entry point disinfectant residuals that are too low to inactivate viruses effectively. Thus, community systems meeting the

previous disinfection requirement may not be providing the public with adequate protection from viral contamination. Noncommunity groundwater systems are not required to provide disinfection; persons consuming water from these systems are not afforded protection other than that provided by the characteristics of the source aquifer. The GWR amendments will improve public health protection by ensuring that appropriate corrective actions are taken in response to fecal contamination of source water or the identification of significant deficiencies.

The final-form rulemaking was submitted to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on May 21, 2009. Comments were received from the TAC on June 24, 2009.

E. Summary of Changes to the Proposed Rulemaking

The proposed regulations were published in the *Pennsylvania Bulletin* separately, as three individual rule-making packages as follows:

- GWR was published at 38 Pa.B. 6483 (November 29, 2008) with a 30-day comment period.
- LT2ESWTR was published at 38 Pa.B. 7035 (December 20, 2008) with a 30-day comment period.
- Stage 2 DBPR was published at 38 Pa.B. 7055 (December 20, 2008) with a 30-day comment period.

As a result of the notices of proposed rulemaking, the Board received a number of comments from a total of 7 commentators, including the EPA and the Independent Regulatory Review Commission (IRRC). A Comment and Response document has been proposed to address the comments and it is available from the Department. Following is a list of changes that were made to the proposed rulemaking.

§ 109.1. *Definitions.*

BAT—This definition was amended in response to an EPA comment regarding consistency with the Federal BAT requirements found throughout 40 CFR Part 141.

Conventional filtration—This definition was amended to correct typographical errors in the proposed rule-making as it was published.

Wholesale systems—The word “consecutive” in the definition of wholesale systems was replaced with “public water” to be consistent with the intent of the Federal definition and with the definition of consecutive water system in our regulations.

GAC10 and *GAC20*—These definitions were added in response to an EPA comment regarding consistency with Federal definitions found in 40 CFR 141.2.

§ 109.202(c)(1)(vi)(D)

This clause was deleted and the text was moved to § 109.202(c)(2).

§ 109.301(8)(vi)

This subparagraph was edited in response to an EPA comment to correct the cross references to sections of the Federal regulations that have been vacated.

§ 109.301(12)(i)(B)(I)(-c-)

This item was edited in response to an EPA comment to correct the cross reference to disinfection byproduct precursors required monitoring.

§ 109.301(12)(ii)(A)(I)

This subclause was amended to clarify the requirement that any system part of a combined distribution system

shall comply at the same time as the system with the earliest compliance date in the combined distribution system.

§ 109.301(12)(ii)(A)(II)

This subclause was amended for consistency. The phrase “consecutive systems” was replaced with “consecutive water systems” to be consistent with the definition in § 109.1.

§ 109.301(12)(ii)(A)(III)

This subclause was added in response to an EPA comment to clarify that the proposed regulation does not clearly specify that Stage 1 MCL requirements are applicable only until the effective dates of the Stage 2 DBP Rule.

§ 109.301(12)(ii)(B)(I)

This subclause was amended in response to an EPA comment to clarify that water systems monitor in accordance with their Stage 2 DBP Rule monitoring plan.

§ 109.301(12)(ii)(B)(II)

This subclause was amended to clarify the cross reference to the Stage 2 DBP Rule monitoring plan.

§ 109.301(12)(ii)(B)(III)

The subclause was revised in response to an EPA comment to be consistent with a correction to the Federal monitoring requirements found in 40 CFR 141.621(a)(2) as it was published in the June 29, 2009 *Federal Register*.

§ 109.301(12)(ii)(D)(IV)

This subclause was amended and moved to § 109.301(12)(ii)(C)(VII) in response to an EPA comment.

§ 109.301(12)(ii)(E)(III) and (IV)

These subclauses were revised to clarify the compliance calculations.

§ 109.304(c)

This subsection was amended in response to an EPA comment to address a missing cross-reference for the LT2ESWTR.

§ 109.408(a)

This subsection was amended for clarity and consistency. A treatment technique violation under the LT2ESWTR requires a Tier 1 public notice because Tier 1 notice is required for any breakdown in treatment necessary to remove acute microbial pathogens. Systems required to install additional treatment to remove *Cryptosporidium* under LT2ESWTR are doing so in response to monitoring that has shown elevated levels of *Cryptosporidium* in the source water. The Department requires Tier 1 PN for those violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. *Cryptosporidium* is an acute pathogen. Therefore, to protect public health adequately and to be consistent with existing regulations, the Department is requiring a Tier 1 PN for this treatment technique violation.

Additionally, for consistency in chapter organization, paragraphs 7 and 8 were renumbered as paragraphs 10 and 11.

§ 109.505(a)(2)(i)(A) and (B)

These clauses were deleted and the text has been added to subsection § 109.505(b).

§ 109.505(b)

This subsection was amended to clarify that noncommunity water systems (NCWS) which have not obtained a construction permit under § 109.503 or an operations permit under § 109.504 and are providing 4-log treatment of viruses under Subchapter M shall obtain a noncommunity water system 4-log treatment of groundwater permit.

§ 109.605

This section was amended to add a missing cross reference and for chapter organization. Paragraph (3) was amended to add the missing cross reference for the LT2ESWTR and the existing subsections were renumbered.

Paragraph (5) was amended to clarify that a public water system developing a new groundwater source which has tested positive for *E. coli* during new source sampling shall provide 4-log treatment of viruses.

§ 109.701(a)(8)(ii)

This subparagraph was revised to clarify that the reporting requirements for systems monitoring for either chlorine or chloramines under § 109.301(13) include both the number of samples and the arithmetic average of all distribution samples taken in the last month.

§ 109.701(a)(9)

This paragraph was amended to correct a typographical error and in response to an EPA comment. The bracket showing that the text in this paragraph will be deleted was erroneously dropped at printing. This misprint caused EPA's comment that the proposed regulation is not clear as to specifically whether the RAA or LRAA are to be reported and that the proposed regulation does not differentiate how the RAA and LRAA reporting process will change after the Stage 2 effective date.

Under 40 CFR 141.629(a)(3), states have the option to perform calculations and determine compliance for water systems and whether the system is eligible for reduced monitoring. The Department has chosen to calculate LRAA values and determine compliance for water systems in this Commonwealth. Systems are only required to report the results of analyses conducted under § 109.701(a)(1), not the RAA and LRAA calculations. Therefore, paragraph 9 was deleted.

§ 109.701(a)(10)

This paragraph was amended in response to an EPA comment to clarify the reporting requirements for disinfection byproduct precursors. Public water systems are required to only report analytical results because the Department calculates compliance. Therefore, this paragraph was deleted to be consistent with the reporting requirements for other regulated contaminants.

§ 109.701(d)(1) and (2)

These paragraphs were revised to be consistent with Federal recordkeeping requirements under 40 CFR Part 141 and 142.

§ 109.701(g)(2)(ii)(A)

This clause was amended in response to an EPA comment to clarify and correct a cross reference. The sentence was revised to read "The monitoring plan must contain the elements in subclauses (I)—(III) and be completed no later than the date systems conduct their initial monitoring under § 109.301(12)(ii)(A)."

§ 109.701(g)(2)(ii)(A)(IV)

This subclause was deleted. Under 40 CFR 142.16(m), EPA gives States the option to modify, on a case-by-case basis, the TTHM and HAA5 monitoring requirements for a wholesale and consecutive system that are connected. Water quality may vary greatly between PWSs because of changing water chemistry. Although treatment and operational practices of the wholesaler will affect the water quality in the consecutive system, the consecutive system is responsible for maintaining the quality of the water supplied to their consumers. The Department believes that the monitoring requirements specified in § 109.301(12)(ii) are necessary to ensure acceptable water quality. It is not protective of public health to allow any reduction in monitoring requirements beyond those already covered in § 109.301(12)(ii)(C). Therefore, the Department will not modify the monitoring requirements of a wholesale and consecutive system on a case-by-case basis.

§ 109.701(g)(2)(ii)(B)

This clause was revised in response to an EPA comment to clarify whether the monitoring described are locations under the Stage 1 DBPR or Stage 2 DBPR.

§ 109.701(g)(2)(ii)(D)

This clause was amended to clarify that all systems must submit their modified monitoring plan to the Department. This is consistent with § 109.701(g)(2)(ii)(C) which requires all systems to submit their initial monitoring plan to the Department.

§ 109.701(g)(2)(iii)(A)

This clause was amended to clarify that PWSs on a quarterly monitoring frequency have to calculate an OEL for each sampling location. The OEL is an LRAA threshold, calculated quarterly, that is meant to help systems identify if they are in danger of exceeding the MCL.

§ 109.701(g)(2)(iii)(C)(II)

The subclause was edited in response to an EPA comment to correct a cross reference for the schedule to submit the OEL report after an OEL exceedance.

§ 109.705(b)(1)

The Federal Groundwater Rule allows state regulatory agencies to reduce the minimum frequency with which they conduct sanitary surveys at community water systems (CWS) from 3 years to 5 years *if* the State determines the CWS has "outstanding performance". This Federal option was included in the proposed GWR. However, upon further discussion with staff it has been decided that the 3-year minimum frequency for conducting a sanitary survey should not be extended. A 3-year frequency ensures protection of public health and allows greater opportunity for the Department to offer compliance assistance to a CWS. Accordingly, all references to "outstanding performance" and associated incentives have been removed from this final-form rulemaking. This will not place an additional burden on a CWS or Department resources because this is the current minimum frequency for conducting sanitary surveys.

§ 109.705(b)(2)

Text has been deleted which referenced the alternative schedule for states to conduct sanitary surveys at a CWS which has been deleted from the final Annex A under § 109.705(b)(1).

§ 109.801

This section was amended to address missing cross references for the Lead and Copper Rule, LT2ESWTR and GWR.

§ 109.810(b)

This subsection was amended because the proposed rulemaking was based on the Chapter 109 language in existence at the time of publication. However, § 109.810(b) was revised as part of the General Update revisions, which were published as final-form rulemaking at 39 Pa.B. 2661 (May 23, 2009). Therefore, these revisions show the proposed changes based on the currently existing language.

§ 109.901(b) and (c)

These subsections were amended to be consistent with Federal regulations found in 40 CFR 141.4 regarding the exceptions to obtaining a variance. Variances and exemptions are not permitted for the MCL for total coliforms, nor for the treatment techniques for PWSs using surface water, GUDI or groundwater sources.

§ 109.903(b) and (c)

These subsections were amended to be consistent with Federal regulations found in 40 CFR 141.4 regarding the exceptions to obtaining an exemption. Variances and exemptions are not permitted for the MCL for total coliforms, nor for the treatment techniques for PWSs using surface water, GUDI or groundwater sources.

§ 109.1003

This section was amended for clarity and to be consistent with chapter organization. The cross reference for LT2ESWTR source water monitoring requirements has been added to subsection (f). Subsection (b) was amended for clarity. The proposed subsection (f) was renumbered as subsection (g).

§ 109.1201(b)

This subsection was amended for clarity and consistency with the requirements of the Stage 2 DBPR. Paragraph (1) was amended for consistency. Paragraph (2) was deleted as unnecessary because subsection (a) already defines the water systems affected by this subchapter.

§ 109.1202(c)

This subsection was amended in response to a public comment to clarify when systems may begin the second round of source water monitoring. The intent is that there is at least a 6-year window between the 2 rounds of source water monitoring. Systems that used grandfathered data or that completed the first round of monitoring early may wish to begin the second round of monitoring before the deadline specified in Federal regulations. Therefore, text has been added to clarify when the second round of monitoring may be started.

§ 109.1202(h)—(p)

Subsection (h) was deleted and moved to § 109.1205. The grandfathering provisions of the LT2ESWTR are incorporated by reference. To clarify that all of the grandfathering provisions are incorporated by reference, this text was moved to a separate section of Subchapter L.

The remaining subsections were renumbered and cross references were updated to maintain chapter organization.

§ 109.1203(e)

Paragraphs (1)—(4) were amended to clarify that water systems must provide the additional level of treatment specified at all times.

§ 109.1203(n) and (o)

These subsections were amended to clarify that both filtered and unfiltered surface water or GUDI systems must provide the additional treatment required if the bin classification increases as a result of the second round of source water monitoring.

§ 109.1204(b)

This subsection was amended to be consistent with the Federal requirements for a watershed control program found in 40 CFR 141.715(b)(1). A watershed control program may not be used as a toolbox option for unfiltered water systems.

§ 109.1205

This section was amended for clarity and chapter organization. The grandfathering provisions of the LT2ESWTR are incorporated by reference. To clarify that all of the grandfathering provisions are incorporated by reference, this text was moved to a separate section of Subchapter L.

§ 109.1206(e)

This subsection was amended to clarify the reporting requirements for *Cryptosporidium* and *E. coli*.

§ 109.1206(f)—(l)

This subsection was deleted because the grandfathering provisions are incorporated by reference in § 109.1205. The remaining subsections were renumbered for chapter organization.

§ 109.1206(h)

This subsection was amended to clarify the reporting requirements for systems with Bin 1 sources. Systems with Bin 1 sources that are using alternative treatment technologies for LT2ESWTR have the same toolbox component reporting requirements as systems using Bin 2 or higher sources.

§ 109.1302(a)(2)

This paragraph was amended to clarify the minimum disinfectant residual that must be maintained to demonstrate 4-log inactivation of viruses. The residual of 0.4 mg/L has been changed to 0.40 mg/L because the decimal place is significant when calculating log-inactivation by free chlorine. The calculation used to determine this minimum residual was performed assuming that the design standards set forth in Part II of the Department's *Public Water Supply Manual* (DEP ID# 383-2125-108) are met. The results of the calculation indicate that, in a system satisfying the design requirements, 4-log treatment of viruses is achieved with a minimum residual of 0.40 mg/L. For example, under the proposed regulation, a minimum residual of 0.36 mg/L free chlorine would round to 0.4 mg/L and meet the regulatory requirement but would not provide 4-log inactivation of viruses. This edit to the final regulation corrects that oversight.

This paragraph was also amended in response to a public comment to clarify that the Department will not specify an alternative free chlorine minimum residual, but rather approve an alternative residual. A PWS may propose an alternative residual that provides at least

4-log treatment of viruses. This alternative residual may be either above or below the default residual of 0.40 mg/L.

§ 109.1302(a)(4)

This paragraph has been revised to clarify that 4-log treatment of viruses must be achieved before the first customer, not at the entry point of the distribution system. This provision allows a community water system to utilize the length of transmission line from the entry point to the first customer for log inactivation credit if it is not able to achieve 4-log treatment at the entry point.

§ 109.1302(a)(4)(i)—(iii)

January dates have been changed to April dates, which allows PWSs an additional 3 months to comply with the requirement to provide 4-log treatment of viruses. The additional months will also give the Department greater time to review submissions of 4-log demonstrations under § 109.1302(a)(3), which may be necessary in circumstances where the system needs to make physical modifications.

§ 109.1302(a)(6)

This paragraph was amended to clarify that a community water system must provide 4-log treatment for a new source when the source is put into service, not when the entry point is put into service. This change was made to capture new sources that are developed to serve existing entry points.

§ 109.1302(b)(1)

This paragraph was amended to clarify that a noncommunity water system may utilize the length of transmission line from the entry point to the first customer for log inactivation credit if it is not able to provide 4-log treatment at the entry point.

§ 109.1302(c)(1)(iii)

This subparagraph was amended to clarify that PWSs providing 4-log treatment of viruses must provide adequate treatment prior to the first customer; PWSs are not permitted to provide treatment at the first customer. Under existing regulations, Point-of-Use treatment devices are prohibited.

Additionally, this subparagraph was amended to clarify when PWSs that have Department-approved 4-log treatment must begin compliance monitoring.

§ 109.1302(c)(4)

This paragraph was amended for clarity and consistency with Federal regulations found in 40 CFR 141.404(a). PWSs must correct any significant deficiency within 120 days or an alternate deadline established by the Department.

§ 109.1303(a)

This subsection was amended to clarify that a PWS must comply with triggered monitoring requirements unless it has successfully demonstrated to the Department that they are capable of providing 4-log treatment of viruses and the Department has approved the submittal. Once the Department approves a system's 4-log treatment submission, compliance monitoring shall commence and triggered monitoring requirements no longer apply.

§ 109.1303(b)

This subsection was amended to clarify the 24-hour time limit for collecting source water samples.

§ 109.1303(c)

This subsection was amended to clarify that a PWS must have a representative sampling plan approved by the Department prior to the notification to begin triggered source water monitoring to reduce the number of source water samples required to be collected.

§ 109.1303(c)(1) and (2)

These paragraphs set forth the conditions under which the Department would permit representative sampling allowing a reduced number of source water samples that must be collected in response to a total coliform-positive result. Paragraph (1) states that systems may reduce the number of source samples to be collected if multiple sources draw from the same hydrogeologic setting. Paragraph (2) states the PWS may sample sources which are representative of Total Coliform Rule monitoring locations in situations where these sources feed separate distribution systems with no interconnection, if a monitoring plan is approved by the Department prior to notification of a total coliform-positive sample collected under § 109.1303(a).

§ 109.1303(f)

This subsection was amended in response to a public comment to be consistent with the Federal GWR regulations found in 40 CFR 141.402(a)(5) to allow a PWS to forgo collecting triggered source water samples if the routine total coliform positive sample has been invalidated within the 24-hour time limit under § 109.1303(a). Although the Department has included this provision, it is highly unlikely that a public water system will have a routine total coliform-positive sample invalidated within the 24-hour timeline established under the Federal Groundwater Rule.

§ 109.1304(a)

This subsection has been amended in response to a TAC comment. The phrase "... a groundwater system is using a fecally-contaminated groundwater source ..." has been changed to "... a groundwater system using a groundwater source with fecal contamination ..."

§ 109.1304(a)(1)(i)—(vii)

These subparagraphs were amended to enhance the readability of paragraph (1).

§ 109.1304(a)(1)(iv)

This subparagraph was amended to clarify that triggered source water samples may be used to satisfy the requirements of assessment source water monitoring when approved by the Department.

§ 109.1304(a)(3)

This paragraph was deleted. This was a typographical error in the proposed rulemaking. Provisions relating to invalidation of an *E. coli*-positive sample are covered in § 109.1304(b).

§ 109.1305(a)

This subsection was amended to clarify that the Department will approve, rather than specify, the minimum disinfectant residual necessary to achieve 4-log treatment of viruses.

§ 109.1305(a)(2)(i)

This subparagraph was amended to clarify that grab sampling may be allowed at a location other than the entry point, if approved by the Department.

§ 109.1305(b)

This subsection was amended to remove references to membrane technology. Currently, there are no available integrity testing protocols sensitive enough to locate defects in the membrane that could allow the passage of viruses. Therefore, no log removal credit can be awarded. If integrity testing protocols become available in the future, membrane technology may be used and shall follow requirements established in the current § 109.1305(b).

§ 109.1306(a)

This subsection was amended to clarify that a PWS currently holding a valid operation permit shall submit forms provided by the Department to demonstrate 4-log treatment of viruses.

§ 109.1306(b)

This subsection was created to explain further the responsibilities of a noncommunity water system not operating under a construction and operating permit that is demonstrating and providing 4-log treatment of viruses under subchapter M. A “noncommunity water system 4-log treatment of groundwater permit” has been created for these systems. This is part of a new, abbreviated permitting process specifically designed for noncommunity water systems that choose to, or are required to, provide 4-log treatment of viruses under the GWR.

§ 109.1307(a)(1)(i)

This subparagraph was amended to clarify a compliance monitoring location may either be at the entry point or another Department-approved location.

§ 109.1307(a)(1)(i)(A)—(C)

These clauses were amended to be consistent with Safe Drinking Water-General Update revisions published as final-form rulemaking at 39 Pa.B. 2661 (May 23, 2009).

F. *Benefits, Costs and Compliance*

Benefits

The Stage 2 DBPR will reduce DBP peaks and provide for more consistent, equitable protection from DBPs across the entire distribution system. The Stage 2 DBPR will affect approximately 2,045 community water systems and 600 nontransient noncommunity water systems serving 10.5 million Pennsylvanians. These 10.5 million people will benefit from a reduction in health risks associated with disinfection practices, such as bladder cancer and kidney damage. The EPA has estimated that the nation may realize a total annual benefit of up to \$3.5 billion as a result of avoiding up to 581 cases of bladder cancer per year. In Pennsylvania, this translates into a total annual benefit of up to \$144 million in avoiding up to 24 cases of bladder cancer per year.

