

PENNSYLVANIA BULLETIN

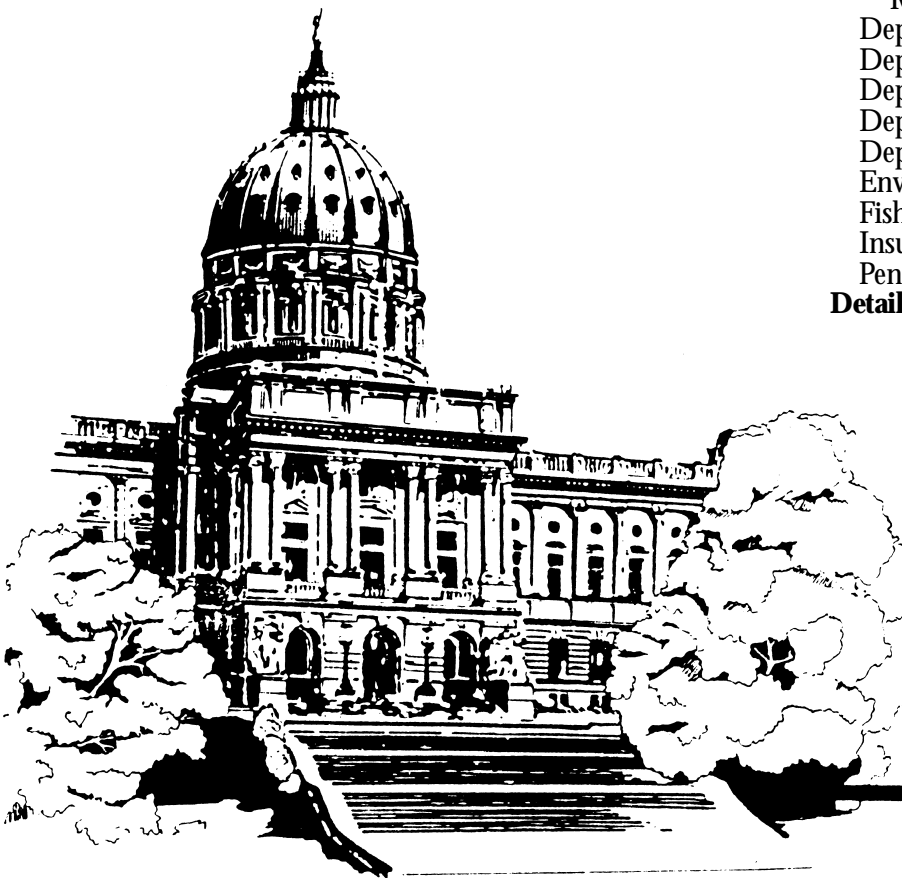
Volume 39
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Practices for Residential Utility Services

Part I

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Pennsylvania Public Utility Commission
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 411, February 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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56	925	249 Pa. Code (Philadelphia Rules)	
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THE GOVERNOR

Proclamation of Disaster Emergency

February 2, 2009

Whereas, A prolonged period of severe winter weather across the northeastern United States, including Pennsylvania, has caused logistical problems associated with the distribution and delivery of propane gas and heating fuels in the Commonwealth; and

Whereas, representatives from the propane and heating fuels industry indicate that relief from Federal hour of service limitations for drivers of commercial motor vehicles is necessary to overcome these logistical problems; and

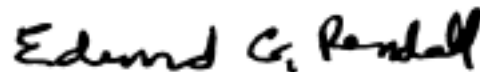
Whereas, investigations made on my behalf by the Department of Environmental Protection and the Pennsylvania Emergency Management Agency have determined that the Commonwealth is in need of greater flexibility in the application of Federal motor carrier regulations to drivers of commercial vehicles transporting propane gas and heating fuel within the state; and

Whereas, a duly declared emergency is necessary in order for the Pennsylvania Department of Transportation to waive Federal motor carrier regulations related to hours of service for drivers of commercial motor vehicles transporting propane gas and heating fuels to avoid potential disruption of supplies within the Commonwealth; and

Whereas, the serious impact of this continuing weather event on both the immediate and long-term economy of the Commonwealth represents a major hardship requiring a comprehensive Federal, State, and local partnership for effective recovery.