The LT2ESWTR rule will further protect public health against *Cryptosporidium* and other microbial pathogens in 355 PWSs that supply water to approximately 8.4 million Commonwealth citizens. Additional *Cryptosporidium* treatment is expected to result in a reduced rate of *Cryptosporidium*-related illnesses and death. The EPA estimates that after full implementation of the LT2ESWTR, on average, the nation is expected to avoid 89,375 to 1,459,126 illnesses and 20 to 314 deaths annually. Furthermore, the EPA estimates the annual benefit of LT2ESWTR implementation ranges from \$177 million to \$2.8 billion, depending on the rate of *Cryptosporidium* occurrence. In Pennsylvania, this trans-

lates into a total annual benefit of \$4.48 million to \$70.84 million depending on the rate of *Cryptosporidium* occurrence.

The GWR establishes monitoring requirements to ensure adequate treatment is provided at groundwater systems and defines a risk-targeted approach to identify groundwater sources that are vulnerable to fecal contamination. Implementation of the Rule will create public health benefits for approximately 7 million Pennsylvanians resulting from the reduction in endemic acute viral illness and death. Although most illnesses caused by viruses are mild, some viruses may produce severe health effects in children, the elderly and those with compromised immune systems. The EPA has estimated that the nation may avoid 41,868 illnesses associated with viruses. In Pennsylvania, this translates to 2,553 illnesses avoided. The EPA estimated the National annual benefits from the GWR implementation to be \$16 million for community water systems, \$900,000 for nontransient noncommunity systems and \$2.7 million for transient noncommunity systems. In Pennsylvania, this translates to annual benefits of \$632,657, \$54,548 and \$193,321 respectively, totaling \$880,527.

Compliance Costs

All public water systems in this Commonwealth are affected by at least one of these rules. The costs associated with these three rules will vary because the requirements for each are different and the number of PWSs affected by each rule is different. The annual costs associated with each rule are as follows:

Rule	No. of Systems Affected	Total Annual Costs
Stage 2 DBPR	2,650	\$3,390,000
LT2ESWTR	355	\$3,364,900
GWR	9,100	\$2,929,940
	Total	\$9,684,840

For the Stage 2 DBPR, the estimated \$3.39 million includes nontreatment costs of rule implementation such as: the Initial Distribution System Evaluation, Stage 2 DBPR monitoring plans, routine monitoring, reporting, recordkeeping and operational evaluations. PWSs required to install treatment to comply with MCLs will accrue the additional costs of treatment installation as well as operation and maintenance costs.

For the LT2ESWTR, PWSs will incur monitoring costs for turbidity, *E. coli*, and *Cryptosporidium* to assess source water *Cryptosporidium* levels. Estimates of laboratory fees, shipping costs, labor hours for sample collection, and hours for reporting results were used to predict source water monitoring costs. PWSs are required to conduct two rounds of source water monitoring unless the PWS installs additional treatment to achieve the maximum level of treatment required for *Cryptosporidium* as a result of the rule. Some PWSs will be required to install additional treatment based on the results of the source water monitoring.

For the GWR, costs will vary considerably due to the current treatment capacity of a system, groundwater source quality and sensitivity of the groundwater source to fecal contamination. The EPA estimates corrective actions systems must take in response to any significant deficiencies identified by the Department or in response to the presence of *E. coli* in raw source water may be the

most costly expenses a system may incur. Corrective actions include: installing or upgrading treatment to achieve at least 4-log inactivation and/or removal of viruses; providing an alternate source of water; or eliminating a source of fecal contamination. Systems providing sufficient treatment must conduct compliance monitoring to ensure treatment effectiveness. Additional costs may be

borne if a system needs to install equipment to continuously monitor a disinfectant residual.

For the Commonwealth, there are costs associated with regulatory oversight and costs to state-owned public water systems. The details for the Commonwealth costs are as follows:

<i>Rule</i>	<i>Oversight Costs</i>	<i>No. of PWSs Affected</i>	<i>State-owned PWS Costs*</i>	<i>Total Annual Costs</i>
Stage 2 DBPR	\$585,000	32	\$41,000	\$626,000
LT2ESTWR	\$35,420	17	\$161,461	\$196,881
GWR	\$719,469	223	\$70,441	\$789,910
Total	\$1,339,889	—	\$272,902	\$1,612,791

* The cost estimates for state-owned PWSs are part of (not in addition to) the total cost estimates for the regulated community.

Compliance Assistance Plan

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

The Safe Drinking Water Program has established a network of regional and central office training staff that is responsive to identifiable training needs. The target audience in need of training may be program staff, the regulated community, or both.

In addition to this network of training staff, the Bureau of Water Standards and Facility Regulation have staff dedicated to providing both training and outreach support services to public water system operators. The Department's Internet site also contains the *Drinking Water & Wastewater Treatment System Operator Information Center* Internet site, which provides a bulletin board of timely, useful information for treatment plant operators.

Paperwork Requirements

The Stage 2 DBPR will require that water systems conduct the IDSE and submit the report to the Department. Most of this initial implementation will be completed prior to the Department receiving primacy. It is anticipated that little additional paperwork will be necessary for the routine monitoring and reporting upon adoption of this final-form rulemaking.

The LT2ESWTR amendments will create additional reporting, recordkeeping and paperwork requirements. It is anticipated that our current data reporting forms can be modified to facilitate an additional monitoring and reporting and that no additional data or paperwork will be necessary.

The GWR will not change existing requirements, but it will add new requirements for groundwater systems. Community water systems will need to complete and submit a form that demonstrates how 4-log treatment will be provided at each entry point and describes how compliance monitoring will be conducted. Systems conducting compliance monitoring because 4-log treatment of viruses is provided will need to use existing Department forms to submit disinfection data on a monthly basis.

It is anticipated that this additional monitoring and reporting will be easily facilitated by the addition of one or two new data reporting forms and that little additional paperwork will be necessary.

G. Pollution Prevention

Not applicable.

H. Sunset Review

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 19, 2008, the Department submitted a copy of the notice of proposed rulemaking for the GWR, published at 38 Pa.B. 6483 (November 29, 2008) and on November 24, 2008, the Department submitted a copy of the notice of proposed rulemaking for the LT2ESWTR and Stage 2 DBP rules, published at 38 Pa.B. 7035 (December 20, 2008) and 38 Pa.B. 7055 (December 20, 2008), respectively, to the Independent Regulatory Review Commission (IRRC) and to the House and Senate Environmental Resources and Energy Committees (Committees).

Under section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(a)), IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745(j.2)), on November 4, 2009, these final-form regulations were deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)), IRRC met on November 5, 2009, and approved the final-form regulations.

J. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder at 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) These regulations do not enlarge the purpose of the proposals published as follows:

- GWR at 38 Pa.B. 6483 (November 29, 2008).
- LT2ESWTR at 38 Pa.B. 7035 (December 20, 2008).
- Stage 2 DBPR at 38 Pa.B. 7055 (December 20, 2008).

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this order.

K. Order of the Board

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

(a) The regulations of the Department of Environmental Protection, 25 Pa. Code Chapter 109, are amended by amending §§ 109.1, 109.5, 109.202, 109.204, 109.301, 109.304, 109.407—109.410, 109.503, 109.505, 109.507, 109.602, 109.605, 109.611, 109.701, 109.705, 109.801, 109.810, 109.901, 109.903, 109.906—109.908, 109.1002, 109.1003, 109.1008; and by adding §§ 109.417, 109.418, 109.1201—109.1206 and 109.1301—109.1307 and Appendices A—C to Subchapter L to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

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

(e) This order shall take effect immediately.

JOHN HANGER,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 6705 (November 21, 2009).)

Fiscal Note: Fiscal Note 7-439 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter A. GENERAL PROVISIONS

§ 109.1. Definitions.

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

* * * * *

BAT—Best Available Technology—The best technology, treatment techniques or other means which the Administrator finds are available for achieving compliance with maximum contaminant levels. This chapter incorporates by reference the BAT specified in 40 CFR Parts 141 and 142 (relating to National primary drinking water regulations; and National primary drinking water regulations implementation).

Bag filter—A pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. It is typically constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

Bank filtration—A water treatment process that uses a well to recover surface water that has naturally infiltrated into groundwater through a riverbed or bank. Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well.

Bin—A category based on the level of *Cryptosporidium* present in source water. Four potential bins exist, 1—4. The higher the bin, the higher the concentration of source water *Cryptosporidium*.

* * * * *

Cartridge filter—A pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. It is typically constructed as rigid or semirigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

* * * * *

Combined distribution system—The interconnected distribution system consisting of the distribution systems of wholesale systems and of the public water systems that obtain finished water from another public water system.

* * * * *

Conventional filtration—The series of processes for the purpose of substantial particulate removal consisting of coagulation, flocculation, clarification, and granular media filtration. The clarification step must be a solid/liquid separation process where accumulated solids are removed during this separate component of the treatment system.

* * * * *

DBP—Disinfection byproduct.

* * * * *

Dual sample set—A set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE and determining compliance with the TTHM and HAA5 MCLs under Subchapter G (relating to system management responsibilities).

* * * * *

Finished water—Water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system (for example, booster disinfection or addition of corrosion control chemicals).

* * * * *

Flowing stream—A course of running water flowing in a definite channel.

* * * * *

GAC10—A granular activated carbon filter bed with an empty bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for *GAC10* used as a BAT shall be 120 days.

GAC20—A granular activated carbon filter bed with an empty bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

* * * * *

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

* * * * *

IDSE—Initial Distribution System Evaluation.

* * * * *

LRAA—*Locational running annual average*—The average, computed quarterly, of quarterly arithmetic averages of all analytical results for samples taken at a particular monitoring location during the most recent 4 calendar quarters.

* * * * *

Lake/reservoir—A natural or man made basin or hollow on the earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

* * * * *

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

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

Where,

N_o = Initial concentration of viable microorganisms

N_D = Concentration of viable microorganisms after disinfection

Log = Logarithm to base 10

Log inactivation is related to percent inactivation, defined as:

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

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

<i>Log Inactivation</i>	<i>Percent Inactivation</i>
0.5-log	68.4%
1.0-log	90.0%
1.5-log	96.8%
2.0-log	99.0%
2.5-log	99.7%
3.0-log	99.9%

Log Inactivation

4.0-log

Percent Inactivation

99.99%

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

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

Where,

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

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

Log = Logarithm to base 10

Log removal is related to percent removal, defined as:

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

Common log removal values and corresponding percent removal values include:

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

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

Log treatment = Log removal + Log inactivation

Or,

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

Where,

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

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

Log = Logarithm to base 10

Log treatment is related to percent treatment, defined as:

$$\text{Percent treatment} = \left(1 - \frac{N_T}{N_0} \right) * 100$$

Common log treatment values and corresponding percent treatment values include:

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

Membrane filtration—

(i) A pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test.

(ii) The term includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration and reverse osmosis.

* * * * *

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

* * * * *

*Plant intake—*The works or structures at the head of a conduit through which water is diverted from a source (for example, a river or lake) into the treatment plant.

* * * * *

*Presedimentation—*A preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

* * * * *

*RAA—Running annual average—*The average, computed quarterly, of quarterly arithmetic averages of all analytical results for samples taken during the most recent 4 calendar quarters.

* * * * *

*Significant deficiency—*A defect in design, operation or maintenance, or a failure or malfunction of the sources, treatment, storage or distribution system that the Department determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

* * * * *

*2-stage lime softening—*A process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

* * * * *

*Wholesale system—*A public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more public water systems.

§ 109.5. Organization of chapter.

(a) This subchapter and Subchapter H (relating to laboratory certification) apply to all public water systems.

(b) Subchapters B—G and I apply to public water systems, except bottled water and vended water systems, retail water facilities and bulk water hauling systems, unless provisions in those Subchapters are specifically referenced in Subchapter J (relating to bottled water and vended water systems, retail water facilities and bulk water hauling systems).

(c) Subchapter J applies exclusively to bottled water and vended water systems, retail water facilities and bulk water hauling systems.

(d) Subchapter K (relating to lead and copper) applies to community and nontransient noncommunity water systems.

(e) Subchapter L (relating to the long-term 2 enhanced surface water treatment rule) applies to all public water systems using surface water or GUDI sources.

(f) Subchapter M (relating to additional requirements for groundwater sources) applies to all public water systems that use groundwater, excluding those systems that combine all of their groundwater with surface water or with groundwater under the direct influence of surface water prior to treatment under § 109.202(c)(1) (relating to State MCLs, MRDLs and treatment technique requirements).

Subchapter B. MCLs, MRDLs OR TREATMENT TECHNIQUE REQUIREMENTS

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

* * * * *

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

(1) A public water supplier shall provide, as a minimum, continuous filtration and disinfection for surface water and GUDI sources. The treatment technique must provide at least 99.9% removal and inactivation of *Giardia lamblia* cysts, and at least 99.99% removal and inactivation of enteric viruses. Beginning January 1, 2002, public water suppliers serving 10,000 or more people shall provide at least 99% removal of *Cryptosporidium* oocysts. Beginning January 1, 2005, public water suppliers serving fewer than 10,000 people shall provide at least 99% removal of *Cryptosporidium* oocysts. The Department, depending on source water quality conditions, may require additional treatment as necessary to meet the requirements of this chapter and to protect the public health.

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(ii) The combined total effect of disinfection processes utilized in a filtration plant shall achieve at least a 90% inactivation of Giardia cysts and a 99.9% inactivation of viruses, as determined by CTs and measurement methods established by the EPA. The residual disinfectant concentration in the water delivered to the distribution system prior to the first customer may not be less than .2 mg/L for more than 4 hours, as demonstrated by measurement taken under § 109.301(1). Failure to maintain this level that extends beyond 4 hours constitutes a breakdown in treatment. A system that experiences a breakdown in treatment shall, under § 109.701(a)(3) (relating to reporting and recordkeeping), notify the Department within 1 hour after the water system learns of the violation or the situation, and shall provide public notice in accordance with § 109.408 (relating to Tier 1 public notice categories, timing and delivery of notice).

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(vi) For a source including springs, infiltration galleries, cribs or wells permitted for use by the Department prior to May 16, 1992, and determined by the Department to be a GUDI source, the public water supplier shall:

(A) Maintain a minimum residual disinfectant concentration in the water delivered to the distribution system prior to the first customer in accordance with subsection (c)(1)(iii)(A).

(B) Provide continuous filtration and disinfection in accordance with this paragraph within 48 months after the Department determines the source of supply is a GUDI source.

(C) Submit to the Department for approval a feasibility study within 1 year after the Department determines the source of supply is a GUDI source. The feasibility study shall specify the means by which the supplier shall, within the deadline established in clause (B), meet the requirements of this paragraph and shall otherwise comply with paragraph (1)(iv)(A).

(2) In addition to meeting the requirements of paragraph (1), a public water supplier using surface water or GUDI sources shall also comply with the requirements of, and on the schedules in, Subchapter L (relating to long-term 2 enhanced surface water treatment rule).

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

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§ 109.204. Disinfection profiling and benchmarking.

(a) The disinfection profiling and benchmarking requirements, established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.172, 141.530—141.536, 141.540—141.544, 141.570(c) and (d) and 141.708—141.709 are incorporated by reference except as otherwise established by this chapter.

(b) Public water suppliers that did not conduct TTHM and HAA5 monitoring under this section because they served fewer than 10,000 persons when the monitoring was required, but serve 10,000 or more persons before January 1, 2005, shall comply with this section. These suppliers shall also establish a disinfection benchmark and consult with the Department for approval. A supplier that decides to make a significant change to its disinfection practice, as described in this section, shall consult with the Department before making such a change.

(c) The public water supplier shall conduct disinfection profiling in accordance with the procedures and methods in the most current edition of the *Disinfection Profiling and Benchmarking Guidance Manual* published by the EPA. The results of the disinfection profiling and the benchmark, including raw data and analysis, shall be retained indefinitely on the water system premises or at a convenient location near the premises. Public water suppliers serving 10,000 or more persons and required to conduct disinfection profiling shall submit the disinfection profiling data and the benchmark data to the Department by June 1, 2001, in a format acceptable to the Department. Public water suppliers serving 500 to 9,999 persons shall submit the disinfection profiling data and the benchmark to the Department by October 1, 2004. Public water suppliers serving less than 500 persons shall submit the disinfection profiling data and the benchmark to the Department by April 1, 2005, in a format acceptable to the Department.

Subchapter C. MONITORING REQUIREMENTS

§ 109.301. General monitoring requirements.

Public water suppliers shall monitor for compliance with MCLs, MRDLs and treatment technique requirements in accordance with the requirements established by the EPA under the National Primary Drinking Water Regulations, 40 CFR Part 141 (relating to national primary drinking water regulations), except as otherwise established by this chapter unless increased monitoring is required by the Department under § 109.302 (relating to special monitoring requirements). Alternative monitoring requirements may be established by the Department and may be implemented in lieu of monitoring requirements for a particular National Primary Drinking Water Regulation if the alternative monitoring requirements are in conformance with the Federal act and regulations. The monitoring requirements shall be applied as follows:

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

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(vi) Community water systems and nontransient noncommunity water systems that obtain finished water from another permitted public water system shall comply with the monitoring requirements for disinfection byproducts and disinfectant residuals in paragraphs (12)(i)—(v) and (13).

(vii) A community water system which is a consecutive water system shall comply with the monitoring requirements for lead and copper as specified in § 109.1101(c) (relating to lead and copper).

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

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(12) *Monitoring requirements for disinfection byproducts and disinfection byproduct precursors.* Community water systems and nontransient noncommunity water systems that use a chemical disinfectant or oxidant shall monitor for disinfection byproducts and disinfection byproduct precursors in accordance with this paragraph. Community water systems and nontransient noncommunity water systems that obtain finished water from another public water system that uses a chemical disin-

fectant or oxidant to treat the finished water shall monitor for TTHM and HAA5 in accordance with this paragraph. Systems that use either surface water or GUDI sources and that serve at least 10,000 persons shall begin monitoring by January 1, 2002. Systems that use either surface water or GUDI sources and that serve fewer than 10,000 persons, or systems that use groundwater sources, shall begin monitoring by January 1, 2004. Systems monitoring for disinfection byproducts and disinfection byproduct precursors shall take all samples during normal operating conditions. Systems monitoring for disinfection byproducts and disinfection byproduct precursors shall use only data collected under this chapter to qualify for reduced monitoring. Compliance with the MCLs and monitoring requirements for TTHM, HAA5, chlorite (where applicable) and bromate (where applicable) shall be determined in accordance with 40 CFR 141.132 and 141.133 (relating to monitoring requirements; and compliance requirements) which are incorporated herein by reference.

(i) *TTHM and HAA5 Stage 1 DBP Rule.*

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(B) *Reduced monitoring.* Systems shall monitor for TTHM and HAA5 for at least 1 year prior to qualifying for reduced monitoring. Systems serving at least 500 persons and that use either surface water or GUDI sources shall monitor source water TOC monthly for at least 1 year prior to qualifying for reduced monitoring. The Department retains the right to require a system that meets the requirements of this clause to resume routine monitoring.

(I) For systems serving at least 500 persons that use either surface water or GUDI sources and that have a source water TOC running annual average that is no greater than 4.0 mg/L, a TTHM running annual average that is no greater than 0.040 mg/L and an HAA5 running annual average that is no greater than 0.030 mg/L, the required monitoring is reduced according to items (-a-) and (-b-). Systems serving at least 10,000 persons shall resume routine monitoring as prescribed in clause (A) if the TTHM running annual average exceeds 0.060 mg/L or the HAA5 running annual average exceeds 0.045 mg/L. Systems serving from 500 to 9,999 persons shall resume routine monitoring as prescribed in clause (A) if the annual TTHM average exceeds 0.060 mg/L or the annual HAA5 average exceeds 0.045 mg/L. Systems serving at least 500 persons that must resume routine monitoring shall resume routine monitoring in the quarter immediately following the quarter in which the system exceeded the specified TTHM or HAA5 criteria.

* * * * *

(-c-) Beginning April 1, 2008, systems not monitoring under the provisions of subparagraph (v) shall take monthly TOC samples every 30 days at a location prior to any treatment, to qualify for reduced monitoring for TTHM and HAA5 under this subparagraph. In addition to meeting other criteria for reduced monitoring in this section, the source water TOC running annual average must be less than or equal to 4.0 mg/L (based on the most recent 4 quarters of monitoring) on a continuing basis at each treatment plant to reduce or remain on reduced monitoring for TTHM and HAA5. Once qualified for reduced monitoring for TTHM and HAA5 under this

section, a system may reduce source water TOC monitoring to quarterly TOC samples taken every 90 days at a location prior to any treatment.

(II) For systems that use only groundwater sources not included under subclause (I), the required monitoring is reduced according to the following:

* * * * *

(-b-) For systems serving fewer than 10,000 persons that have an annual TTHM average that is no greater than 0.040 mg/L and an annual HAA5 average that is no greater than 0.030 mg/L for 2 consecutive years or an annual TTHM average that is no greater than 0.020 mg/L and an annual HAA5 average that is no greater than 0.015 mg/L for 1 year, the required monitoring is reduced to one sample per 3-year cycle per treatment plant. The sample shall be taken at a location that represents a maximum residence time during the month of warmest water temperature. The 3-year cycle shall begin on January 1 following the quarter in which the system qualifies for reduced monitoring. If the TTHM annual average exceeds 0.060 mg/L, or the HAA5 annual average exceeds 0.045 mg/L the system shall resume routine monitoring as prescribed in clause (A), except that systems that exceed either a TTHM or HAA5 MCL shall increase monitoring to at least one sample per quarter per treatment plant beginning in the quarter immediately following the quarter in which the system exceeds the TTHM or HAA5 MCL.

(ii) *TTHM and HAA5 Stage 2 DBP Rule.*

(A) *Applicability and schedule.*

(I) Community water systems and nontransient noncommunity water systems using a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light shall monitor for compliance with the MCLs based on the LRAA for TTHM and HAA5. Any system that is part of a combined distribution system shall comply at the same time as the system with the earliest compliance date in the combined distribution system. Systems shall comply with this subparagraph as follows:

(-a-) Systems serving 100,000 or more people begin April 1, 2012.

(-b-) Systems serving from 50,000 to 99,999 people begin October 1, 2012.

(-c-) Systems serving from 10,000 to 49,999 people begin October 1, 2013.

(-d-) Systems serving less than 10,000 people:

(-1-) Begin October 1, 2013, if no *Cryptosporidium* monitoring is required under §§ 109.1201—109.1204.

(-2-) Begin October 1, 2014, if *Cryptosporidium* monitoring is required under §§ 109.1201—109.1204.

(II) For the purpose of the schedule under this subparagraph, the Department may determine that the combined distribution system does not include certain consecutive water systems based on factors such as receiving water from a wholesale system only on an emergency basis or receiving only a small percentage and

small volume of water from a wholesale system. The Department may also determine that the combined distribution system does not include certain wholesale systems based on factors such as delivering water to a consecutive water system only on an emergency basis or delivering only a small percentage and small volume of water to a consecutive water system.

(III) All systems monitoring under this paragraph shall comply with subparagraph (i) until the dates specified in this subparagraph.

(B) *Routine monitoring.*

(I) A system that submitted an IDSE report shall begin monitoring at the locations and months recommended in the IDSE report unless the Department notifies the system that other locations or additional locations are required. A system that submitted a 40/30 certification, or qualified for a very small system waiver or a nontransient noncommunity water system serving less than 10,000, shall monitor at the locations and dates identified in its Stage 2 DBP rule monitoring plan following the schedule in § 109.701(g)(2)(ii) (relating to reporting and recordkeeping).

(II) A system required to conduct quarterly monitoring shall begin monitoring in the first full calendar quarter that includes the compliance date specified in clause (A). A system required to conduct monitoring at frequencies less than quarterly shall begin monitoring in the calendar month recommended in the IDSE report in accordance with 40 CFR 141.601 and 141.602 (relating to standard monitoring; and system specific studies) as incorporated by reference or the calendar month identified in the Stage 2 DBP rule monitoring plan no later than 12 months after the applicable compliance date under clause (A).

(III) Monitoring shall be conducted at no fewer than the number of locations identified in the table under subclauses (IV) and (V). All systems shall monitor during the month of highest DBP concentrations. Systems on quarterly monitoring shall sample every 90 days at each monitoring location. Sampling at each monitoring location shall be conducted as follows:

(-a-) Systems using surface water or GUDI sources serving a population greater than 3,300 and systems using groundwater sources serving a population of 500 or greater shall take dual sample sets at each monitoring location.

(-b-) Systems using surface water or GUDI sources serving a population of 3,300 or less and systems using groundwater sources serving a population less than 500 shall take individual TTHM and HAA5 samples at the locations with the highest TTHM and HAA5 concentrations, respectively.

(-c-) Systems serving a population less than 500 may take a dual sample set at one location per monitoring period if the highest TTHM and HAA5 concentrations occur at the same location and during the same month.

(IV) Community water systems and nontransient noncommunity water systems using surface water or GUDI sources shall monitor as follows:

<i>Population size</i>	<i>Monitoring frequencies</i>	<i>Distribution system monitoring location total per monitoring period</i>
< 500	Annually	2
500—3,300	Quarterly	2
3,301—9,999	Quarterly	2
10,000—49,999	Quarterly	4
50,000—249,999	Quarterly	8
250,000—999,999	Quarterly	12
1,000,000—4,999,999	Quarterly	16
≥ 5,000,000	Quarterly	20

(V) Community water systems and nontransient noncommunity water systems using groundwater sources shall monitor as follows:

<i>Population size</i>	<i>Monitoring frequencies</i>	<i>Distribution system monitoring location total per monitoring period</i>
< 500	Annually	2
500—9,999	Annually	2
10,000—99,999	Quarterly	4
100,000—499,999	Quarterly	6
≥ 500,000	Quarterly	8

(VI) An undisinfected system that begins using a disinfectant other than UV light after the dates under 40 CFR 141.600 (relating to general requirements) as incorporated by reference for complying with the IDSE requirements, shall consult with the Department to identify compliance monitoring locations. The system shall develop a monitoring plan under § 109.701(g)(2)(ii) that includes those monitoring locations.

(VII) Systems shall use analytical techniques adopted by the EPA under the Federal act for TTHM and HAA5 analyses. Laboratories that have received accreditation by the Department shall conduct analyses.

(C) *Reduced monitoring.*

(I) Systems may reduce monitoring to the level specified in the table under subclauses (II) and (III) if, after at least 4 consecutive quarters, the LRAA is equal to or less than 0.040 mg/L for TTHM and equal to or less than 0.030 mg/L for HAA5 at all monitoring locations. Only data collected under subparagraph (i) and this subparagraph may be used to qualify for reduced monitoring. Systems with surface water or GUDI sources shall also take monthly TOC samples every 30 days at a location prior to any treatment, to qualify for reduced monitoring for TTHM and HAA5 under this clause. In addition to meeting other criteria for reduced monitoring in this clause, the source water TOC running annual average (based on the most recent 4 quarters of monitoring) must be equal to or less than 4.0 mg/L on continuing basis at each treatment plant to reduce monitoring for TTHM and HAA5. Once qualified for reduced monitoring for TTHM and HAA5 under this clause, a system may reduce source water TOC monitoring to quarterly TOC samples taken every 90 days at a location prior to any treatment.

(II) Community water systems and nontransient noncommunity water systems using surface water or GUDI sources may reduce monitoring as follows:

<i>Population size</i>	<i>Monitoring frequencies</i>	<i>Distribution system monitoring location total per monitoring period</i>
< 500	Monitoring may not be reduced	
500—3,300	Annually	1 TTHM and 1 HAA5 sample: 1 at the location and during the quarter with the highest TTHM single measurement, 1 at the location and during the quarter with the highest HAA5 single measurement; 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
3,301—9,999	Annually	2 dual sample sets: 1 at the location and during the quarter with the highest TTHM single measurement, 1 at the location and during the quarter with the highest HAA5 single measurement.
10,000—49,999	Quarterly	2 dual sample sets at the locations with the highest TTHM and the highest HAA5 LRAAs.
50,000—249,999	Quarterly	4 dual sample sets at the locations with two highest TTHM and two highest HAA5 LRAAs.
250,000—999,999	Quarterly	6 dual sample sets at the locations with the three highest TTHM and the three highest HAA5 LRAAs.
1,000,000—4,999,999	Quarterly	8 dual sample sets at the location with the 4 highest TTHM and 4 highest HAA5 LRAAs.
≥ 5,000,000	Quarterly	10 dual sample sets at the locations with the five highest TTHM and five highest HAA5 LRAAs.

(III) Community water systems and nontransient noncommunity water systems using groundwater sources may reduce monitoring as follows:

<i>Population size</i>	<i>Monitoring frequencies</i>	<i>Distribution system monitoring location total per monitoring period</i>
< 500	Every third year	1 TTHM and 1 HAA5 sample: 1 at the location and during the quarter with the highest TTHM single measurement; 1 at the location and during quarter with highest HAA5 single measurement; 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
500—9,999	Annually	1 TTHM and 1 HAA5 sample: 1 at the location and during the quarter with highest TTHM single measurement; 1 at the location during the quarter with the highest HAA5 single measurement; 1 dual sample set per year if the highest TTHM and HAA5 measurements occurred at the same location and quarter.
10,000—99,999	Annually	2 dual sample sets: 1 at the location and during the quarter with the highest TTHM single measurement; 1 at the location and during the quarter with the highest HAA5 single measurement.
100,000—499,999	Quarterly	2 dual sample sets at the locations with the highest TTHM and highest HAA5 LRAAs.
≥ 500,000	Quarterly	4 dual sample sets at the locations with the two highest TTHM and two highest HAA5 LRAAs.

(IV) Systems on reduced quarterly monitoring may remain on reduced monitoring as long as the TTHM LRAA is equal to or less than 0.040 mg/L and the HAA5 LRAA is equal to or less than 0.030 mg/L at each monitoring location. Systems on reduced annual or less frequent monitoring may remain on reduced monitoring as long as each TTHM sample result is equal to or less than 0.060 mg/L and each HAA5 sample result is equal to

or less than 0.045 mg/L. In addition, the source water TOC running annual average (based on the most recent 4 quarters of monitoring) from samples collected every 90 days at a location prior to any treatment must be equal to or less than 4.0 mg/L at each treatment plant treating surface water or GUDI sources.

(V) If the LRAA based on quarterly monitoring at any monitoring location exceeds either 0.040 mg/L for TTHM

or 0.030 mg/L for HAA5 or if the annual (or less frequent) sample at any location exceeds either 0.060 mg/L for TTHM or 0.045 mg/L for HAA5, or if the source water annual average TOC level, before any treatment, is greater than 4.0 mg/L at any treatment plant treating surface water or GUDI sources, the system shall resume routine monitoring under clause (B) or begin increased monitoring if clause (D)(I) applies.

(VI) The Department retains the right to require a system that meets the requirements of this clause to resume routine monitoring.

(VII) A system may remain on reduced monitoring after the dates identified in clause (A) for compliance with this subparagraph only if the criteria specified in items (-a-)—(-c-) are met. If any condition is not met, the system shall resume routine monitoring as specified in clause (B) by the dates specified in clause (A).

(-a-) The system qualified for a 40/30 certification under 40 CFR 141.603 (relating to 40/30 certification) as incorporated by reference or has received a very small system waiver under 40 CFR 141.604 (relating to very small system waivers) as incorporated by reference.

(-b-) The system meets the reduced monitoring criteria in this clause.

(-c-) The system has not changed or added monitoring locations from those used for compliance monitoring in subparagraph (i).

(D) *Increased monitoring.*

(I) Systems that are required to monitor at a particular location annually or less frequently than annually under clause (B) or (C) shall increase monitoring to dual sample sets once per quarter (taken every 90 days) at all locations if any single TTHM sample result is greater than 0.080 mg/L or any single HAA5 sample result is greater than 0.060 mg/L at any location.

(II) A system may return to routine monitoring once it has conducted increased monitoring for at least 4 consecutive quarters and the LRAA for every monitoring location is equal to or less than 0.060 mg/L for TTHM and is equal to or less than 0.045 mg/L for HAA5.

(III) Systems on increased monitoring under subparagraph (i) shall remain on increased monitoring until they qualify for a return to routine monitoring under subclause (II). Systems shall conduct increased monitoring under subclause (I) at the monitoring locations in the monitoring plan developed under § 109.701(g)(2)(ii) beginning at the date identified in clause (A) for compliance with this subparagraph and remain on increased monitoring until they qualify for a return to routine monitoring under subclause (II).

(E) *General monitoring and compliance requirements.*

(I) A system required to monitor quarterly shall calculate LRAAs for TTHM and HAA5 using monitoring results collected under this subparagraph and determine that each LRAA does not exceed the MCL. A system that fails to complete four consecutive quarters of monitoring, shall calculate compliance with the MCL based on the average of the available data from the most recent 4 quarters. A system that takes more than one sample per quarter at a monitoring location shall average all samples taken in the quarter at that location to determine a quarterly average to be used in the LRAA calculation.

(II) A system required to monitor yearly or less frequently shall determine that each sample result is less than the MCL. If any single sample result exceeds the

MCL, the system shall comply with the requirements of clause (D). If no sample result exceeds the MCL, the sample result for each monitoring location is considered the LRAA for that monitoring location.

(III) A system required to conduct quarterly monitoring, shall make compliance calculations at the end of the 4th calendar quarter that follows the compliance date (or earlier if the LRAA calculated based on fewer than 4 quarters of data would cause the MCL to be exceeded regardless of the monitoring results of subsequent quarters) and at the end of each subsequent calendar quarter. A system required to conduct monitoring at a frequency that is less than quarterly shall make compliance calculations beginning with the first compliance sample taken after the compliance date.

(IV) A system is in violation of the MCL when the LRAA at any location exceeds the MCL for TTHM or HAA5, calculated as specified in subclause (I), or the LRAA calculated based on fewer than 4 quarters of data if the MCL would be exceeded regardless of the monitoring results of subsequent quarters. A system is in violation of the monitoring requirements for each quarter that a monitoring result would be used in calculating an LRAA if it fails to monitor.

(iii) *Chlorite.* Community water systems and nontransient noncommunity water systems that use chlorine dioxide for disinfection or oxidation shall monitor for chlorite.

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(iv) *Bromate.* Community water systems and nontransient noncommunity water systems that use ozone for disinfection or oxidation shall monitor for bromate.

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(B) *Reduced monitoring.*

(I) Until March 31, 2009, systems that have an average source water bromide concentration that is less than 0.05 mg/L based upon representative monthly bromide measurements for 1 year, the required monitoring is reduced from monthly to quarterly. Systems on reduced monitoring shall continue to take monthly samples for source water bromide. If the running annual average source water bromide concentration, computed quarterly, equals or exceeds 0.05 mg/L based upon representative monthly measurements, the system shall revert to routine monitoring as prescribed by clause (A).

(II) Beginning April 1, 2009, a system required to analyze for bromate may reduce monitoring from monthly to quarterly, if the system's running annual average bromate concentration computed quarterly is less than or equal to 0.0025 mg/L based on monthly measurements as prescribed in clause (A) for the most recent 4 quarters. Systems qualifying for reduced bromate monitoring under subclause (I) may remain on reduced monitoring as long as the running annual average of quarterly bromate samples is less than or equal to 0.0025 mg/L. If the running annual average bromate concentration is greater than 0.0025 mg/L, the system shall resume routine monitoring as prescribed under clause (A).

(v) *DBP precursors.* Community water systems and nontransient noncommunity water systems that use either surface water or GUDI sources and that use conventional filtration shall monitor for disinfection byproduct precursors.

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§ 109.304. Analytical requirements.

(a) Sampling and analysis shall be performed in accordance with analytical techniques adopted by the EPA under the Federal act or methods approved by the Department.

(b) An alternate analytical technique may be employed with the written approval of the Department and the concurrence of the Administrator. An alternate technique will be accepted only if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with MCLs or MRDLs or treatment technique requirements. The use of the alternate analytical technique may not decrease the frequency of monitoring required by this subchapter.

(c) For the purpose of determining compliance with the monitoring and analytical requirements established under this subchapter and Subchapters K, L and M (relating to lead and copper; long-term 2 enhanced surface water treatment rule; and additional requirements for groundwater sources), the Department will consider only samples analyzed by a laboratory accredited by the Department, except that measurements for turbidity, fluoridation operation, residual disinfectant concentration, temperature, pH, alkalinity, orthophosphates, silica, calcium, conductivity, daily chlorite, and magnesium hardness may be performed by a person meeting one of the following requirements:

(1) A person meeting the requirements of § 109.704 (relating to operator certification).

(2) A person using a standard operating procedure as provided under authority of the Water and Wastewater Systems Operators' Certification Act (63 P.S. §§ 1001—1015.1).

(3) An environmental laboratory meeting the requirements of Chapter 252 (relating to environmental laboratory accreditation).

(d) A system shall have *Cryptosporidium* samples analyzed by a laboratory that is approved under the EPA's Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* in Water or a laboratory that has been accredited for *Cryptosporidium* analysis by an equivalent Department laboratory accreditation program.

Subchapter D. PUBLIC NOTIFICATION

§ 109.407. General public notification requirements.

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

(1) Failure to comply with an applicable State primary MCL or MRDL in Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).

(2) Failure to comply with a prescribed treatment technique requirement in Subchapter B, G, K, L or M.

(3) Failure to perform water quality monitoring, as required by Subchapter C (relating to monitoring requirements) or Subchapter K.

(4) Operation under a variance or an exemption under Subchapter I (relating to variances and exemptions issued by the Department).

(5) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.

(6) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to definitions), or other emergency situation as defined in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping) that adversely affects the quality or quantity of finished water and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.

(7) Availability of unregulated contaminant monitoring data.

(8) Exceedance of the nitrate MCL by noncommunity water systems, when permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to MCLs for inorganic contaminants).

(9) Other violations or situations determined by the Department to require a public notice under this subchapter.

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§ 109.408. Tier 1 public notice—categories, timing and delivery of notice.

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

(1) Violation of the MCL for total coliforms when fecal coliforms or *E. coli* are present in the water distribution system, as specified in § 109.202(a)(2) (relating to MCLs, MRDLs or treatment technique requirements), or when the water supplier fails to test for fecal coliforms or *E. coli* when any check sample tests positive for coliforms, as specified in § 109.301(3) (relating to general monitoring requirements).

(2) Violation of the MCL for nitrate, nitrite or total nitrate and nitrite, as defined in § 109.202(a)(2), or when the water supplier fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in § 109.301(7)(ii)(C)(V).

(3) Exceedance of the nitrate MCL by noncommunity water systems, when permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to maximum contaminant levels for inorganic chemicals).

(4) Violation of the MRDL for chlorine dioxide, as defined in § 109.202(f)(2), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water supplier does not take the required samples in the distribution system, as specified in § 109.301.

(5) Violation of the turbidity MCL of 5 NTU based on an average for 2 consecutive days by a public water system using an unfiltered surface water source, as specified in § 109.202(a)(2).

(6) Violation of a treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202(c), resulting from a single exceedance of the maximum allowable turbidity limit.

(7) Violation of a treatment technique requirement for *Cryptosporidium* as defined in § 109.1203 (relating to bin classification and treatment technique requirements), resulting from a failure to provide the level of treatment appropriate for the systems bin classification.

(8) Detection of *E. coli* in source water samples as specified in §§ 109.1303 and 109.1304 (relating to trig-

gered monitoring requirements for groundwater sources; and assessment source water monitoring).

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

(10) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to definitions), or other emergency situation as defined in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping) that adversely affects the quality or quantity of the finished water and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.

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

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§ 109.409. Tier 2 public notice—categories, timing and delivery of notice.

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

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

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

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§ 109.410. Tier 3 public notice—categories, timing and delivery of notice.

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

(1) Monitoring violations under Subchapter C, K, L or M, except when a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—categories, timing and delivery of notice) or when the Department determines that a Tier 2 notice is required.

(2) Reporting and record maintenance violations under § 109.701(h) (relating to reporting and recordkeeping).

(3) Operation under a variance or an exemption granted under Subchapter I (relating to variances and exemptions issued by the Department).

(4) Availability of unregulated contaminant monitoring results, as required under 40 CFR 141.40 (relating to monitoring requirements for unregulated contaminants).

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

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

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

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

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

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

§ 109.418. Special notice for failure to conduct source water *Cryptosporidium* monitoring or failure to determine bin classification.

(a) *Special notice for repeated failure to conduct monitoring of the source water for Cryptosporidium and for failure to determine bin classification or Cryptosporidium level.* The owner or operator of a community or noncommunity water system that is required to monitor source water under § 109.1202 (relating to monitoring requirements) shall notify persons served by the water system that monitoring has not been completed as specified no later than 30 days after the system has failed to collect any 3 months of monitoring as specified in § 109.1202(c). The notice shall be repeated as specified in § 109.409(b)(3) (relating to Tier 2 public notice—form, manner and frequency of notice).