Now Therefore, Pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. § 7101, et seq.), I do hereby proclaim the existence of a disaster emergency across the Commonwealth. In accordance with the State Emergency Operations Plans, I hereby direct the Pennsylvania Department of Transportation to waive any laws or regulations in the manner and to the extent necessary to permit the motor carrier operations necessary to prevent propane gas and heating fuel supply and distribution problems in the Commonwealth. This proclamation shall terminate on February 17, 2009, unless extended by an amendment.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, on this second day of February in the year of our Lord two thousand nine, and of the Commonwealth the two hundred and thirty-third.



Governor

[Pa.B. Doc. No. 09-244. Filed for public inspection February 13, 2009, 9:00 a.m.]

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Amending Rule of Procedure 105; Doc. No. 2; Criminal Procedural Rule; No. 377

Order

Per Curiam:

Now, this 30th day of January, 2009, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration, and a *Final Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 105 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective as to all local criminal rules adopted or amended on or after February 1, 2009.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 105. Local Rules.

* * * * *

(B) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(1) The Criminal Procedural Rules Committee [**may**], at any time, **may** recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

* * * * *

(E) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

* * * * *

(2) The adopting court shall distribute two certified paper copies of the local rule [**and**] to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The adopting court also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette or on a CD-ROM, that complies with the requirements of 1 Pa. Code § 13.11(b) [**to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin***].

* * * * *

(F) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall:

(1) file [**seven**] one certified [**copies**] copy of the local rule with the Administrative Office of Pennsylvania Courts; **and**

(2) publish a copy of the local rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

* * * * *

Comment: The policy of the Supreme Court as declared in the Order promulgating this rule is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of criminal procedure normally preempts the subject covered." In accordance with the Court's policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

* * * * *

Paragraph (E) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette or CD-ROM must be labeled with the court's name and address and the local rule's computer file name.

* * * * *

The Administrative Office of the Pennsylvania Courts maintains a [**webpage**] web site containing the texts of local rules [<http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>] <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.

The Administrative Office of the Pennsylvania Courts also maintains a web site containing all local criminal rules adopted or amended after February 1, 2009 at: <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

* * * * *

Official Note: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006; amended January 25, 2008, effective February 1, 2009; **amended January 30, 2009, effective February 1, 2009.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the January 25, 2008 changes to Rule 105 concerning submission of local rules for review prior to adoption published with the Court's Order at 38 Pa.B. [**746**] **745** (February 9, 2008).

Final Report explaining the January 30, 2009 changes to Rule 105 concerning publication of local rules on the UJS Portal published with the Court's Order at 39 Pa.B. 829 (February 14, 2009).

[Pa.B. Doc. No. 09-245. Filed for public inspection February 13, 2009, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Clerk of Quarter Sessions—Duties and Responsibilities with Regard To Financial Process; President Judge Administrative Order; No. 2009-01

Order

And Now, on this 23rd day of January, 2009, upon review and consideration of 42 Pa.C.S. § 9728 (which requires the county probation department to collect all restitution, reparation, fees, costs and fines) and upon consideration of the various goals of the statewide Common Pleas Criminal Court Case Management System (“CPCMS”) (which, *inter alia*, was designed to uniformly account for the collection of all fees, fines, costs, costs, reparations, restitution and any other remittances and, most importantly, to provide an orderly and uniform distribution process); and upon consideration of the attached **Memorandum of Understanding** executed on February 27, 2007, by the Clerk of Quarter Sessions and the President Judge of the Court of Common Pleas (which attempted to minimize and resolve the numerous issues which had arisen in the collection and disbursement of the above-stated remittances); and, finally, upon consideration of the collection and distribution problems which have continued even after execution of the aforementioned **Memorandum of Understanding** and which have not been able to be resolved, this Court finds that in order to alleviate the continuing collection and disbursement problems and in order to streamline and more efficiently and effectively collect and disburse the above-recited remittances the process now in place in Philadelphia County must be changed.

Accordingly, pursuant to this Court’s general supervisory powers as well as the provisions of 42 Pa.C.S. § 9728, the statewide Common Pleas Criminal Court Case Management System, and the terms of the February 27, 2007 **Memorandum of Understanding**, *It Is Hereby Ordered, Adjudged and Decried* that effective as of 5:00 p.m., Friday, January 30, 2009:

1. The Clerk of Quarter Sessions shall have no further responsibility with regard to CPCMS accounts receivable, accounts payable, bail, and maintenance of the corresponding bank accounts;

2. The Clerk of Quarter Sessions shall vacate the Criminal Justice Payment center and shall relinquish and turn over any offices, cubicles, or other areas therein now in its possession as provided below; and

3. The Clerk of Quarter Sessions shall relinquish and turn over ownership of the Court Assessments and Cash Bail bank accounts, including any such legacy accounts still existing and in its possession as provided below; and

4. The Philadelphia Probation Department, through designated employees of the First Judicial District, shall assume all responsibilities, offices and bank accounts relinquished by the Clerk of Quarter Sessions as provided in this Order. The said representatives of the First Judicial District are ordered to execute any necessary documentation to effectuate the re-titling or re-establishment of any necessary bank accounts.