(b) *Delivery of the special notice for failure to determine bin classification or Cryptosporidium level.* The owner or operator of a community or noncommunity water system that is required to determine a bin classification under § 109.1203 (relating to bin classification and treatment technique requirements), or to determine *Cryptosporidium* level under § 109.1203(i) and (j), shall notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed to report the determination as specified in § 109.1206(h) (relating to reporting and recordkeeping requirements) or § 109.1203(i) and (j), initial round and second round, respectively. The notice shall be repeated as specified in § 109.409(b)(3). The

notice is not required if the system is complying with a Department-approved schedule to address the violation.

(c) *Form and manner of the special notice.*

(1) The form and manner of the public notice must follow the requirements for a Tier 2 public notice prescribed in § 109.409(c). The public notice shall be presented as required in § 109.411(c) (relating to content of a public notice).

(2) The notice must contain the following language, including the language necessary to fill in the blanks.

(i) The special notice for repeated failure to conduct monitoring must contain the following language:

“We are required to monitor the source of your drinking water for *Cryptosporidium*. Results of the monitoring are to be used to determine whether water treatment at the (treatment plant name) is sufficient to adequately remove *Cryptosporidium* from your drinking water. We are required to complete this monitoring and make this determination by (required bin determination date). We ‘did not monitor or test’ or ‘did not complete all monitoring or testing’ on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate *Cryptosporidium* removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).”

(ii) The special notice for failure to determine bin classification or *Cryptosporidium* level must contain the following language:

“We are required to monitor the source of your drinking water for *Cryptosporidium* to determine by (date) whether water treatment at the (treatment plant name) is sufficient to adequately remove *Cryptosporidium* from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of (date). For more information, please call (name of water system contact) of (name of water system) at (phone number).”

(3) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.

Subchapter E. PERMIT REQUIREMENTS

§ 109.503. Public water system construction permits.

(a) *Permit application requirements.* An application for a public water system construction permit shall be submitted in writing on forms provided by the Department and shall be accompanied by plans, specifications, engineer’s report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to determine compliance with the act and this chapter. The Department will make available to the applicant the Public Water Supply Manual, available from the Bureau of Water Standards and Facility Regulation, Post Office Box 8774, Harrisburg, Pennsylvania 17105 which contains acceptable design standards

and technical guidance. Water quality analyses shall be conducted by a laboratory accredited under this chapter.

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

* * * * *

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

* * * * *

(B) An evaluation of the quality of the raw water from each new source. This clause does not apply when the new source is finished water obtained from an existing permitted community water system unless the Department provides written notice that an evaluation is required. The evaluation must include analysis of the following:

(I) VOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.61(a) (relating to maximum contaminant levels for organic contaminants). Vinyl chloride monitoring is required only if one or more of the two-carbon organic compounds specified under § 109.301(5)(i) (relating to general monitoring requirements) are detected. Samples for VOCs shall be collected in accordance with § 109.303(d) (relating to sampling requirements).

(II) Except for asbestos, IOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.62 (relating to maximum contaminant levels for inorganic contaminants). The new source shall be monitored for asbestos if the Department has reason to believe the source water is vulnerable to asbestos contamination.

(III) Lead.

(IV) Copper.

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

(VI) SOCs.

(-a-) Except for SOCs that have been granted a State-wide waiver, SOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.61(c).

(-b-) Dioxin where there is a source of dioxin contamination within 1,000 feet of a groundwater source or within 1 mile upstream of a surface water source.

(-c-) Polychlorinated biphenyls (PCBs) where there is a source of PCB contamination within 1,000 feet of a groundwater source or within 1 mile upstream of a surface water source.

(VII) Gross Alpha (α), radium-226, radium-228, uranium and Gross Beta (β).

(VIII) Aluminum, chloride, color, foaming agents, iron, manganese, pH, silver, sulfate, total dissolved solids and zinc for which MCLs have been established by the EPA under the National Secondary Drinking Water Regulations in 40 CFR 143.3 (relating to secondary MCLs).

(IX) Alkalinity.

(X) Hardness.

(XI) Temperature.

(XII) For surface water or GUDI sources, *E. coli* or *Cryptosporidium*, or both, as specified in § 109.1202 (relating to monitoring requirements).

(XIII) Other contaminants that the Department determines necessary to evaluate the potability of the source.

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§ 109.505. Requirements for noncommunity water systems.

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

* * * * *

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

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

(ii) The water supplier files a brief description of the system, including raw source quality data, on forms acceptable to the Department. Amendments to the system description shall be filed when a substantial modification is made to the system. Descriptions of new systems or modifications shall be submitted and approved by the Department prior to construction.

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

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

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

* * * * *

(b) A noncommunity water system providing 4-log treatment of a groundwater source under § 109.1302(b) (relating to treatment technique requirements) that has

not obtained a construction permit under § 109.503 (relating to public water system construction permits) and an operations permit under § 109.504 (relating to public water system operation permits) shall obtain a noncommunity water system 4-log treatment of groundwater permit under § 109.1306 (relating to information describing 4-log treatment and compliance monitoring) and comply with subsection (a)(2)(ii).

§ 109.507. Permits for Innovative Technology.

The Department may consider proposals for innovative water treatment processes, methods or equipment and may issue an innovative technology construction or operation permit if the applicant demonstrates to the Department's satisfaction that the proposal will provide drinking water that complies with Subchapters B, L and M (relating to MCLs, MRDLs or treatment technique requirements; long-term 2 enhanced surface water treatment rule; and additional requirements for groundwater sources). Applications for innovative technology construction permits must satisfy the requirements of § 109.503 (relating to public water system construction permits). The Department may condition innovative technology operation permits on duration, additional monitoring, reporting or other requirements as it deems necessary to protect the public health. The Department may revoke an innovative technology construction or operation permit if it finds the public water system is not complying with drinking water standards or the terms or conditions of the permit or if there is a significant change in the source water quality which could affect the reliability and operability of the treatment facility. Authorization for construction, operation or modifications obtained under an innovative technology permit will not extend beyond the expiration date of the permit.

Subchapter F. DESIGN AND CONSTRUCTION STANDARDS

§ 109.602. Acceptable design.

(a) A public water system shall be designed to provide an adequate and reliable quantity and quality of water to the public. The design must ensure that the system will, upon completion, be capable of providing water that complies with the primary and secondary MCLs, MRDLs and treatment techniques established in Subchapters B, L and M (relating to MCLs, MRDLs or treatment technique requirements; long-term 2 enhanced surface water treatment rule; and additional requirements for groundwater sources) except as further provided in this section.

* * * * *

§ 109.605. Minimum treatment design standards.

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

* * * * *

(3) For surface water and GUDI sources permitted after December 26, 2009, that are determined to be bin 2 or higher, the minimum treatment design for filtration and disinfection must also meet the requirements of §§ 109.1203 and 109.1204 (relating to bin classification and treatment technique requirements; and requirements for microbial toolbox components).

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

(5) For noncommunity water systems using groundwater with an *E. coli*-positive groundwater source sample collected under § 109.505(a)(3) (relating to requirements for noncommunity water systems), the minimum treatment design standard for disinfection technologies utilized at the entry point is a total of 99.99% treatment of viruses.

§ 109.611. Disinfection.

Disinfection facilities shall be designed to provide the dosage rate and contact time prior to the first customer sufficient to provide a quality of water that complies with the microbiological MCL and the appropriate MRDL, specified in § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) and the treatment technique requirements in § 109.1302 (relating to treatment technique requirements).

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.701. Reporting and recordkeeping.

(a) Reporting requirements for public water systems. Public water systems shall comply with the following requirements:

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(8) Reporting requirements for disinfectant residuals. In addition to the reporting requirements specified in paragraph (1), public water systems shall report MRDL monitoring data as follows:

(i) Systems monitoring for chlorine dioxide under § 109.301(13) shall report the number of days chlorine dioxide was used at each entry point during the last month.

(ii) Systems monitoring for either chlorine or chloramines under § 109.301(13) shall report the following:

(A) The number of samples taken during the month.

(B) The arithmetic average of all distribution samples taken in the last month.

(9) Noncompliance report. Except where a different reporting period is specified in this chapter, the water supplier shall report to the Department within 48 hours the failure to comply with any National Primary Drinking Water Regulation, including the failure to comply with any monitoring requirement set forth in this chapter.

* * * * *

(d) Record maintenance. The public water supplier shall retain on the premises of the public water system or at a convenient location near the premises the following:

(1) Records of bacteriological and turbidity analyses which shall be kept for at least 5 years, and records of chemical analyses which shall be kept for at least 12 years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, if the following information is included:

* * * * *

(2) Records of performance monitoring required under § 109.301, except for turbidity, which shall be kept for at least 3 years. Records of turbidity performance monitoring required under § 109.301 shall be kept for at least 5 years. At a minimum, these records must contain the reporting requirements under subsection (a).

* * * * *

(g) Monitoring plans for disinfectants, DBPs and DBP precursors.

(1) Stage 1 DBP Rule. Systems required to monitor for disinfection byproducts under § 109.301(12)(i), disinfection byproduct precursors under § 109.301(12)(v) or disinfectant residuals under § 109.301(13) shall develop and implement a monitoring plan. The system shall maintain the plan and make it available for inspection by the Department and the general public no later than 30 days following the applicable compliance dates. Systems that use either surface water or GUDI sources shall submit a copy of the monitoring plan to the Department no later than 30 days prior to the date of the first report required under this subchapter. The Department may also require the plan to be submitted by any other system, regardless of size or source water type. After review, the Department may require changes in any of the plan components.

(i) The plan must include the following components:

(A) Specific locations and schedules for collecting samples for any parameters included in § 109.301(12) or (13).

(B) How the system will calculate compliance with the MCLs, MRDLs and treatment techniques.

(C) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the sampling plan shall reflect the entire distribution system.

(D) Systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required under § 109.301(12)(i).

(ii) The system shall notify the Department of subsequent revisions to a monitoring plan as they occur. Revisions to a monitoring plan shall be submitted in written form to the Department within 30 days of notifying the Department of the revisions.

(iii) Copies of Stage 1 DBP Rule monitoring plans developed under this paragraph shall be kept for the same period of time as the Stage 1 DBP Rule records of analyses are required to be kept under subsection (d)(1).

(2) Stage 2 DBP Rule. Systems required to monitor for disinfection byproducts under § 109.301(12)(ii) shall comply with the following:

(i) IDSE requirements. The IDSE requirements established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.600—141.605 (relating to initial distribution system evaluations) are incorporated by reference except as otherwise established by this chapter.

(ii) Stage 2 DPB Rule monitoring plan.

(A) A public water system shall develop and implement a monitoring plan to be kept on file for Department and public review. The monitoring plan must contain the elements in subclauses (I)—(III) and be completed no later than the date systems conduct their initial monitoring under § 109.301(12)(ii)(A).

(I) Monitoring locations,

(II) Monitoring dates,

(III) Compliance calculation procedures

(B) Public water systems not required to submit an IDSE report under either 40 CFR 141.601 or 141.602 (relating to standard monitoring; and system specific studies) as incorporated by reference, and do not have sufficient § 109.301(12)(i) monitoring locations to identify

the required number of Stage 2 DBP rule compliance monitoring locations, shall identify additional locations by alternating selection of locations representing high TTHM levels and high HAA5 levels until the required number of Stage 2 DBP rule compliance monitoring locations have been identified. The system shall also provide the rationale for identifying the locations as having high levels of TTHM or HAA5. Systems that have more Stage 1 DBP rule monitoring locations than required for Stage 2 DBP rule compliance monitoring shall identify which locations will be used for Stage 2 DBP rule compliance monitoring by alternating selection of Stage 1 DBP rule monitoring locations representing high TTHM levels and high HAA5 levels until the required number of Stage 2 DBP rule compliance monitoring locations have been identified.

(C) A public water system shall submit a copy of its monitoring plan to the Department prior to the date for initial monitoring specified in § 109.301(12)(ii), unless the system submits to the Department an IDSE report containing all the information required by clause (A).

(D) A public water system may revise its monitoring plan to reflect changes in treatment, distribution system operations and layout (including new service areas), or other factors that may affect TTHM or HAA5 formation, or for Department-approved reasons, after consultation with the Department regarding the need for changes and the appropriateness of changes. A system that changes monitoring locations, shall replace existing compliance monitoring locations with the lowest LRAA with new locations that reflect the current distribution system locations with expected high TTHM or HAA5 levels. The Department may also require modifications in the system's monitoring plan. Systems shall submit a copy of the modified monitoring plan to the Department prior to the date the system is required to comply with the revised monitoring plan.

(iii) *Operational evaluation levels.*

(A) The operational evaluation level for TTHM and HAA5 is the sum of the two previous quarterly results plus twice the current quarter's result, divided by four. Public water systems that are monitoring quarterly shall calculate the TTHM and HAA5 operation evaluation levels for each monitoring location at the end of each calendar quarter.

(B) If the TTHM operational evaluation level exceeds 0.080 mg/L, or the HAA5 operational evaluation level exceeds 0.060 mg/L at any monitoring location, the system shall conduct an operational evaluation to identify the cause of the exceedance and submit a written report of the evaluation to the Department no later than 90 days after being notified of the analytical result that causes the system to exceed the operational evaluation level. The written report must be made available to the public upon request.

(C) The operational evaluation must include an examination of system treatment and distribution operational practices, including storage tank operations, excess storage capacity, distribution system flushing, changes in sources or source water quality, and treatment changes or problems that may contribute to TTHM and HAA5 formation and what steps could be considered to minimize future exceedances.

(I) A system may request and the Department may allow a system to limit the scope of evaluation if the system is able to identify the cause of the operational evaluation level exceedance.

(II) The request to limit the scope of the evaluation does not extend the schedule in clause (B) for submitting the written report. The Department must approve this limited scope of evaluation in writing and systems shall keep that approval with the completed report.

(iv) *Reporting and recordkeeping requirements.*

(A) For each monitoring location, public water systems shall report to the Department within 10 days of the end of any quarter in which monitoring is required any TTHM operational evaluation level that exceeded 0.080 mg/L and any HAA5 operational evaluation level that exceeded 0.060 mg/L during the quarter and the location, date, and the TTHM and HAA5 calculated operation evaluation level.

(B) Copies of Stage 2 DBP Rule monitoring plans developed under this subparagraph shall be kept for the same period of time as the Stage 2 DBP Rule records of analyses are required to be kept under subsection (d)(1).

* * * * *

(1) *Additional reporting and recordkeeping requirements for systems using surface water or GUDI sources.* In addition to the reporting and recordkeeping requirements of this subchapter, systems using surface water or GUDI sources shall also comply with the reporting and recordkeeping requirements of § 109.1206 (relating to reporting and recordkeeping requirements).

(m) *Additional reporting and recordkeeping requirements for systems using groundwater sources.* In addition to the reporting and recordkeeping requirements of this subchapter, systems using groundwater sources shall also comply with the reporting and recordkeeping requirements of § 109.1307 (relating to system management responsibilities).

§ 109.705. Sanitary surveys.

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

(1) Undergo a sanitary survey conducted by the Department by June 29, 1994, and thereafter undergo a subsequent sanitary survey conducted by the Department at a minimum frequency of every 3 years.

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

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

(1) Undergo an initial sanitary survey conducted by the Department by June 29, 1999, and thereafter undergo a subsequent sanitary survey at a minimum of every 5 years after the initial sanitary survey.

(2) Increase the number of routine coliform samples collected to at least five samples per month if the Department does not conduct a sanitary survey by June 29, 1999, or within 5 years following the initial or a subsequent sanitary survey. This increased sampling fre-

quency shall be in place of the monitoring frequency requirements for coliforms in § 109.301(3)(i) and shall remain in effect through the month in which the next sanitary survey is conducted by the Department.

(d) The following apply to significant deficiencies identified at public water systems supplied by a surface water source and public water systems supplied by a groundwater source under the direct influence of surface water:

(1) For sanitary surveys performed by the Department, a system shall respond in writing to significant deficiencies identified in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey.

(2) A system shall correct significant deficiencies identified in sanitary survey reports according to the schedule approved by the Department, or if there is no approved schedule, according to the schedule reported under paragraph (1) if the deficiencies are within the control of the system.

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

Subchapter H. LABORATORY CERTIFICATION

§ 109.801. Certification requirement.

A laboratory shall be accredited under Chapter 252 (relating to laboratory accreditation) to perform analyses acceptable to the Department for the purposes of ascertaining drinking water quality and demonstrating compliance with monitoring requirements established in Subchapters C, K, L and M.

§ 109.810. Reporting and notification requirements.

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(b) A laboratory accredited under Chapter 252 shall whenever the results of test measurements or analyses performed by the laboratory under this chapter indicate an MCL, MRDL or a treatment technique performance requirement under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) is exceeded, or an action level under § 109.1102(a) (relating to lead and copper) is exceeded, or a sample result requires the collection of check or confirmation samples under § 109.301 (relating to general monitoring requirements), or a sample collected under Subchapter M (relating to additional requirements for groundwater sources) is *E. coli*-positive:

* * * * *

Subchapter I. VARIANCES AND EXEMPTIONS ISSUED BY THE DEPARTMENT

§ 109.901. Requirements for a variance.

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

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

(2) The water supplier has demonstrated to the Department that, because of characteristics of the raw water

sources which are reasonably available to the system, the system cannot meet the requirements respecting the MCLs.

(3) The granting of a variance will not result in an unreasonable risk to the health of persons served by the system.

(b) The MCL for total coliforms established under § 109.202(a) (relating to State MCLs, MRDLs and treatment technique requirements) is not eligible for a variance.

(c) The Department may grant one or more variances to a public water system from a treatment technique requirement upon a finding that the public water supplier applying for the variance has demonstrated that, because of the nature of the raw water source of the system the treatment technique is not necessary to protect the health of the persons served by the system. The treatment technique requirements established under § 109.202(c), the treatment technique requirements established under § 109.1102(b) (relating to action levels and treatment technique requirements), the treatment technique requirements established under §§ 109.1203 and 109.1302 (relating to bin classification and treatment technique requirements; and treatment technique requirements) are not eligible for a variance.

§ 109.903. Requirements for an exemption.

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

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

(2) The public water system was in operation on the effective date of the contaminant level or treatment technique requirement or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to the new system.

(3) The granting of the exemption will not result in an unreasonable risk to health.

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

(b) The MCL for total coliforms established under § 109.202(a) (relating to State MCLs, MRDLs and treatment technique requirements) is not eligible for an exemption.

(c) The treatment technique requirements established under § 109.202(c), the treatment technique requirements established under §§ 109.1102(b), 109.1203 and 109.1302 (relating to action levels and treatment technique requirements; bin classification and treatment technique requirements; and treatment technique requirements) are not eligible for an exemption.

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

The Department will consider comments received during the comment period and testimony in the record of a public hearing held with respect to the request for a variance or exemption before making a determination. The Department will consider the availability of alterna-

tive water sources, risks to the public health from granting the relief requested and other relevant factors including the following considerations:

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

(2) In its consideration of whether a public water system satisfies the requirements for a variance from a treatment technique requirement under § 109.901(b), the Department will consider the following factors:

(i) The quality of the water source and pertinent sources of pollution.

(ii) The source protection measures employed by the public water system.

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

(i) The need for construction, installation, or modification of treatment equipment or systems.

(ii) The time needed to put into operation a new treatment facility to replace an existing system which is not in compliance.

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

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

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(c) If the Department makes a determination to grant a variance or exemption request, it will document its findings as required under 40 CFR 142.20(a)(1) (relating to State-issued variances and exemptions under section 1415(a) and section 1416 of the act) for granting a variance, and under 40 CFR 142.20(b)(1) for granting an exemption.

§ 109.908. Compliance schedules.

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(e) In accordance with 40 CFR 142.20(b)(2) (relating to State-issued variances and exemptions under section 1415(a) and section 1416 of the act), the Department may renew an exemption for a public water system that serves fewer than 3,300 persons and which needs financial assistance for the necessary improvements under the initial compliance schedule, provided the Department establishes that the system is taking all practicable steps to meet the requirements of this subchapter and the established compliance schedule to achieve full compliance with the applicable MCL or treatment technique requirement. The Department must document its findings in granting an extension under this subsection.

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

§ 109.1002. MCLs, MRDLs or treatment techniques.