It Is Further Ordered, Adjudged and Decried that the Clerk of Quarter Sessions shall continue to be responsible for disposed records, docketing, preparation of Orders and

other documents as directed by the presiding judge and as otherwise required by rules of court, unless otherwise ordered by this Court or determined by the Council of the City of Philadelphia.

This Administrative Order is issued as authorized by Pa.R.Crim.P. No. 116, and in accordance with Pa.R.Crim.P. No. 105 and will become effective January 30, 2009. The original Administrative Order will be filed with the Clerk of Quarter Sessions, Active Criminal Records and the Prothonotary of Philadelphia as an Administrative Order issued by the President Judge of the Court of Common Pleas of Philadelphia County and copies will be submitted to the Supreme Court Criminal Procedural Rules Committee, the Administrative Office of Pennsylvania Courts and the Legislative Reference Bureau. Copies of the Administrative Order will also be submitted to *American Lawyer Media*, *The Legal Intelligencer*, *Jenkins Memorial Law Library*, and the law library for the First Judicial District. The Administrative Order will also be posted on the First Judicial District’s web site at <http://courts.phila.gov>.

HONORABLE PAMELA PRYOR DEMBE,
President Judge
Court of Common Pleas

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is entered into this 27th day of February 2007 by and between the PHILADELPHIA COUNTY CLERK OF QUARTER SESSION (“CQS”) THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA (“FJD”).

RECITALS

WHEREAS, on September 18, 2006, the Philadelphia County Court of Common Pleas commenced use of the new statewide Common Pleas Criminal Court Case Management System (“CPCMS”), in accordance with Orders of the Supreme Court of Pennsylvania;

WHEREAS, CPCMS is designed to, among other things, uniformly account for the collection of fines, fees, costs, reparations, restitution, penalties and other remittances pursuant to 42 Pa.C.S. § 9728, correlate them to records of outstanding judgments and allocate and disburse them pursuant to applicable law, including that Order of the Supreme Court of Pennsylvania, dated June 14, 2005, entitled “In Re Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(A): No. 273 Judicial Administration No. 1,” attached hereto as Exhibit “A” (the “Supreme Court Collection and Disbursement Order”);

WHEREAS, 42 Pa.C.S. § 9728 requires that “all restitution, reparation, fees, costs, fines and penalties shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county for that purpose in any manner provided by law.”

WHEREAS, the duties of the CQS are set forth in the Pennsylvania Constitution, and applicable statutes and ordinances, including that 1973 Ordinance of Philadelphia City Council, No. 275, attached hereto as Exhibit “B”, which vests the CQS with “full power and authority to act as the Clerk of the Court” for the Philadelphia Court of Common Pleas and Municipal Court in all criminal matters, and authorizes the CQS to, among other things “receive, collect, and deposit to the use of the City all court costs, fees and fines required by law and assessed by the court”;

WHEREAS, the CQS, in performing its authorized functions and responsibilities in connection with the

collection of fines, costs and fees, has historically owned and controlled the fines, costs and fees bank account, including processing and issuing checks, and performing accounting and reconciliation functions in connection with that account; and the FJD has owned and controlled the restitution and supervision fee account;

WHEREAS, an issue has arisen between the CQS and FJD concerning the parties' respective accounting roles in connection with the receipt, collection, deposit and disbursement of fines, costs and fees, in light of CPCMS; and

WHEREAS, the CQS and FJD desire to enter into this Memorandum of Understanding for the purpose of setting forth the agreement of the parties in connection with the receipt, collection, deposit and disbursement of all restitution, reparation, fees, costs, fines and penalties.

NOW THEREFORE, the parties hereby agree as follows:

1. The term of this Memorandum of Understanding shall commence on February 13, 2007 and end on August 12, 2007.

2. Throughout the term of this Memorandum of Understanding, CQS and FJD shall continue to perform the same respective in person payment window cashiering functions as each was performing as of September 17, 2006.