(a) Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall supply drinking water that complies with the MCLs, MRDLs and treatment technique requirements under §§ 109.202 and 109.203 (relating to State MCLs, MRDLs and treatment technique requirements; and unregulated contaminants). Bottled water systems, vended water systems, retail water facilities and bulk water hauling systems shall provide continuous disinfection for groundwater sources. Water for bottling labeled as mineral water, under § 109.1007 (relating to labeling requirements for bottled water systems, vended water systems and retail water facilities) shall comply with the MCLs except that mineral water may exceed the MCL for total dissolved solids.

(b) Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall supply drinking water that contains no more than 0.005 mg/L of lead and no more than 1.0 mg/L copper.

(c) Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with the treatment technique requirements under Subchapter L (relating to bin classification and treatment technique rule).

(d) Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with Subchapter M (relating to additional requirements for groundwater sources). For the purpose of determining compliance with Subchapter M, bottled water and vended systems, retail water facilities and bulk water hauling systems using groundwater sources shall comply with standards pertaining to noncommunity groundwater systems.

§ 109.1003. Monitoring requirements.

(a) *General monitoring requirements.* Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall monitor for compliance with the MCLs and MRDLs in accordance with § 109.301 (relating to general monitoring requirements) and shall comply with § 109.302 (relating to special monitoring requirements). The monitoring requirements shall be applied as follows, except that systems which have installed treatment to comply with primary MCL shall conduct quarterly operational monitoring for the contaminant which the facility is designed to remove:

(1) Bottled water systems, retail water facilities and bulk water hauling systems, for each entry point shall:

* * * * *

(viii) *TTHM and HAA5 Stage 1 DBP Rule.* Beginning January 1, 2004, monitor annually for TTHM and HAA5 if the system uses a chemical disinfectant or oxidant, or obtains finished water from another public water system that uses a chemical disinfectant or oxidant to treat the water. Bottled water systems are not required to monitor for TTHM and HAA5 if the system does not use a chlorine-based disinfectant or oxidant and does not obtain finished water from another public water system that uses a chlorine-based disinfectant or oxidant to treat the water.

(A) *Routine monitoring.* Systems shall take at least one sample per year per entry point during the month of

warmest water temperature. If the sample, or average of all samples, exceeds either a TTHM or HAA5 MCL, the system shall take at least one sample per quarter per entry point. The system shall return to the sampling frequency of one sample per year per entry point if, after at least 1 year of monitoring, the TTHM running annual average is no greater than 0.060 mg/L and the HAA5 running annual average is no greater than 0.045 mg/L.

(B) *Reduced monitoring.* Systems that use groundwater sources shall monitor for TTHM and HAA5 for at least 1 year prior to qualifying for reduced monitoring. The Department retains the right to require a system that meets the requirements of this clause to resume routine monitoring.

(I) Systems that use groundwater sources shall reduce monitoring to one sample per 3-year cycle per entry point if the annual TTHM average is no greater than 0.040 mg/L and the annual HAA5 average is no greater than 0.030 mg/L for 2 consecutive years or the annual TTHM average is no greater than 0.020 mg/L and the annual HAA5 average is no greater than 0.015 mg/L for 1 year. The sample shall be taken during the month of warmest water temperature. The 3-year cycle shall begin on January 1 following the quarter in which the system qualifies for reduced monitoring.

(II) Systems that use groundwater sources that qualify for reduced monitoring shall remain on reduced monitoring if the TTHM annual average is no greater than 0.060 mg/L and the HAA5 annual average is no greater than 0.045 mg/L. Systems that exceed these levels shall resume routine monitoring as prescribed in clause (A), except that systems that exceed either a TTHM or HAA5 MCL shall increase monitoring to at least one sample per quarter per entry point beginning in the quarter immediately following the quarter in which the system exceeds the TTHM or HAA5 MCL.

(ix) *TTHM and HAA5 Stage 2 DBP Rule.* Beginning October 1, 2013, monitor annually for TTHM and HAA5 if the system uses a chemical disinfectant or oxidant to treat the water, or obtains finished water from another public water system that uses a chemical disinfectant or oxidant to treat the water as follows:

(A) *Routine monitoring.* Systems shall take at least one dual sample set per year per entry point during the month of warmest water temperature.

(B) *Increased monitoring.* If any sample results exceed either a TTHM or HAA5 MCL, the system shall take at least one dual sample set per quarter per entry point. The system shall return to the sampling frequency of one dual sample set per year per entry point if, after at least 1 year of monitoring, each TTHM sample result is no greater than 0.060 mg/L and each HAA5 sample result is no greater than 0.045 mg/L.

(x) Beginning January 1, 2004, monitor daily for chlorite if the system uses chlorine dioxide for disinfection or oxidation. Systems shall take at least one daily sample at the entry point. If a daily sample exceeds the chlorite MCL, the system shall take three additional samples within 24 hours from the same lot, batch, machine, carrier vehicle or point of delivery. The chlorite MCL is based on the average of the required daily sample plus any additional samples.

(xi) Beginning January 1, 2004, monitor monthly for bromate if the system uses ozone for disinfection or oxidation.

(A) *Routine monitoring.* Systems shall take one sample per month for each entry point that uses ozone while the ozonation system is operating under normal conditions.

(B) *Reduced monitoring.*

(I) Until March 31, 2009, systems shall reduce monitoring for bromate from monthly to quarterly if the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly bromide measurements for 1 year. Systems on reduced monitoring shall continue monthly source water bromide monitoring. If the running annual average source water bromide concentration, computed quarterly, is equal to or exceeds 0.05 mg/L, the system shall revert to routine monitoring as prescribed by clause (A).

(II) Beginning April 1, 2009, a system required to analyze for bromate may reduce monitoring from monthly to quarterly, if each sample result is less than or equal to 0.0025 mg/L based on monthly measurements as prescribed in clause (A) for the most recent 12 months. Systems qualifying for reduced bromate monitoring under subclause (I) may remain on reduced monitoring as long as each sample result from the previous 12 months is less than or equal to 0.0025 mg/L. If any sample result exceeds 0.0025 mg/L, the system shall resume routine monitoring as prescribed under clause (A).

(2) Vended water systems shall monitor in accordance with paragraph (1) except that vended water systems qualifying for permit by rule under § 109.1005(b), for each entry point shall:

- (i) Monitor monthly for microbiological contaminants.
- (ii) Monitor annually for total dissolved solids, lead and cadmium.
- (iii) Conduct special monitoring as required by the Department.

(b) *Sampling requirements.*

(1) For bottled water and vended water systems, retail water facilities and bulk water hauling systems, samples taken to determine compliance with Subsection (a) shall be taken from each entry point.

* * * * *

(f) *Additional monitoring requirements for surface water and GUDI sources.* Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with the monitoring requirements under Subchapter L (relating to long-term 2 enhanced surface water treatment rule).

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

§ 109.1008. System management responsibilities.

(a) *Reporting and recordkeeping requirements for bottled water and vended water systems, retail water facilities and bulk water hauling systems.* Bottled water and vended water systems, retail water facilities and bulk water hauling systems shall comply with the reporting requirements in § 109.701(a) and (d) (relating to reporting and recordkeeping).

* * * * *

(4) In addition to the requirements of this subsection, bottled water and vended water systems, retail water

facilities and bulk water hauling systems using surface water or GUDI sources shall also comply with the reporting and recordkeeping requirements of Subchapter L (relating to long-term 2 enhanced surface water treatment rule).

(5) In addition to the requirements of this Subsection, bottled water and vended water systems, retail water facilities and bulk water hauling systems using groundwater sources, including purchased groundwater, shall also comply with the reporting and recordkeeping requirements of Subchapter M (relating to additional requirements for groundwater sources).

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Subchapter L. LONG-TERM 2 ENHANCED SURFACE WATER TREATMENT RULE

Sec.

- 109.1201. Scope.
- 109.1202. Monitoring requirements.
- 109.1203. Bin classification and treatment technique requirements.
- 109.1204. Requirements for microbial toolbox components.
- 109.1205. Grandfathering previously collected data.
- 109.1206. Reporting and recordkeeping requirements.

§ 109.1201. Scope.

(a) *Scope.* This subchapter establishes or extends treatment technique requirements in lieu of maximum contaminant levels for *Cryptosporidium*. These requirements are in addition to requirements for filtration and disinfection.

(b) *Applicability.* This subchapter applies to public water systems supplied by a surface water source and public water systems supplied by a groundwater source under the direct influence of surface water systems that are part of a combined distribution system shall comply with the requirements of this subchapter based on the population of the largest system in the combined distribution system.

§ 109.1202. Monitoring requirements.

(a) *Initial round of source water monitoring.* A system shall conduct the following monitoring on the schedule in subsection (c) unless it meets the monitoring exemption criteria in subsection (d):

(1) Filtered systems serving at least 10,000 people shall sample their source water for *Cryptosporidium*, *E. coli* and turbidity at least monthly for 24 months.

(2) Unfiltered systems serving at least 10,000 people shall sample their source water for *Cryptosporidium* at least monthly for 24 months.

(3) Filtered systems serving less than 10,000 people shall sample their source water for *E. coli* at least once every 2 weeks for 12 months. A filtered system serving less than 10,000 people may avoid *E. coli* monitoring if the system notifies the Department that it will monitor for *Cryptosporidium* as described in paragraph (4). The system shall notify the Department no later than 3 months prior to the date the system is otherwise required to start *E. coli* monitoring under subsection (c).

(4) Filtered systems serving less than 10,000 people shall sample their source water for *Cryptosporidium* at least twice per month for 12 months or at least monthly for 24 months if they meet one of the following subparagraphs, based on monitoring conducted under paragraph (3):

(i) For systems using lake/reservoir sources, the annual mean *E. coli* concentration is greater than 10 *E. coli*/100 mL.

(ii) For systems using flowing stream sources, the annual mean *E. coli* concentration is greater than 50 *E. coli*/100 mL.

(iii) The system does not conduct *E. coli* monitoring as described in paragraph (3).

(iv) Systems using groundwater sources under the direct influence of surface water (GUDI) shall comply with this paragraph based on the *E. coli* level that applies to the nearest surface water body. If no surface water body is nearby, the system shall comply based on the requirements that apply to systems using lake/reservoir sources.

(5) For filtered systems serving less than 10,000 people, the Department may approve monitoring for an indicator other than *E. coli* under paragraph (3). The Department also may approve an alternative to the *E. coli* concentration in paragraph (4)(i), (ii) or (iv) to trigger *Cryptosporidium* monitoring. This approval by the Department would be based on EPA-supported research indicating the validity of an alternative to *E. coli*. The Department will provide this approval to the system in writing and will include the basis for the Department's determination that the alternative indicator, trigger level, or both, will provide a more accurate identification of whether a system will exceed the Bin 1 *Cryptosporidium* level in § 109.1203(c) (relating to bin classification and treatment technique requirements).

(6) Unfiltered systems serving less than 10,000 people shall sample their source water for *Cryptosporidium* at least twice per month for 12 months or at least monthly for 24 months.

(7) Systems may sample more frequently than required under this section if the sampling frequency is evenly spaced throughout the monitoring period.

(b) *Second round of source water monitoring.* Systems shall conduct a second round of source water monitoring that meets the requirements for monitoring parameters, frequency, and duration described in subsection (a), unless they meet the monitoring exemption criteria in subsection (d). Systems shall conduct this monitoring on the schedule in subsection (c).

(c) *Source water monitoring schedule.* Systems shall begin the monitoring required in subsections (a) and (b) as follows:

(1) At least 100,000 people:

(i) Begin the first round of source water monitoring no later than the month beginning October 1, 2006.

(ii) Begin the second round of source water monitoring at least 6 years after submitting the initial bin classification but no later than the month beginning April 1, 2015.

(2) From 50,000 to 99,999 people:

(i) Begin the first round of source water monitoring no later than the month beginning April 1, 2007.

(ii) Begin the second round of source water monitoring at least 6 years after submitting the initial bin classification but no later than the month beginning October 1, 2015.

(3) From 10,000 to 49,999 people:

(i) Begin the first round of source water monitoring no later than the month beginning April 1, 2008.

(ii) Begin the second round of source water monitoring at least 6 years after submitting the initial bin classification but no later than the month beginning October 1, 2016.

(4) Less than 10,000 people and monitor for E coli:

(i) Begin the first round of source water monitoring no later than the month beginning October 1, 2008.

(ii) Begin the second round of source water monitoring at least 6 years after submitting the initial bin classification but no later than the month beginning October 1, 2017.

(5) Less than 10,000 and monitor for *Cryptosporidium*:

(i) Begin the first round of source water monitoring no later than the month beginning April 1, 2010.

(ii) Begin the second round of source water monitoring at least 6 years after submitting the initial bin classification but no later than the month beginning April 1, 2019.

(d) *Source water monitoring avoidance.*

(1) *5.5 log treatment.* A filtered system is not required to conduct source water monitoring under this subchapter if the system will provide a total of at least 5.5-log of treatment for *Cryptosporidium*, equivalent to meeting the treatment requirements of Bin 4 in § 109.1203.

(2) *Notification.* If a system chooses to provide the level of treatment in paragraph (1), as applicable, rather than start source water monitoring, the system shall notify the Department in writing no later than the date the system is otherwise required to submit a sampling schedule for monitoring under subsections (h)—(j). Alternatively, a system may choose to stop sampling at any point after it has initiated monitoring if it notifies the Department in writing that it will provide this level of treatment. Systems shall install and operate technologies to provide this level of treatment by the applicable treatment compliance date in § 109.1203(k)—(o).

(e) *Plants operating only part of the year.* Public water systems supplied by a surface water source and public water systems supplied by a groundwater source under the direct influence of surface water that operate for only part of the year shall conduct source water monitoring in accordance with this subchapter, but with the following modifications:

(1) Systems shall sample their source water only during the months that the plant operates unless the Department specifies another monitoring period based on plant operating practices.

(2) Systems with plants that operate less than 6 months per year and that monitor for *Cryptosporidium* shall collect at least six *Cryptosporidium* samples per year during each of 2 years of monitoring. Samples must be evenly spaced throughout the period the plant operates or is anticipated to operate.

(f) *New sources.*

(1) A system that intends to use a new source of surface water or GUDI after the system is required to begin monitoring under subsection (c) shall monitor the new source on a schedule the Department approves. Any source that has not been monitored according to the requirements of this subchapter will be considered to be a new source. Source water monitoring for new sources must meet the requirements of this subchapter. The system shall also meet the bin classification and *Cryptosporidium* treatment requirements of § 109.1203 (a)—(j), as applicable, for the new source on a schedule approved by the Department. Sources that have not been monitored according to the requirements of this subchapter will be considered to be Bin 4 until monitoring is adequately completed. No later than the applicable *Cryptosporidium* compliance dates specified in

§ 109.1203(k), systems wishing to use sources that have not been monitored shall meet the Bin 4 treatment requirements of § 109.1203(a)—(j) unless otherwise indicated by the Department.

(2) The requirements of this subsection apply to public water systems supplied by a surface water source or groundwater source under the direct influence of surface water that begin operation after the monitoring start date applicable to the system's size under subsection (c).

(3) The system shall begin a second round of source water monitoring no later than 6 years following initial bin classification under § 109.1203 or determination of the *Cryptosporidium* level under § 109.1203(i) and (j), as applicable.

(g) *Monitoring violations.* Failure to collect any source water sample required under this section in accordance with the sampling schedule, sampling location, analytical method, approved laboratory and reporting requirements of this subsection, §§ 109.304 and 109.1206(a)—(e) (relating to analytical requirements; and reporting and recordkeeping requirements) is a monitoring violation.

(h) *Source water sampling schedules.* Systems required to conduct source water monitoring under subsections (a)—(g) shall submit a sampling schedule that specifies the calendar dates when the system will collect each required sample.

(1) Systems shall submit sampling schedules no later than 3 months prior to the applicable date listed in subsection (c) for each round of required monitoring.

(2) A system must comply with the following:

(i) A system serving at least 10,000 people shall submit its sampling schedule for the initial round of source water monitoring under subsection (a) to the EPA electronically at <https://intranet.epa.gov/lt2/>.

(ii) If a system is unable to submit the sampling schedule electronically, the system may use an alternative approach for submitting the sampling schedule that the EPA approves.

(3) A system serving less than 10,000 people shall submit its sampling schedules for the initial round of source water monitoring under subsection (a) to the Department.

(4) Systems shall submit sampling schedules for the second round of source water monitoring under subsection (b) to the Department.

(5) If the EPA or the Department does not respond to a system regarding its sampling schedule, the system shall sample at the reported schedule.

(i) *Source water sample collection period.* Systems shall collect samples within 2 days before or 2 days after the dates indicated in their sampling schedule (that is, within a 5 day period around the schedule date) unless one of the conditions of subsection (b)(1) or (2) applies.

(1) *Extreme sample collection conditions.* If an extreme condition or situation exists that may pose danger to the sample collector, or that cannot be avoided and causes the system to be unable to sample in the scheduled 5-day period, the system shall sample as close to the scheduled date as is feasible unless the Department approves an alternative sampling date. The system shall submit an explanation for the delayed sampling date to the Department concurrent with the shipment of the sample to the laboratory.

(2) *Replacement samples.* The requirements for replacement samples are as follows:

(i) If a system is unable to report a valid analytical result for a scheduled sampling date due to equipment failure, loss of or damage to the sample, failure to comply with the analytical method requirements, including the quality control requirements in § 109.304, or the failure of an approved laboratory to analyze the sample, then the system shall collect a replacement sample.

(ii) The system shall collect the replacement sample not later than 21 days after receiving information that an analytical result cannot be reported for the scheduled date unless the system demonstrates that collecting a replacement sample within this time frame is not feasible or the Department approves an alternative resampling date. The system shall submit an explanation for the delayed sampling date to the Department concurrent with the shipment of the sample to the laboratory.

(j) *Missed samples.* Systems that fail to meet the criteria of subsection (i) for any source water sample required under subsections (a)—(g) shall revise their sampling schedules to add dates for collecting all missed samples. Systems shall submit the revised schedule to the Department for approval prior to when the system begins collecting the missed samples.

(k) *Source water sampling locations.* Systems required to conduct source water monitoring under subsections (a)—(g) shall collect samples for each plant that treats a surface water or GUDI source. When multiple plants draw water from the same influent, such as the same pipe or intake, the Department may approve one set of monitoring results to be used to satisfy the requirements of subsections (a)—(g) for all plants.

(l) *Chemical treatment prior to sampling location.* Systems shall collect source water samples prior to chemical treatment, such as coagulants, oxidants and disinfectants.

(m) *Source water sample location for plants that recycle.* Systems that recycle filter backwash water shall collect source water samples prior to the point of filter backwash water addition.

(n) *Bank filtration.*

(1) Systems that receive *Cryptosporidium* treatment credit for bank filtration to meet existing treatment technique requirements of § 109.202(c) (relating to State MCLs, MRDLs and treatment technique requirements), as applicable, shall collect source water samples in the surface water prior to bank filtration.

(2) Systems that use bank filtration as pretreatment to a filtration plant shall collect source water samples from the well (that is, after bank filtration). Use of bank filtration during monitoring must be consistent with routine operational practice. Systems collecting samples after a bank filtration process may not receive treatment credit for the bank filtration under § 109.1204(f) (relating to requirements for microbial toolbox components).

(o) *Multiple sources.* Systems with plants that use multiple water sources, including multiple surface water sources and blended surface water and groundwater sources, shall collect samples as specified in paragraph (1) or (2). The use of multiple sources during monitoring must be consistent with routine operational practice. Sources not adequately evaluated during the monitoring period will be considered new sources and the requirements under subsection (f) will apply. Systems may begin monitoring a new source as soon as a sampling schedule and plan have been approved by the Department.

(1) If a sampling tap is available where the sources are combined prior to treatment, systems shall collect samples from the tap.

(2) If a sampling tap where the sources are combined prior to treatment is not available, systems shall collect samples at each source near the intake on the same day and shall follow either subparagraph (i) or (ii) for sample analysis.

(i) Systems may composite samples from each source into one sample prior to analysis. The volume of sample from each source must be weighted according to the proportion of the source in the total plant flow at the time the sample is collected.

(ii) Systems may analyze samples from each source separately and calculate a weighted average of the analysis results for each sampling date. The weighted average must be calculated by multiplying the analysis result for each source by the fraction the source contributed to total plant flow at the time the sample was collected and then summing these values.