3. Court Assessments Account

A. CQS shall own the master account for the administration of the Court Assessments Account, currently owned by the FJD and held at Wachovia bank and shall be responsible for account adjustments, reconciliations and the preparation and issuance of checks. FJD shall forthwith sign the necessary documents transferring title to the CQS.

B. FJD shall have read access to the Court Assessments Account via the Internet.

C. With respect to restitution, CQS and FJD shall have the following responsibilities:

1.) FJD shall continue throughout the term to perform the same functions as it was performing on February 4, 2007 with regard to the participant accounts.

2.) CQS shall queue up and print all restitution checks on CQS check stock.

3.) CQS shall deliver all restitution checks in a timely manner to FJD Probation Department which shall process the mailing of the checks.

4.) If, after mailing, any restitution checks are returned to CQS due to a bad address, CQS shall promptly deliver such checks to FJD, which will be responsible for attempting to find good addresses for payees.

D. CQS shall process, print checks (on CQS stock) for, and mail all other monies held in the Court Assessments Account, including fines, costs and fees.

E. CQS, as soon as is reasonably possible, but before the expiration of the term shall transfer to the Court Assessments Account all monies currently in the possession of CQS that are contained in legacy accounts and/or consist of mail-in payments, and shall make the appropriate receipt entry into CPCMS.

F. CQS shall deposit on a daily basis into the Court Assessments Account lockbox to be established by FJD at Wachovia Bank all future mail-in payments received by CQS. FJD shall be responsible for performing data entry (receipting) transactions to ensure that all mail-in payments deposited into the lockbox are properly credited to the Court Assessments Account.

G. FJD shall be responsible for applying all escrow to the appropriate participant account.

H. CQS shall continue with the special merchant services that the FJD has set up with Wachovia with regard to the Court Assessments Account in order to improve on the accounts receivable process. These services include but are not limited to credit card processing, lockbox, and participant monthly statement generation. Payment of any fees associated with these services shall be applied against the interest earned on said account as is currently the practice, or, if such interest is not sufficient to cover the cost, fees shall be invoiced separately by Wachovia and processed in the manner negotiated with the City of Philadelphia.

I. FJD shall be responsible for all dunning of past due participants' accounts.

J. FJD shall reconcile the Court Assessments Account up through and including the January 2007 statement within ten (10) days of the signing of this Memorandum of Understanding.

K. Use of the Court Assessments Account, including deposits, disbursements, reconciliation, and auditing in connection therewith, shall be in accordance with all applicable laws, rules, regulations and orders, including the Supreme Court Collection and Disbursement Order.

4. FJD and CQS shall arrange with the Administrative Office of Pennsylvania Courts ("AOPC") for AOPC to provide appropriate training (including training on the queuing up of restitution checks) to applicable CQS staff (estimated at this time to be approximately 3-4 persons) as soon as reasonably practicable, and before the commencement of these new procedures, to enable CQS to perform its functions under this Memorandum of Understanding.

5. CQS shall provide sufficient staff power to perform its obligations under this Memorandum of Understanding, including provision of three (3) full time employees.

6. CQS shall permit FJD to use the two (2) CQS collection windows located in the basement of the Criminal Justice Center and operated by CQS during business hours for collections after regular hours.

7. CQS and FJD shall make all reasonable and good faith efforts to cooperate with one another in performing their respective obligations under this Memorandum of Understanding, and by June 20, 2007, shall commence good faith discussions with one another on whether to extend, modify or replace this Memorandum of Understanding. If a dispute arises during the term of this Memorandum of Understanding, the FJD and CQS shall submit a concise statement of the issue to the President Judge of the Court of Common Pleas for resolution. Such resolution shall be binding on the parties.

IN WITNESS WHEREOF, the parties have entered into this Memorandum of Understanding as of the date first written above.

PHILADELPHIA COUNTY CLERK
OF QUARTER SESSIONS,
Vivian T. Miller
Clerk of Quarter Sessions

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA,
C. Darnell Jones, II
President Judge
Philadelphia Court of Common Pleas

[Pa.B. Doc. No. 09-246. Filed for public inspection February 13, 2009, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Increase in Prothonotary Fees under 42 P. S. § 21071.1(b); Administrative Order No. 3 of 2009

Order of Court

And Now, this 26th day of January, 2009, pursuant to the provisions of 42 P. S. § 21071.1(b), which authorizes the Prothonotary every three years to increase the fees and charges imposed by that office, provided that the amount of the increase may not be greater than the percentage of increase in the Consumer Price index for Urban Workers for the immediate three years preceding the last increase in the fees or charges, and the Court having taken judicial notice that the total CPI increase for the past three years is ten (10%) percent, it is directed that the Prothonotary of Adams County is ordered to increase such fees by ten (10%), effective March 1, 2009.