(p) *Additional requirements.* A system shall submit a description of its sampling locations to the Department at the same time as the sampling schedule required under subsections (h)—(j). This description must address the position of the sampling location in relation to the system's water sources and treatment processes, including pretreatment, points of chemical treatment and filter backwash recycle. If the Department does not respond to a system regarding sampling locations, the system shall sample at the reported locations.

§ 109.1203. Bin classification and treatment technique requirements.

(a) *Bin classification.* Following completion of the initial round of source water monitoring required under § 109.1202(a) (relating to monitoring requirements), filtered systems shall calculate an initial *Cryptosporidium* bin concentration for each plant for which monitoring was required. Calculation of the bin concentration must use the *Cryptosporidium* results reported under § 109.1202(a) and must follow the procedures in subsection (b)(1)—(5).

(b) *Procedures for calculating bin classifications.*

(1) For systems that collect a total of at least 48 samples, the bin concentration is equal to the arithmetic mean of all sample concentrations.

(2) For systems that collect a total of at least 24 samples, but not more than 47 samples, the bin concentration is equal to the highest arithmetic mean of all sample concentrations in any 12 consecutive months during which *Cryptosporidium* samples were collected.

(3) For systems that serve less than 10,000 people and monitor for *Cryptosporidium* for only 1 year (that is, collect 24 samples in 12 months), the bin concentration is equal to the arithmetic mean of all sample concentrations.

(4) For systems with plants operating only part of the year that monitor less than 12 months per year under § 109.1202(e), the bin concentration is equal to the highest arithmetic mean of all sample concentrations during any year of *Cryptosporidium* monitoring.

(5) If the monthly *Cryptosporidium* sampling frequency varies, systems shall first calculate a monthly average for each month of monitoring. Systems shall then use these monthly average concentrations, rather than individual sample concentrations, in the applicable calculation for bin classification in paragraphs (1)—(4).

(c) *Cryptosporidium bin concentration thresholds.* Systems required to monitor for *Cryptosporidium* under § 109.1202 shall use *Cryptosporidium* bin concentration calculated under subsections (a) and (b) to determine their initial bin classification as follows:

(1) With a *Cryptosporidium* bin concentration of less than 0.075 oocysts/L, the bin classification is Bin 1.

(2) With a *Cryptosporidium* bin concentration of 0.075 oocysts/L or higher, but less than 1.0 oocysts/L, the bin classification is Bin 2.

(3) With a *Cryptosporidium* bin concentration of 1.0 oocysts/L or higher but less than 3.0 oocysts/L, the bin classification is Bin 3.

(4) With a *Cryptosporidium* bin concentration of 3.0 oocysts/L or higher, the bin classification is Bin 4.

(5) If serving less than 10,000 people and not required to monitor for *Cryptosporidium* under § 109.1202(a)(4), the bin classification is Bin 1.

(d) *Cryptosporidium bin concentration recalculation requirements.* Following completion of the second round of source water monitoring required under § 109.1202(b), filtered systems shall recalculate their *Cryptosporidium* bin concentration using the *Cryptosporidium* results reported under § 109.1202(b) and following the procedures in subsection (b). Systems shall then redetermine their bin classification using the bin concentrations subsection (c).

(e) *Filtered system additional Cryptosporidium treatment requirements.* Filtered systems shall provide the level of additional treatment for *Cryptosporidium* specified in this subsection based on their bin classification as determined under subsections (a)—(c) and according to the schedule in subsections (k)—(o). The treatments required under paragraphs (1)—(4) are in addition to existing treatment technique requirements contained in § 109.202(c) (relating to State MCLs, MRDLs and treatment technique requirements), which still apply. Systems using multiple sources shall establish their bin classification based on the highest bin source in use by the facility.

(1) *Bin 1.* If the system bin classification is Bin 1, the system shall provide additional *Cryptosporidium* treatment as follows:

(i) Conventional filtration treatment (including softening), slow sand or diatomaceous earth filtration must provide no additional treatment.

(ii) Direct filtration treatment must provide no additional treatment.

(iii) Alternative filtration technologies must provide no additional treatment.

(2) *Bin 2.* If the system bin classification is Bin 2, the system shall provide additional *Cryptosporidium* treatment as follows:

(i) Conventional filtration treatment (including softening), slow sand or diatomaceous earth filtration must provide 1-log additional treatment.

(ii) Direct filtration treatment must provide 1.5 log additional treatment.

(iii) Alternative filtration technologies must provide additional treatment as determined by the Department such that the total *Cryptosporidium* removal and inactivation is at least 4.0 log.

(3) *Bin 3.* If the system bin classification is Bin 3, the system shall provide additional *Cryptosporidium* treatment as follows:

(i) Conventional filtration treatment (including softening), slow sand or diatomaceous earth filtration must provide 2-log additional treatment.

(ii) Direct filtration treatment must provide 2.5 log additional treatment.

(iii) Alternative filtration technologies must provide additional treatment as determined by the Department so that the total *Cryptosporidium* removal and inactivation is at least 5.0 log.

(4) *Bin 4.* If the system bin classification is Bin 4, the system shall provide additional *Cryptosporidium* treatment as follows:

(i) Conventional filtration treatment (including softening), slow sand or diatomaceous earth filtration must provide 2.5-log additional treatment.

(ii) Direct filtration treatment must provide 3 log additional treatment.

(iii) Alternative filtration technologies must provide additional treatment as determined by the Department so that the total *Cryptosporidium* removal and inactivation is at least 5.5 log.

(f) *Treatment and management options for filtered systems, microbial toolbox.*

(1) Filtered systems shall use one or more of the treatment and management options listed in § 109.1204 (relating to requirements for microbial toolbox components), termed the microbial toolbox, to comply with the additional *Cryptosporidium* treatment required in subsection (e).

(2) Systems using sources classified in Bin 3 and Bin 4 shall achieve at least 1-log of the additional *Cryptosporidium* treatment required under § 109.1204(a) using either one or a combination of the following: bag filters, bank filtration, cartridge filters, chlorine dioxide, membranes, ozone or UV, as described in § 109.1204(b), (c) and (n)—(q) (relating to requirements for microbial toolbox components).

(g) *Failure to meet treatment credit.* Failure by a system in any month to achieve treatment credit by meeting criteria in § 109.1204(b), (c) and (n)—(q) for microbial toolbox options that is at least equal to the level of treatment required in subsection (e) is a violation of the treatment technique requirement.

(h) *Increased watershed contamination.* If the Department determines during a sanitary survey or an equivalent source water assessment that after a system completed the monitoring conducted under § 109.1202(a) or (b), significant changes occurred in the system's watershed that could lead to increased contamination of the source water by *Cryptosporidium*, the system shall take actions specified by the Department to address the contamination. These actions may include additional source water monitoring or implementing microbial toolbox options listed in § 109.1204, or both.

(i) *Unfiltered systems determination of Cryptosporidium bin level, initial round.* Following completion of the initial source water monitoring required under § 109.1202(a), unfiltered systems shall calculate their bin classification using the methods listed in subsections (b) and (c).

(j) *Unfiltered systems determination of Cryptosporidium bin level, second round.* Following completion of the

second round of source water monitoring required under subsection (b), unfiltered systems shall calculate their bin classification using the methods listed in subsections (b) and (c).

(k) *Schedule for compliance with Cryptosporidium treatment requirements.* Following initial bin classification under subsection (c), filtered systems shall provide the level of additional treatment for *Cryptosporidium* required under subsections (e)—(h) according to the schedule in subsection (m). The treatments required under subsections (e)—(h) are in addition to existing treatment technique requirements contained in § 109.202(c), which still apply.

(l) *Treatment technique requirements for unfiltered systems.* Following initial determination of the *Cryptosporidium* level under subsection (i), unfiltered systems shall meet all applicable treatment technique requirements of § 109.202(c) and provide the additional level of treatment for *Cryptosporidium* required under subsections (e)—(h) on a schedule approved by the Department but no later than the schedule in subsection (m).

(m) *Cryptosporidium treatment compliance dates.* *Cryptosporidium* treatment compliance dates are as follows:

(1) Systems that serve at least 100,000 people shall comply with *Cryptosporidium* treatment requirements by April 1, 2012.

(2) Systems that serve from 50,000 to 99,999 people shall comply with *Cryptosporidium* treatment requirements by October 1, 2012.

(3) Systems that serve from 10,000 to 49,999 people shall comply with *Cryptosporidium* treatment requirements by October 1, 2013.

(4) Systems that serve less than 10,000 people shall comply with *Cryptosporidium* treatment requirements by October 1, 2014.

(5) On a case by case basis within an agreed upon time frame, the Department may allow up to an additional 2 years for complying with the treatment requirement for systems making capital improvements.

(n) *Change in Cryptosporidium level for filtered system.* If the bin classification for a filtered system increases following the second round of source water monitoring, as determined under subsection (d), the system shall provide the level of treatment for *Cryptosporidium* required under subsections (e)—(h) on a schedule the Department approves.

(o) *Change in Cryptosporidium level for unfiltered system.* If the *Cryptosporidium* bin level for an unfiltered system increases following the second round of monitoring, as determined under subsection (j), the system shall provide the additional level of *Cryptosporidium* treatment under subsections (e)—(h) on a schedule the Department approves.

§ 109.1204. Requirements for microbial toolbox components.

(a) A system will receive the treatment credits listed Appendix B to Subchapter L. Microbial Toolbox Summary Table: Options, Treatment Credits and Criteria, by meeting the conditions for microbial toolbox components described in subsections (b)—(q). A system shall apply these treatment credits to meet the treatment technique requirements listed in section § 109.1203 (relating to bin classification and treatment technique requirements).

(b) *Watershed control program.* Filtered systems receive 0.5-log *Cryptosporidium* treatment credit for implementing a watershed control program that meets the requirements of this subsection. This credit may not be used to maintain the additional log removal credits specified in § 109.1203. This credit may only be applied in addition to the toolbox options used to meet the minimum log removal and may apply in lieu of a toolbox option for which credit has been temporarily revoked. Unfiltered systems are not eligible for this credit.

(1) Systems that intend to apply for the watershed control program credit shall notify the Department of this intent at least 2 years prior to the treatment compliance date applicable to the system in § 109.1203(k)—(o).

(2) Systems shall submit to the Department a proposed watershed control plan at least 1 year before the applicable treatment compliance date in § 109.1203(k)—(o). The Department will approve the watershed control plan for the system to receive watershed control program treatment credit. The watershed control plan must include the following elements:

(i) Identification of an “area of influence” outside of which the likelihood of *Cryptosporidium* or fecal contamination affecting the treatment plant intake is not significant. This is the area to be evaluated in future watershed surveys under paragraph (4)(ii).

(ii) Identification of both potential and actual sources of *Cryptosporidium* contamination and an assessment of the relative impact of these sources on the system’s source water quality.

(iii) An analysis of the effectiveness and feasibility of control measures that could reduce *Cryptosporidium* loading from sources of contamination to the system’s source water.

(iv) A statement of goals and specific actions the system will undertake to reduce source water *Cryptosporidium* levels. The plan must explain how the actions are expected to contribute to specific goals, identify watershed partners and their roles, identify resource requirements and commitments, and include a schedule for plan implementation with deadlines for completing specific actions identified in the plan.

(3) Systems with existing watershed control programs (that is, programs in place on January 5, 2006) are eligible to seek this credit. Their watershed control plans must meet the criteria in paragraph (2) and must specify ongoing and future actions that will reduce source water *Cryptosporidium* levels.

(4) *Systems shall complete the following actions to maintain the 0.5-log credit:*

(i) Submit an annual watershed control program status report to the Department. The annual watershed control program status report must describe the system’s implementation of the approved plan and assess the adequacy of the plan to meet its goals. The report must explain how the system is addressing any shortcomings in plan implementation, including those previously identified by the Department or as the result of the watershed survey conducted under subparagraph (ii). The report must also describe significant changes that have occurred in the watershed since the last watershed sanitary survey. If a system determines during implementation that making a significant change to its approved watershed control program is necessary, the system shall notify the Department prior to making any changes. If a change is likely to reduce the level of source water protection, the system

shall also list in its notification the actions the system will take to mitigate this effect.

(ii) Undergo a watershed sanitary survey every 3 years for community water systems and every 5 years for noncommunity water systems and submit the survey report to the Department. The survey must be conducted according to Department guidelines and by persons the Department approves.

(A) The watershed sanitary survey must meet the following criteria:

(I) Encompass the region identified in the Department-approved watershed control plan as the area of influence.

(II) Assess the implementation of actions to reduce source water *Cryptosporidium* levels.

(III) Identify any significant new sources of *Cryptosporidium*.

(B) If the Department determines that significant changes may have occurred in the watershed since the previous watershed sanitary survey, systems shall undergo another watershed sanitary survey by a date the Department requires, which may be earlier than the regular date in this subparagraph.

(iii) The system shall make the watershed control plan, annual status reports, and watershed sanitary survey reports available to the public upon request. These documents must be in a plain language style and include criteria by which to evaluate the success of the program in achieving plan goals. The Department may approve systems to withhold from the public portions of the annual status report, watershed control plan, and watershed sanitary survey based on water supply security considerations.

(5) If the Department determines that a system is not carrying out the approved watershed control plan, the Department may withdraw the watershed control program treatment credit.

(c) *Alternative source.*

(1) A system may conduct source water monitoring that reflects a different intake location (either in the same source or for an alternate source) or a different procedure for the timing or level of withdrawal from the source (alternative source monitoring). If the Department approves, a system may determine its bin classification under § 109.1203 based on the alternative source monitoring results.

(2) If systems conduct alternative source monitoring under paragraph (1), systems shall also monitor their current plant intake concurrently as described in § 109.1202 (relating to monitoring requirements).

(3) Alternative source monitoring under paragraph (1) must meet the requirements for source monitoring to determine bin classification, as described in § 109.1202 and § 109.1206 (relating to reporting and recordkeeping requirements). Systems shall report the alternative source monitoring results to the Department, along with supporting information documenting the operating conditions under which the samples were collected.

(4) If a system determines its bin classification under § 109.1203 using alternative source monitoring results that reflect a different intake location or a different procedure for managing the timing or level of withdrawal from the source, the system shall relocate the intake or permanently adopt the withdrawal procedure, as applicable, no later than the applicable treatment compliance date in § 109.1203(k)—(o).

(d) *Presedimentation.* Systems will receive 0.5-log *Cryptosporidium* treatment credit for a presedimentation basin during any month the process meets the criteria in this subsection.

(1) The presedimentation basin must be in continuous operation and must treat the entire plant flow taken from a surface water or GUDI source.

(2) The system shall continuously add a coagulant to the presedimentation basin.

(3) The presedimentation basin must achieve the performance criteria as follows:

(i) Demonstrates at least 0.5-log mean reduction of influent turbidity. This reduction must be determined using daily turbidity measurements in the presedimentation process influent and effluent and must be calculated as follows: \log_{10} (monthly mean of daily influent turbidity) - \log_{10} (monthly mean of daily effluent turbidity).

(ii) Comply with Department-approved performance criteria that demonstrate at least 0.5-log mean removal of micron-sized particulate material through the presedimentation process.

(e) *2-stage lime softening.* Systems receive an additional 0.5-log *Cryptosporidium* treatment credit for a 2-stage lime softening plant if chemical addition and hardness precipitation occur in two separate and sequential softening stages prior to filtration. Both softening stages must treat the entire plant flow taken from a surface water or GUDI source.

(f) *Bank filtration.* Systems receive *Cryptosporidium* treatment credit for bank filtration that serves as pretreatment to a filtration plant by meeting the criteria in this subsection. Systems using bank filtration when they begin source water monitoring under § 109.1202(a) shall collect samples as described in § 109.1202(n) and are not eligible for this credit.

(1) Wells with a groundwater flow path of at least 25 feet receive 0.5-log treatment credit. Wells with a groundwater flow path of at least 50 feet receive 1.0-log treatment credit. The groundwater flow path must be determined as specified in paragraph (4).

(2) Only wells in granular aquifers are eligible for treatment credit. Granular aquifers are those comprised of sand, clay, silt, rock fragments, pebbles or larger particles and minor cement. A system shall characterize the aquifer at the well site to determine aquifer properties. Systems shall extract a core from the aquifer and demonstrate that in at least 90% of the core length, grains less than 1.0 mm in diameter constitute at least 10% of the core material.

(3) Only horizontal and vertical wells are eligible for treatment credit.

(4) For vertical wells, the groundwater flow path is the measured distance from the edge of the surface water body under high flow conditions (determined by the 100 year floodplain elevation boundary or by the floodway, as defined in Federal Emergency Management Agency flood hazard maps) to the well screen. For horizontal wells, the groundwater flow path is the measured distance from the bed of the river under normal flow conditions to the closest horizontal well lateral screen.

(5) Systems shall monitor each wellhead for turbidity at least once every 4 hours while the bank filtration process is in operation. If monthly average turbidity levels, based on daily maximum values in the well, exceed

1 NTU, the system shall report this result to the Department and conduct an assessment within 30 days to determine the cause of the high turbidity levels in the well. If the Department determines that microbial removal has been compromised, the Department may revoke treatment credit until the system implements corrective actions approved by the Department to remediate the problem.

(6) Springs and infiltration galleries are not eligible for treatment credit under this section, but are eligible for credit under subsection (i).

(7) The Department may approve *Cryptosporidium* treatment credit for bank filtration based on a demonstration of performance study that meets the criteria in this paragraph. This treatment credit may be greater than 1.0-log and may be awarded to bank filtration that does not meet the criteria in paragraphs (1)—(5).

(i) The study must follow a Department-approved protocol and must involve the collection of data on the removal of *Cryptosporidium* or a surrogate for *Cryptosporidium* and related hydrogeologic and water quality parameters during the full range of operating conditions.

(ii) The study must include sampling both from the production well and from monitoring wells that are screened and located along the shortest flow path between the surface water source and the production well.

(g) *Combined filter performance.* Systems using conventional filtration treatment or direct filtration treatment receive an additional 0.5-log *Cryptosporidium* treatment credit during any month the system meets the criteria in this subsection. Combined filter effluent (CFE) turbidity must be less than or equal to 0.15 NTU in at least 95% of the measurements. Turbidity must be measured as described in § 109.304(c) (relating to analytical requirements).

(h) *Individual filter performance.* Systems using conventional filtration treatment or direct filtration treatment will receive 0.5-log *Cryptosporidium* treatment credit, which can be in addition to the 0.5-log credit under subsection (g), during any month the system meets the criteria in this subsection. Compliance with these criteria must be based on individual filter turbidity monitoring as described in § 109.301(1)(iv) (relating to general monitoring requirements), as applicable.

(1) The filtered water turbidity for each individual filter must be less than or equal to 0.15 NTU in at least 95% of the measurements recorded each month.

(2) An individual filter may not have a measured turbidity greater than 0.3 NTU in two consecutive measurements taken 15 minutes apart.

(3) A system that has received treatment credit for individual filter performance and fails to meet the requirements of paragraph (1) or (2) during any month does not receive a treatment technique violation under § 109.1203(g) if the Department determines the following:

(i) The failure was due to unusual and short-term circumstances that could not reasonably be prevented through optimizing treatment plant design, operation, and maintenance.

(ii) The system has experienced no more than two of these failures in any calendar year.

(i) *Demonstration of performance.* The Department may approve *Cryptosporidium* treatment credit for drinking

water treatment processes based on a demonstration of performance study that meets the criteria in this subsection. This treatment credit may be greater than or less than the prescribed treatment credits in § 109.1203(e)—(h) or subsection (d)—(f) and subsections (n)—(q) and may be awarded to treatment processes that do not meet the criteria for the prescribed credits.

(1) Systems cannot receive the prescribed treatment credit for any toolbox option in subsections (d)—(f) or (n)—(q) if that toolbox option is included in a demonstration of performance study for which treatment credit is awarded under this paragraph.

(2) The demonstration of performance study must follow a Department-approved protocol and must demonstrate the level of *Cryptosporidium* reduction the treatment process will achieve under the full range of expected operating conditions for the system.

(3) Approval by the Department will be in writing and may include monitoring and treatment performance criteria that the system shall demonstrate and report on an ongoing basis to remain eligible for the treatment credit. The Department may designate the criteria when necessary to verify that the conditions under which the demonstration of performance credit was approved are maintained during routine operation.

(j) *Bag and cartridge filters.* Systems receive *Cryptosporidium* treatment credit of up to 2.0-log for individual bag or cartridge filters and up to 2.5-log for bag or cartridge filters operated in series by meeting the criteria in paragraphs (1)—(10). To be eligible for this credit, systems shall report the results of challenge testing that meet the requirements of paragraphs (2)—(9) to the Department. The filters must treat the entire plant flow taken from a surface water or groundwater source under the direct influence of surface water source.

(1) The *Cryptosporidium* treatment credit awarded to bag or cartridge filters will be based on the removal efficiency demonstrated during challenge testing that is conducted according to the criteria in paragraphs (2)—(9). A factor of safety equal to 1-log for individual bag or cartridge filters and 0.5-log for bag or cartridge filters in series must be applied to challenge testing results to determine removal credit. Systems may use results from challenge testing conducted prior to January 5, 2006, if the prior testing was consistent with the criteria specified in paragraphs (2)—(9).

(2) Challenge testing must be performed on full-scale bag or cartridge filters, and the associated filter housing or pressure vessel, that are identical in material and construction to the filters and housings the system will use for removal of *Cryptosporidium*. Bag or cartridge filters must be challenge tested in the same configuration that the system will use, either as individual filters or as a series configuration of filters.

(3) Challenge testing must be conducted using *Cryptosporidium* or a surrogate that is removed no more efficiently than *Cryptosporidium*. The microorganism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate must be determined using a method capable of discretely quantifying the specific microorganism or surrogate used in the test; gross measurements such as turbidity may not be used.

(4) The maximum feed water concentration that can be used during a challenge test must be based on the

detection limit of the challenge particulate in the filtrate (that is, filtrate detection limit) and must be calculated using the following equation:

$$\text{Maximum Feed Concentration} = 1 \times 10^4 \times (\text{Filtrate Detection Limit})$$

(5) Challenge testing must be conducted at the maximum design flow rate for the filter as specified by the manufacturer.

(6) Each filter evaluated must be tested for a duration sufficient to reach 100% of the terminal pressure drop, which establishes the maximum pressure drop under which the filter may be used to comply with this subchapter.

(7) Removal efficiency of a filter must be determined from the results of the challenge test and expressed in terms of log removal values using the following equation:

$$\text{LRV} = \text{LOG}_{10}(C_f) - \text{LOG}_{10}(C_p)$$

Where: LRV = log removal value demonstrated during challenge testing; C_f = the feed concentration measured during the challenge test; and C_p = the filtrate concentration measured during the challenge test. In applying this equation, the same units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, then the term C_p must be set equal to the detection limit.

(8) Each filter tested must be challenged with the challenge particulate during three periods over the filtration cycle: within 2 hours of start-up of a new filter; when the pressure drop is between 45 and 55% of the terminal pressure drop; and at the end of the cycle after the pressure drop has reached 100% of the terminal pressure drop. An LRV must be calculated for each of these challenge periods for each filter tested. The LRV for the filter ($\text{LRV}_{\text{filter}}$) must be assigned the value of the minimum LRV observed during the three challenge periods for that filter.

(9) If less than 20 filters are tested, the overall removal efficiency for the filter product line must be set equal to the lowest $\text{LRV}_{\text{filter}}$ among the filters tested. If 20 or more filters are tested, the overall removal efficiency for the filter product line must be set equal to the 10th percentile of the set of $\text{LRV}_{\text{filter}}$ values for the various filters tested. The percentile is defined by $(i/(n+1))$ where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(10) If a previously tested filter is modified in a manner that could change the removal efficiency of the filter product line, challenge testing to demonstrate the removal efficiency of the modified filter must be conducted and submitted to the Department.

(k) *Membrane filtration.*

(1) *Cryptosporidium treatment credit.* Systems receive *Cryptosporidium* treatment credit for membrane filtration that meets the criteria of this paragraph. Membrane cartridge filters that meet the definition of membrane filtration in § 109.1 (relating to definitions) are eligible for this credit. The level of treatment credit a system receives is equal to the lower of the values determined under the following:

(i) The removal efficiency demonstrated during challenge testing conducted under the conditions in paragraph (2).

(ii) The maximum removal efficiency that can be verified through direct integrity testing used with the membrane filtration process under the conditions in paragraph (3).

(2) *Challenge testing.* The membrane used by the system shall undergo challenge testing to evaluate removal efficiency, and the system shall report the results of challenge testing to the Department. Challenge testing must be conducted according to the criteria in subparagraphs (i)—(vii). Systems may use data from challenge testing conducted prior to January 5, 2006, if the prior testing was consistent with the criteria in subparagraphs (i)—(vii).

(i) Challenge testing must be conducted on either a full-scale membrane module, identical in material and construction to the membrane modules used in the system's treatment facility, or a smaller-scale membrane module, identical in material and similar in construction to the full-scale module. A module is defined as the smallest component of a membrane unit in which a specific membrane surface area is housed in a device with a filtrate outlet structure.

(ii) Challenge testing must be conducted using *Cryptosporidium* oocysts or a surrogate that is removed no more efficiently than *Cryptosporidium* oocysts. The organism or surrogate used during challenge testing is referred to as the challenge particulate. The concentration of the challenge particulate, in both the feed and filtrate water, must be determined using a method capable of discretely quantifying the specific challenge particulate used in the test; gross measurements such as turbidity may not be used.

(iii) The maximum feed water concentration that can be used during a challenge test is based on the detection limit of the challenge particulate in the filtrate and must be determined according to the following equation:

$$\text{Maximum Feed Concentration} = 3.16 \times 10^6 \times (\text{Filtrate Detection Limit})$$

(iv) Challenge testing must be conducted under representative hydraulic conditions at the maximum design flux and maximum design process recovery specified by the manufacturer for the membrane module. Flux is defined as the throughput of a pressure driven membrane process expressed as flow per unit of membrane area. Recovery is defined as the volumetric % of feed water that is converted to filtrate over the course of an operating cycle uninterrupted by events such as chemical cleaning or a solids removal process (that is, backwashing).

(v) Removal efficiency of a membrane module must be calculated from the challenge test results and expressed as a log removal value according to the following equation:

$$\text{LRV} = \text{LOG}_{10}(C_f) - \text{LOG}_{10}(C_p)$$

Where: LRV = log removal value demonstrated during the challenge test; C_f = the feed concentration measured during the challenge test; and C_p = the filtrate concentration measured during the challenge test. Equivalent units must be used for the feed and filtrate concentrations. If the challenge particulate is not detected in the filtrate, the term C_p is set equal to the detection limit for the purpose of calculating the LRV. An LRV must be calculated for each membrane module evaluated during the challenge test.

(vi) The removal efficiency of a membrane filtration process demonstrated during challenge testing must be

expressed as a log removal value (LRV_{C-Test}). If less than 20 modules are tested, then LRV_{C-Test} is equal to the lowest of the representative LRVs among the modules tested. If 20 or more modules are tested, then LRV_{C-Test} is equal to the 10th percentile of the representative LRVs among the modules tested. The percentile is defined by $(i/(n+1))$ where i is the rank of n individual data points ordered lowest to highest. If necessary, the 10th percentile may be calculated using linear interpolation.

(vii) The challenge test must establish a quality control release value (QCRV) for a nondestructive performance test that demonstrates the *Cryptosporidium* removal capability of the membrane filtration module. This performance test must be applied to each production membrane module used by the system that was not directly challenge tested in order to verify *Cryptosporidium* removal capability. Production modules that do not meet the established QCRV are not eligible for the treatment credit demonstrated during the challenge test.

(viii) If a previously tested membrane is modified in a manner that could change the removal efficiency of the membrane or the applicability of the nondestructive performance test and associated QCRV, additional challenge testing to demonstrate the removal efficiency of, and determine a new QCRV for, the modified membrane must be conducted and submitted to the Department.

(3) *Direct integrity testing.* Systems shall conduct direct integrity testing in a manner that demonstrates a removal efficiency equal to or greater than the removal credit awarded to the membrane filtration process and meets the requirements described in subparagraphs (i)—(vi). A direct integrity test is defined as a physical test applied to a membrane unit to identify and isolate integrity breaches (that is, one or more leaks that could result in contamination of the filtrate).

(i) The direct integrity test must be independently applied to each membrane unit in service. A membrane unit is defined as a group of membrane modules that share common valving that allows the unit to be isolated from the rest of the system for the purpose of integrity testing or other maintenance.

(ii) The direct integrity method must have a resolution of 3 micrometers or less, where resolution is defined as the size of the smallest integrity breach that contributes to a response from the direct integrity test.

(iii) The direct integrity test must have a sensitivity sufficient to verify the log treatment credit awarded to the membrane filtration process by the Department, where sensitivity is defined as the maximum log removal value that can be reliably verified by a direct integrity test. Sensitivity must be determined using the approach in either clause (A) or (B) as applicable to the type of direct integrity test the system uses.

(A) For direct integrity tests that use an applied pressure or vacuum, the direct integrity test sensitivity must be calculated according to the following equation:

$$LRV_{DIT} = \text{LOG}_{10} (Q_p / (\text{VCF} \times Q_{\text{breach}}))$$

Where: LRV_{DIT} = the sensitivity of the direct integrity test; Q_p = total design filtrate flow from the membrane unit; Q_{breach} = flow of water from an integrity breach associated with the smallest integrity test response that can be reliably measured, and VCF = volumetric concentration factor. The volumetric concentration factor is the ratio of the suspended solids concentration on the high pressure side of the membrane relative to that in the feed water.

(B) For direct integrity tests that use a particulate or molecular marker, the direct integrity test sensitivity must be calculated according to the following equation:

$$LRV_{DIT} = \text{LOG}_{10}(C_f) - \text{LOG}_{10}(C_p)$$

Where: LRV_{DIT} = the sensitivity of the direct integrity test; C_f = the typical feed concentration of the marker used in the test; and C_p = the filtrate concentration of the marker from an integral membrane unit.

(iv) Systems shall establish a control limit within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of meeting the removal credit awarded by the Department.

(v) If the result of a direct integrity test exceeds the control limit established under subparagraph (iv), the system shall remove the membrane unit from service. Systems shall conduct a direct integrity test to verify any repairs, and may return the membrane unit to service only if the direct integrity test is within the established control limit.

(vi) Systems shall conduct direct integrity testing on each membrane unit at a frequency of at least once each day that the membrane unit is in operation. The Department may approve less frequent testing, based on demonstrated process reliability, the use of multiple barriers effective for *Cryptosporidium*, or reliable process safeguards.

(4) *Indirect integrity monitoring.* Systems shall conduct continuous indirect integrity monitoring on each membrane unit according to the criteria in subparagraphs (i)—(v). Indirect integrity monitoring is defined as monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. A system that implements continuous direct integrity testing of membrane units in accordance with the criteria in subparagraphs (i)—(v) is not subject to the requirements for continuous indirect integrity monitoring. Systems shall submit a monthly report to the Department summarizing all continuous indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken in each case.

(i) Unless the Department approves an alternative parameter, continuous indirect integrity monitoring must include continuous filtrate turbidity monitoring.

(ii) Continuous monitoring must be conducted at least once every 15 minutes.

(iii) Continuous monitoring must be separately conducted on each membrane unit.

(iv) If indirect integrity monitoring includes turbidity and if the filtrate turbidity readings are above 0.15 NTU for a period greater than 15 minutes (that is, two consecutive 15-minute readings above 0.15 NTU), direct integrity testing must immediately be performed on the associated membrane unit as specified in paragraph (3)(i)—(v).

(v) If indirect integrity monitoring includes a Department-approved alternative parameter and if the alternative parameter exceeds a Department-approved control limit for a period greater than 15 minutes, direct integrity testing shall immediately be performed on the associated membrane units as specified in paragraph (3)(i)—(v).

(1) *Second stage filtration.* Systems receive 0.5-log *Cryptosporidium* treatment credit for a separate second stage of filtration that consists of sand, dual media, GAC or other fine grain media following granular media

filtration if approved by the Department. To be eligible for this credit, the first stage of filtration must be preceded by a coagulation step and both filtration stages must treat the entire plant flow taken from a surface water or GUDI source. A cap, such as GAC, on a single stage of filtration is not eligible for this credit. The Department will approve the treatment credit based on an assessment of the design characteristics of the filtration process.

(m) *Slow sand filtration (as secondary filter)*. Systems are eligible to receive 2.5-log *Cryptosporidium* treatment credit for a slow sand filtration process that follows a separate stage of filtration if both filtration stages treat entire plant flow taken from a surface water or GUDI source and no disinfectant residual is present in the influent water to the slow sand filtration process. The Department will approve the treatment credit based on an assessment of the design characteristics of the filtration process. This subsection does not apply to treatment credit awarded to slow sand filtration used as a primary filtration process.

(n) *Inactivation toolbox components*. Calculation of CT values.

(1) Systems with treatment credit for chlorine dioxide or ozone under subsection (o) or (p) must calculate CT at least once each day, with both C and T measured during peak hourly flow as specified in § 109.304(c) and 40 CFR 141.74(b)(3) (relating to analytical and monitoring requirements).

(2) Systems with several disinfection segments in sequence may calculate CT for each segment, where a disinfection segment is defined as a treatment unit process with a measurable disinfectant residual level and a liquid volume. Under this approach, systems shall add the *Cryptosporidium* CT values in each segment to determine the total CT for the treatment plant.

(o) *Chlorine dioxide*. Systems are eligible to receive the *Cryptosporidium* treatment credit listed in Table 1, CT Values (mg * min/L) for *Cryptosporidium* Inactivation by Chlorine Dioxide, contained in Appendix A to Subchapter L by meeting the corresponding chlorine dioxide CT value for the applicable water temperature, as described in subsection (n).

(p) *Ozone*. Systems receive the *Cryptosporidium* treatment credit listed in Table 2, CT Values (mg * min/L) for *Cryptosporidium* Inactivation by Ozone, contained in Appendix A to Subchapter L, by meeting the corresponding ozone CT values for the applicable water temperature, as described in subsection (n).

(q) *Ultraviolet light*. Systems receive *Cryptosporidium*, *Giardia lamblia* and virus treatment credits for ultraviolet (UV) light reactors by achieving the corresponding UV dose values shown in Table 3, UV Dose for *Cryptosporidium*, *Giardia lamblia* and Virus Inactivation, contained in Appendix A to Subchapter L, as described in paragraph (1). Systems shall validate and monitor UV reactors as described in paragraphs (2) and (3) to demonstrate that they are achieving a particular UV dose value for treatment credit.

(1) *UV dose table*. The treatment credits listed in Table 3 are for UV light at a wavelength of 254 nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, systems shall demonstrate an equivalent germicidal dose through reactor validation testing, as described in paragraph (2). The UV dose values in this table are applicable only to post-filter applications of UV in filtered systems.

(2) *Reactor validation testing*. Systems shall use UV reactors that have undergone validation testing, conducted by a party acceptable to the Department, to determine the operating conditions under which the reactor delivers the UV dose required in paragraph (1) (that is, validated operating conditions). These operating conditions must include flow rate, UV intensity as measured by a UV sensor and UV lamp status.

(i) When determining validated operating conditions, systems shall account for the following factors:

- (A) UV absorbance of the water.
- (B) Lamp fouling and aging.
- (C) Measurement uncertainty of on-line sensors.
- (D) UV dose distributions arising from the velocity profiles through the reactor.
- (E) Failure of UV lamps or other critical system components.

(F) Inlet and outlet piping or channel configurations of the UV reactor.

(ii) Validation testing must include the following: Full scale testing of a reactor that conforms uniformly to the UV reactors used by the system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp.

(iii) The Department may accept alternative validation testing approaches, if these approaches are first approved by the EPA.

(3) *Reactor monitoring*.

(i) Systems shall monitor their UV reactors to determine if the reactors are operating within validated conditions, as determined under paragraph (2). This monitoring must include UV intensity as measured by a UV sensor, flow rate, lamp status, and other parameters the Department designates based on UV reactor operation. Systems shall verify the calibration of UV sensors and shall recalibrate sensors in accordance with a protocol the Department approves.

(ii) To receive treatment credit for UV light, systems shall treat at least 95% of the water delivered to the public during each month by UV reactors operating within validated conditions for the required UV dose, as described in paragraphs (1) and (2). Systems shall demonstrate compliance with this condition by the monitoring required under subparagraph (i).

§ 109.1205. Grandfathering Previously Collected Data.

A system may comply with the initial source water monitoring requirements of § 109.1202 (relating to monitoring requirements) by grandfathering previously collected data. The system shall meet the grandfathering requirements established by EPA under the National Primary Drinking Water Regulations in 40 CFR 141.707 (relating to grandfathering previously collected data) which are incorporated by reference.

§ 109.1206. Reporting and recordkeeping requirements.

(a) *Source water reporting time frame*. Systems shall report results from the source water monitoring required under § 109.1202 (relating to monitoring requirements) no later than 10 days after the end of the first month following the month when the sample is collected.

(b) *Methods for reporting initial source water monitoring results to EPA.* Systems serving at least 10,000 people shall report as follows:

(1) All systems serving at least 10,000 people shall report the results from the initial source water monitoring required under § 109.1202(a) to the EPA electronically at <https://intranet.epa.gov/lt2/>.

(2) If a system is unable to report monitoring results electronically, the system may use an alternative approach for reporting monitoring results the EPA approves.

(c) *Methods for reporting initial source water monitoring results to the Department.* Systems serving less than 10,000 people shall report results from the initial source water monitoring required under § 109.1202(a) to the Department using a method approved by the Department.

(d) *Methods for reporting second round of source water monitoring results to the Department.* All systems shall report results from the second round of source water monitoring required under § 109.1202(b) to the Department using a method approved by the Department.

(e) *Source water reporting data elements.* Systems shall report the applicable information in paragraphs (1) and (2) for the source water monitoring required under § 109.1202.

(1) *Cryptosporidium data elements.* Systems shall report data elements in subparagraphs (i)—(vii) for each *Cryptosporidium* analysis. Systems shall report, in a form acceptable to the Department, data elements in subparagraphs (viii)—(x) as applicable.

(i) PWS ID.

(ii) Source ID.

(iii) Sample collection date.

(iv) Sample type (field or matrix spike).

(v) Sample volume filtered (L), to nearest 1/4 L.

(vi) Indicate whether 100% of filtered volume was examined.

(vii) Number of oocysts counted.

(viii) For matrix spike samples, systems shall also report the sample volume spiked and estimated number of oocysts spiked. These data are not required for field samples.

(ix) For samples in which less than 10 L is filtered or less than 100% of the sample volume is examined, systems shall also report the number of filters used and the packed pellet volume.

(x) For samples in which less than 100% of sample volume is examined, systems shall also report the volume of resuspended concentrate and volume of this resuspension processed through immunomagnetic separation.

(2) *E. coli data elements.* Systems shall report, in a form acceptable to the Department, the following data elements for each *E. coli* analysis:

(i) PWS ID.

(ii) Source ID.

(iii) Sample collection date.

(iv) Analytical method number.

(v) Method type.

(vi) Source type (flowing stream, lake/reservoir, GUDI).

(vii) *E. coli*/100 mL.

(viii) Turbidity, if monitoring is required under § 109.1202.

(f) *Sampling schedule reporting.* Systems shall report sampling schedules under § 109.1202 (h)—(j) and source water monitoring results under subsections (a)—(e) unless they notify the Department that they will not conduct source water monitoring due to meeting the criteria of § 109.1202(d).

(g) *Bin classification reporting.* Systems shall report their *Cryptosporidium* bin classification as follows:

(1) Systems shall report their initial bin classification under § 109.1203(c) (relating to bin classification and treatment technique requirements) to the Department for approval no later than 6 months after the system is required to complete initial source water monitoring based on the schedule in § 109.1202(c).

(2) Systems shall report their bin classification under § 109.1203(c) to the Department for approval no later than 6 months after the system is required to complete the second round of source water monitoring based on the schedule in § 109.1202(c).

(3) The bin classification report to the Department will include a summary of source water monitoring data and the calculation procedure used to determine bin classification.

(4) Failure to comply with the conditions of this subsection is a violation of the treatment technique requirement.

(h) *Microbial toolbox reporting requirements.* Systems are required to report items specified § 109.1204 (relating to requirements for microbial toolbox components) for all toolbox components for which they are requesting treatment credit. Systems must report to the State in accordance with Appendix C to Subchapter L. Microbial Toolbox Reporting Requirements in a form acceptable to the Department. Systems using treatment options other than conventional, direct, slow sand or diatomaceous earth filtration for bin 1 sources shall also report, in a form acceptable to the Department, the items specified in § 109.1204 for the treatment options used.