It is further directed that:

- Seven (7) certified copies of this Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts;
- Two (2) certified copies and a computer diskette containing this Order shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- One (1) certified copy of this Order shall be filed with the Civil Rules Committee and the Domestic Relations Procedural Rules Committee;
- One (1) copy shall be filed with the Prothonotary;
- One (1) copy with the Court Administrator of Adams County;
- One (1) copy with the Law Library of Adams County; and
- One (1) copy with each Judge of this Court.

By the Court

JOHN D. KUHN,
President Judge

[Pa.B. Doc. No. 09-247. Filed for public inspection February 13, 2009, 9:00 a.m.]

BUCKS COUNTY

In Re: Judicial and Related Account; Administrative Order No. 1

Order

And Now, this 13th day of January 2009, the original Order of November 9, 1978 establishing the Judicial and Related Account and subsequently amended August 6, 1993, September 9, 1999, March 5, 2002, March 31, 2003 and March 25, 2004, is hereby amended as follows:

The Judicial and related Account shall be composed of the following budget accounts:

- | | |
|---------|--------------------|
| 1. 0135 | Domestic Relations |
| 2. 0139 | Law Library |
| 3. 0140 | Main Courts |
| 4. 0141 | Grand Jury |

- | | |
|---------------|---|
| 5. 0142 | Jury Commissioners |
| 6. 0147 | Court Reporters |
| 7. 0151 | Adult Probation and Parole |
| 8. 0152-0153 | Juvenile Probation |
| 9. 0325-0375 | Youth Detention Center (County) |
| 10. 0330-0380 | Juvenile Reimbursable Administration |
| 11. 0334-0384 | Juvenile Counseling |
| 12. 0335-0385 | Juvenile Day Treatment |
| 13. 0336-0386 | Juvenile Life Skills |
| 14. 0337-0387 | Juvenile Protective Services General |
| 15. 0338-0388 | Juvenile Protective Services Planning |
| 16. 0339-0389 | Juvenile Alternative Treatment |
| 17. 0340-0390 | Juvenile Community Residential (Group Home) |
| 18. 0341-0391 | Juvenile Foster Family |
| 19. 0342-0392 | Juvenile Detention (Out of County) |
| 20. 0343-0393 | Juvenile Residential (Non Group Home) |
| 21. 0344-0394 | Juvenile Revenue (Act 148 Related) |
| 22. 0201 | Magisterial District 07-1-01 |
| 23. 0202 | Magisterial District 07-1-02 |
| 24. 0203 | Magisterial District 07-1-03 |
| 25. 0204 | Magisterial District 07-1-04 |
| 26. 0206 | Magisterial District 07-1-06 |
| 27. 0207 | Magisterial District 07-1-07 |
| 28. 0208 | Magisterial District 07-1-08 |
| 29. 0209 | Magisterial District 07-1-09 |
| 30. 0210 | Magisterial District 07-1-10 |
| 31. 0211 | Magisterial District 07-1-11 |
| 32. 0212 | Magisterial District 07-2-01 |
| 33. 0213 | Magisterial District 07-2-02 |
| 34. 0214 | Magisterial District 07-2-03 |
| 35. 0215 | Magisterial District 07-3-01 |
| 36. 0216 | Magisterial District 07-2-05 |
| 37. 0217 | Magisterial District 07-3-03 |
| 38. 0218 | Magisterial District 07-2-07 |
| 39. 0219 | Magisterial District 07-2-08 |
| 40. 0220 | Supplemental Judicial Clerks |
| 41. 2540 | Court's Capital |
| 42. 2640 | Court's Capital |
| 43. 0130 | Register of Wills |
| 44. 0131 | Sheriff |
| 45. 0133 | Prothonotary |
| 46. 0134 | Clerk of Courts |

and such other accounts as the Court may from time to time direct.

In all other respects, Administrative Order No. 1 dated November 9, 1978 remains in full force and effect.