(i) *Reporting significant change in disinfection practices.* Prior to making a significant change in disinfection practice, systems shall report disinfection profiles and benchmarks to the Department as established by the EPA under the National Primary Drinking Water regulations in 40 CFR 141.708 and 141.709 (relating to requirements when making a significant change in disinfection practice; and developing the disinfection profile and benchmark), which are incorporated by reference in § 109.204 (relating to disinfection profiling and benchmarking).

(j) *Source water monitoring recordkeeping requirements.* Systems shall keep results from the initial round of source water monitoring under § 109.1202(a) and the second round of source water monitoring under § 109.1202(b) until 3 years after bin classification under § 109.1203 (b) and (c).

(k) *Notification retention.* Systems shall keep any notification to the Department that they will not conduct source water monitoring due to meeting the criteria of § 109.1202(d) for 3 years.

(l) *Results retention.* Systems shall keep the results of treatment monitoring associated with microbial toolbox options under § 109.1204, as applicable, for 3 years.

Subchapter M. ADDITIONAL REQUIREMENTS FOR GROUNDWATER SOURCES

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

§ 109.1301. Scope.

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

§ 109.1302. Treatment technique requirements.

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

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

(2) Maintain at each groundwater entry point a residual disinfectant concentration no less than 0.40 mg/L expressed as free chlorine or its equivalent as approved by the Department, or other minimum residual approved by the Department as demonstrated under § 109.1306 (relating to information describing 4-log treatment and compliance monitoring) to provide 4-log treatment of viruses.

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

- (i) October 1, 2010, for systems serving more than 500 persons.
- (ii) October 1, 2011, for systems serving 100 to 500 persons.
- (iii) October 1, 2012, for systems serving less than 100 persons.

(4) Provide at least 4-log treatment of viruses prior to the first customer when directed by the Department or no later than:

- (i) April 1, 2011, for systems serving more than 500 persons.
- (ii) April 1, 2012, for systems serving 100 to 500 persons.
- (iii) April 1, 2013, for systems serving less than 100 persons.
- (iv) A Department-approved alternative compliance schedule.

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

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

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

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

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

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

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

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

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

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

- (A) Sensitivity of the source aquifer to fecal contamination.
- (B) Proximity to sources of fecal contamination.
- (C) Microbiological sampling history.

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

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

- (i) Provide an alternative source of water.
- (ii) Eliminate the source of contamination.

(iii) Submit information required under § 109.1306 and provide treatment that reliably achieves at least 4-log treatment of viruses before the first customer for the groundwater source or sources and comply with compliance monitoring requirements under § 109.1305.

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

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

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

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

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

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

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

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

(A) The groundwater system shall request and obtain approval from the Department for any subsequent modifications to a Department-approved corrective action plan and schedule.

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

§ 109.1303. Triggered monitoring requirements for groundwater sources.

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

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

(c) Systems that obtain written approval from the Department prior to receiving notification of a total coliform-positive routine sample collected under § 109.301(3)(i) may conduct monitoring under subsection (a) at one or more sources within the groundwater system

that are representative of multiple sources used by that system. The Department will consider any factors that identify sources as representative of multiple sources including one or more of the following:

(1) The sources draw water from the same hydrogeologic setting.

(2) Multiple distribution systems where no interconnection exists are supplied by separate sources.

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

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

(f) Prior to expiration of the 24-hour deadline under subsection (a), source water monitoring requirements are not required when one of the following apply:

(1) The Department determines and notifies the public water system that a total coliform-positive routine sample collected under § 109.301(3)(i) is caused by a distribution system deficiency.

(2) The total coliform-positive result has been invalidated by the Department under § 109.301(3)(iii).

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

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

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

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

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

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

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

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

(3) The system shall comply with Tier 1 public notification requirements under § 109.408 (relating to Tier 1 category, timing and delivery of notice).

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

§ 109.1304. Assessment source water monitoring.

(a) To enable the Department to determine if a groundwater system is using a groundwater source with fecal contamination, the Department may require a groundwater system to conduct monitoring for *E. coli*. If directed by the Department to conduct monitoring under this section, a water supplier shall:

(1) Collect a total of 12 samples from each groundwater source.

(i) The system may obtain written approval from the Department to conduct monitoring at one or more sources within the groundwater system that are representative of multiple sources used by the system. The Department will consider any factors that identify sources as representative of multiple sources drawing water from the same hydrogeologic setting.

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

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

(iv) Samples collected under § 109.1303(a) (relating to triggered monitoring requirement for groundwater sources) may be used to satisfy the requirements of this subsection, if approved by the Department.

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

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

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

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

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

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

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

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

§ 109.1305. Compliance monitoring.

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

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

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

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

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

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

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

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

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

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

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

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

(a) Community water systems, noncommunity water systems which hold a valid operation permit under § 109.504 (relating to public water system operation permits) and bottled water and vended water systems, retail water facilities and bulk water hauling systems which hold a valid permit under § 109.1005 (relating to permit requirements) demonstrating at least 4-log treatment of viruses under § 109.1302 (relating to treatment technique requirements) shall submit information in writing on forms provided by the Department and may include plans, specifications, engineer's report, water

quality analyses and other data, information or documentation reasonably necessary to enable the Department to evaluate:

- (1) Treatment effectiveness.
- (2) The methodology the system will use to comply with § 109.1305 (relating to compliance monitoring).
- (b) A noncommunity water system not covered under subsection (a) demonstrating at least 4-log treatment of viruses under § 109.1302 (relating to treatment technique requirements) shall:
 - (1) File an amendment to the system description as described under § 109.505(a)(2)(ii) (relating to requirements for noncommunity water systems).
 - (2) Submit an application for a noncommunity water system 4-log treatment of groundwater sources permit. The application shall be submitted in writing on forms provided by the Department.
 - (3) Submit plans, specifications, engineer's report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to determine compliance with the act and this chapter. The Department will make available to the applicant the *Public Water Supply Manual*, available from the Bureau of Water Standards and Facility Regulation, Post Office Box 8774, Harrisburg, Pennsylvania 17105 which contains acceptable design standards and technical guidance. Water quality analyses shall be conducted by a laboratory accredited under this chapter.
 - (c) Plans, specifications and engineer's reports must comply with the following:
 - (1) The drawings, specifications and engineer's report shall be prepared by or under the supervision of a professional engineer registered to practice in this Commonwealth or in the state in which the public water system is located.
 - (2) The front cover or flyleaf of each set of drawings, of each copy of the engineer's report, and of each copy of specifications must bear the signature and imprint of the seal of the registered engineer. Drawings must bear an imprint or a legible facsimile of the seal.

§ 109.1307. System management responsibilities.

- (a) *Reporting.* Groundwater systems shall comply with the following requirements and otherwise comply with § 109.701 (relating to reporting and recordkeeping):
 - (1) A groundwater system conducting compliance monitoring under § 109.1305 (relating to compliance monitoring):
 - (i) Shall report to the Department, for each entry point or other Department-approved monitoring location:
 - (A) The date, time and lowest value each day the residual disinfectant concentration remains equal to or greater than the Department-required minimum value established under § 109.1306 (relating to information describing 4-log treatment and compliance monitoring).
 - (B) The initial date, time and value for each occurrence that the residual disinfectant concentration is less than the Department-required minimum, and the subsequent

date, time and value that the residual disinfectant concentration is equal to or greater than the required minimum.

- (C) Each date the entry point is not in operation.
 - (ii) That experiences a breakdown in treatment shall notify the Department within 1 hour after the water system learns of the violation or the situation and provide public notice in accordance with § 109.408 (relating to Tier 1 public notice—categories, timing and delivery). A breakdown in treatment occurs whenever the system fails to meet, for greater than 4 continuous hours, any Department-specified requirements relating to:
 - (A) Minimum residual disinfectant concentration.
 - (B) Alternative treatment operating criteria, if operation in accordance with the criteria or requirements is not restored within 4 hours.
 - (2) After completing any corrective action under § 109.1302(c) (relating to treatment technique requirements), a groundwater system shall notify the Department within 30 days of completion of the corrective action.
 - (b) *Recordkeeping.* Groundwater systems shall comply with § 109.701 and maintain the following information in its records:
 - (1) *Corrective actions.* Documentation shall be kept for at least 10 years.
 - (2) *Notice to the public as required under Subchapter D (relating to public notification).* Documentation shall be kept for at least 3 years.
 - (3) *Records of invalidation of E. coli-positive groundwater source samples under §§ 109.1303 (g) and 109.1304 (b).* Documentation shall be kept for at least 5 years.
 - (4) *Records of notification to other public water systems.* For a public water system obtaining groundwater from another public water system, documentation of notification to the supplier of total-coliform positive samples that are not invalidated under § 109.301(3)(iii) (relating to general monitoring requirements). Documentation shall be kept for at least 5 years.
 - (5) *Compliance monitoring.* For systems, including suppliers providing water to another public water system, that are required to perform compliance monitoring under § 109.1305 (relating to compliance monitoring):
 - (i) Documentation of the records of the Department-specified minimum disinfectant residual shall be kept for at least 10 years.
 - (ii) Documentation of the records of the lowest daily residual disinfectant concentration and records of the date and duration of any failure to maintain the Department-prescribed minimum residual disinfectant concentration for more than 4 hours, shall be kept for at least 5 years.
 - (iii) Documentation of the records of the Department-specified compliance requirements specified by the Department for Department-approved alternative treatment and records of the date and duration of any failure to meet alternative treatment operating requirements for more than 4 hours, shall be kept for at least 5 years.

Appendix A to Subchapter L. Long-Term 2 Enhanced Surface Water Treatment Rule.
Table 1. CT VALUES (MG•MIN/L) FOR *Cryptosporidium* INACTIVATION BY CHLORINE DIOXIDE¹

Log Credit	Water Temperature, ° C										
	<=0.5	1	2	3	5	7	10	15	20	25	30
(i) 0.25	159	153	140	128	107	90	69	45	29	19	12
(ii) 0.5	319	305	279	256	214	180	138	89	58	38	24
(iii) 1.0	637	610	558	511	429	360	277	179	116	75	49
(iv) 1.5	956	915	838	767	643	539	415	268	174	113	73
(v) 2.0	1275	1220	1117	1023	858	719	553	357	232	150	98
(vi) 2.5	1594	1525	1396	1278	1072	899	691	447	289	188	122
(vii) 3.0	1912	1830	1675	1534	1286	1079	830	536	347	226	147

¹ Systems may use the equation to determine log credit between the indicated values: $\text{Log credit} = (0.001506 \times (1.09116)^{\text{Temp}}) \times \text{CT}$.

Table 2. CT VALUES (MG•MIN/L) FOR *Cryptosporidium* INACTIVATION BY OZONE¹

Log Credit	Water Temperature, ° C										
	<=0.5	1	2	3	5	7	10	15	20	25	30
(i) 0.25	6.0	5.8	5.2	4.8	4.0	3.3	2.5	1.6	1.0	0.6	0.39
(ii) 0.5	12	12	10	9.5	7.9	6.5	4.9	3.1	2.0	1.2	0.78
(iii) 1.0	24	23	21	19	16	13	9.9	6.2	3.9	2.5	1.6
(iv) 1.5	36	35	31	29	24	20	15	9.3	5.9	3.7	2.4
(v) 2.0	48	46	42	38	32	26	20	12	7.8	4.9	3.1
(vi) 2.5	60	58	52	48	40	33	25	16	9.8	6.2	3.9
(vii) 3.0	72	69	63	57	47	39	30	19	12	7.4	4.7

¹ Systems may use the equation to determine log credit between the indicated values: $\text{Log credit} = (0.0397 \times (1.09757)^{\text{Temp}}) \times \text{CT}$.

Table 3. UV DOSE TABLE FOR *Cryptosporidium*, *Giardia lamblia*, AND VIRUS INACTIVATION CREDIT

Log Credit	<i>Cryptosporidium</i> UV dose (mJ/cm ²)	<i>Giardia lamblia</i> UV dose (mJ/cm ²)	Virus UV dose (mJ/cm ²)
(i) 0.5	1.6	1.5	39
(ii) 1.0	2.5	2.1	58
(iii) 1.5	3.9	3.0	79
(iv) 2.0	5.8	5.2	100
(v) 2.5	8.5	7.7	121
(vi) 3.0	12	11	143
(vii) 3.5	15	15	163
(viii) 4.0	22	22	186

Appendix B to Subchapter L. Long-Term 2 Enhanced Surface Water Treatment Rule.

MICROBIAL TOOLBOX SUMMARY TABLE: OPTIONS, TREATMENT CREDITS AND CRITERIA

<i>Toolbox Option</i>	<i>Cryptosporidium treatment credit with design and implementation criteria</i>
Source Protection and Management Toolbox Options	
(1) Watershed control program	0.5-log credit for State-approved program comprising required elements, annual program status report to State, and regular watershed survey. Unfiltered systems are not eligible for credit. Specific criteria are in § 109.1204(b).
(2) Alternative source/intake management	No prescribed credit. Systems may conduct simultaneous monitoring for treatment bin classification at alternative intake locations or under alternative intake management strategies. Specific criteria are in § 109.1204(c).
Pre Filtration Toolbox Options	
(3) Presedimentation basin with coagulation	0.5-log credit during any month that presedimentation basins achieve a monthly mean reduction of 0.5-log or greater in turbidity or alternative State-approved performance criteria. To be eligible, basins must be operated continuously with coagulant addition and all plant flow must pass through basins. Specific criteria are in § 109.1204(d).
(4) Two-stage lime softening	0.5-log credit for two-stage softening where chemical addition and hardness precipitation occur in both stages. All plant flow must pass through both stages. Single-stage softening is credited as equivalent to conventional treatment. Specific criteria are in § 109.1204(e).
(5) Bank filtration	0.5-log credit for 25-foot setback; 1.0-log credit for 50-foot setback; aquifer must be unconsolidated sand containing at least 10 percent fines; average turbidity in wells must be less than 1 NTU. Systems using wells followed by filtration when conducting source water monitoring must sample the well to determine bin classification and are not eligible for additional credit. Specific criteria are in § 109.1204(f).
Treatment Performance Toolbox Options	
(6) Combined filter performance	0.5-log credit for combined filter effluent turbidity less than or equal to 0.15 NTU in at least 95 percent of measurements each month. Specific criteria are in § 109.1204(g).
(7) Individual filter performance	0.5-log credit (in addition to 0.5-log combined filter performance credit) if individual filter effluent turbidity is less than or equal to 0.15 NTU in at least 95 percent of samples each month in each filter and is never greater than 0.3 NTU in two consecutive measurements in any filter. Specific criteria are in § 109.1204(h).
(8) Demonstration of performance	Credit awarded to unit process or treatment train based on a demonstration to the State with a State-approved protocol. Specific criteria are in § 109.1204(i).
Additional Filtration Toolbox Options	
(9) Bag or cartridge filters (individual filters)	Up to 2-log credit based on the removal efficiency demonstrated during challenge testing with a 1.0-log factor of safety. Specific criteria are in § 109.1204(j).
(10) Bag or cartridge filters (in series)	Up to 2.5-log credit based on the removal efficiency demonstrated during challenge testing with a 0.5-log factor of safety. Specific criteria are in § 109.1204(j).
(11) Membrane filtration	Log credit equivalent to removal efficiency demonstrated in challenge test for device if supported by direct integrity testing. Specific criteria are in § 109.1204(k).
(12) Second stage filtration	0.5-log credit for second separate granular media filtration stage if treatment train includes coagulation prior to first filter. Specific criteria are in § 109.1204(l).
(13) Slow sand filters	2.5-log credit as a secondary filtration step; 3.0-log credit as a primary filtration process. No prior chlorination for either option. Specific criteria are in § 109.1204(m).

<i>Toolbox Option</i>	<i>Cryptosporidium treatment credit with design and implementation criteria</i>
Inactivation Toolbox Options	
(14) Chlorine dioxide	Log credit based on measured CT in relation to CT table. Specific criteria in § 109.1204(o).
(15) Ozone	Log credit based on measured CT in relation to CT table. Specific criteria in § 109.1204(p).
(16) UV	Log credit based on validated UV dose in relation to UV dose table; reactor validation testing required to establish UV dose and associated operating conditions. Specific criteria in § 109.1204(q).

**Appendix C to Subchapter L. Long-Term 2 Enhanced Surface Water Treatment Rule.
MICROBIAL TOOLBOX REPORTING REQUIREMENTS**

<i>Toolbox option</i>	<i>Systems must submit the following information</i>	<i>On the following schedule</i>
(1) Watershed control program (WCP).	(i) Notice of intention to develop a new or continue an existing watershed control program. (ii) Watershed control plan (iii) Annual watershed control program status report (iv) Watershed sanitary survey report	No later than two years before the applicable treatment compliance date in § 109.1203 No later than one year before the applicable treatment compliance date in § 109.1203 Every 12 months, beginning one year after the applicable treatment compliance date in § 109.1203 For community water systems, every three years beginning three years after the applicable treatment compliance date in § 109.1203. For noncommunity water systems, every five years beginning five years after the applicable treatment compliance date in § 109.1203.
(2) Alternative source/intake management.	Verification that system has relocated the intake or adopted the intake withdrawal procedure reflected in monitoring results.	No later than the applicable treatment compliance date in § 109.1203.
(3) Presedimentation	Monthly verification of the following: (i) Continuous basin operation (ii) Treatment of 100% of the flow (iii) Continuous addition of a coagulant (iv) At least 0.5-log mean reduction of influent turbidity or compliance with alternative State-approved performance criteria.	Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(4) Two-stage lime softening	Monthly verification of the following: (i) Chemical addition and hardness precipitation occurred in two separate and sequential softening stages prior to filtration (ii) Both stages treated 100% of the plant flow.	Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(5) Bank filtration	(i) Initial demonstration of the following: (A) Unconsolidated, predominantly sandy aquifer (B) Setback distance of at least 25 ft. (0.5-log credit) or 50 ft. (1.0-log credit). (ii) If monthly average of daily max turbidity is greater than 1 NTU then system must report result and submit an assessment of the cause.	No later than the applicable treatment compliance date in § 109.1203. Report within 30 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(6) Combined filter performance.	Monthly verification of combined filter effluent (CFE) turbidity levels less than or equal to 0.15 NTU in at least 95 percent of the 4 hour CFE measurements taken each month.	Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(7) Individual filter performance.	Monthly verification of the following: (i) Individual filter effluent (IFE) turbidity levels less than or equal to 0.15 NTU in at least 95 percent of samples each month in each filter (ii) No individual filter greater than 0.3 NTU in two consecutive readings 15 minutes apart.	Monthly reporting within 10 days following the month in which the monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.

<i>Toolbox option</i>	<i>Systems must submit the following information</i>	<i>On the following schedule</i>
(8) Demonstration of performance.	(i) Results from testing following a State approved protocol.	No later than the applicable treatment compliance date in § 109.1203.
(9) Bag filters and cartridge filters.	(ii) As required by the State, monthly verification of operation within conditions of State approval for demonstration of performance credit.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(10) Membrane filtration .	(i) Demonstration that the following criteria are met: (A) Process meets the definition of bag or cartridge filtration; (B) Removal efficiency established through challenge testing that meets criteria in this subpart.	No later than the applicable treatment compliance date in § 109.1203.
(11) Second stage filtration	(ii) Monthly verification that 100% of plant flow was filtered.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(12) Slow sand filtration (as secondary filter).	(i) Results of verification testing demonstrating the following: (A) Removal efficiency established through challenge testing that meets criteria in this subpart; (B) Integrity test method and parameters, including resolution, sensitivity, test frequency, control limits, and associated baseline.	No later than the applicable treatment compliance date in § 109.1203.
(13) Chlorine dioxide	(ii) Monthly report summarizing the following: (A) All direct integrity tests above the control limit; (B) If applicable, any turbidity or alternative state-approved indirect integrity monitoring results triggering direct integrity testing and the corrective action that was taken.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(14) Ozone	Monthly verification that 100% of flow was filtered through both stages and that first stage was preceded by coagulation step.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(15) UV	Monthly verification that both a slow sand filter and a preceding separate stage of filtration treated 100% of flow from subpart H sources.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(16) UV	Summary of CT values for each day as described in § 141.720.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(17) UV	Summary of CT values for each day as described in § 141.720.	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.
(18) UV	(i) Validation test results demonstrating operating conditions that achieve required UV dose.	No later than the applicable treatment compliance date in § 109.1203.
(19) UV	(ii) Monthly report summarizing the percentage of water entering the distribution system that was not treated by UV reactors operating within validated conditions for the required dose as specified in 141.720(d).	Within 10 days following the month in which monitoring was conducted, beginning on the applicable treatment compliance date in § 109.1203.

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