This Order to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

SUSAN DEVLIN SCOTT,
President Judge

[Pa.B. Doc. No. 09-248. Filed for public inspection February 13, 2009, 9:00 a.m.]

CARBON COUNTY
Fee Schedule for Prothonotary Office; No. 08-0858

Order

And Now, this 27th day of January, 2009, upon consideration of the within Petition for Increase of the Fee Schedule of the Carbon County Prothonotary, Joann M. Behrens, and in accordance with Act 164 of 1998 (42 P. S. § 21071.1), the Prothonotary Fee Law, it is hereby

Ordered and Decreed that the Fee Schedule of the Carbon County Prothonotary's Office is hereby amended effective March 1, 2009.

It is further *Ordered and Decreed* that the Fee Schedule of Carbon County Prothonotary's Office, a true and correct copy of which is attached to this order and which has been approved by the Prothonotary, is approved and adopted effective March 1, 2009.

By the Court

ROGER N. NANOVIC,
President Judge

CARBON COUNTY PROTHONOTARY'S OFFICE
2 Broadway
P. O. Box 130
Jim Thorpe, Pennsylvania 18229-0130
(570) 325-2481
Fax (570) 325-8047

JOANN M. BEHRENS, PROTHONOTARY

FEE SCHEDULE
(EFFECTIVE MARCH 1, 2009)

ACKNOWLEDGEMENTS:

Sheriff, Treasurer or Tax Claim Bureau \$ 10.50

APPEALS:

To Supreme, Superior or Commonwealth Court \$ 77.45

(Plus \$60.00 payable to said court)

License Appeal \$ 165.85

Tax Assessment Appeal \$ 119.65

From Arbitration (\$50,000 limit) (exclusive of arbitrators' compensation, Pa.R.C.P. No. 1308) \$ 32.25

From Magisterial District Judge \$ 119.65

From Zoning Hearing Board \$ 119.65

AUDITOR'S REPORT \$ 42.15

BONDING COMPANY (Financial Statements) \$ 42.15

BUILDING AGREEMENTS:

Waivers, Stipulations & Agreements \$ 26.70

CERTIFICATIONS:

To Bureau of Traffic Safety \$ 10.50

Docket entry & judgment \$ 19.55

Exemplified Record \$ 19.55

Certified Copy (court order/divorce decree, etc.) \$ 10.50

COMMENCEMENT OF ANY ACTION:

Commencement of any action at Law or Equity regardless of procedure, unless otherwise specifically provided for \$ 119.65

Any action or proceeding to open/strike a judgment \$ 119.65

Objections to Tax Sale \$ 119.65

Proceedings on Lien other than revival (e.g., Mechanic's Lien Complaint) \$ 119.65

CONTINUANCE \$ 19.05

CUSTODY:

Complaint/Petition	\$ 140.90
Master Deposit	\$ 150.00
Complaint w/agreement	\$ 140.90
Petition to Modify Custody	\$ 20.75
DISCONTINUANCE, ENDING OR TERMINATION	\$ 10.50

DIVORCE:

Complaint	\$ 139.65
Additional Counts (each)	\$ 45.05
Custody Count	\$ 52.05
Property Settlement/Agreement	\$ 13.25
Inventory Appraisal/Income & Expense	\$ 13.25
Appointment of Master (deposit)	\$ 500.00
Praecipe to Transmit	\$ 13.25
	(+Law Clerk Fee \$25.00)

Divorce Decree	\$ 13.25
Retake Maiden Name	\$ 10.50
INITIAL PLEADING IN CASE—unless otherwise indicated	\$ 15.00

EXECUTIONS (includes filing of any praecipe for a writ of execution, including attachment, possession or any other writ of execution not herein specifically provided for)	\$ 32.95
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JUDGMENTS:

Final decrees, order of judgment	\$ 19.55
Assignments	\$ 10.50
Judgment notes & transfer other counties	\$ 50.65
Transcript from Magisterial District Judge	\$ 50.40
Satisfaction or Release of judgment	\$ 10.50
Subordination or postponement of lien	\$ 10.50
Complaint & confession of judgment	\$ 61.35
Default judgment	\$ 30.15

LETTER OF ATTORNEY:

Filing	\$ 16.95
Revocation	\$ 10.50

LIENS:

Municipal, Mechanics	\$ 43.90
Pennsylvania or Federal (Satisfaction additional fee \$10.50)	\$ 25.05
Lis Pendens (per defendant)	\$ 10.50

NOTARY PUBLIC:

Registration of signature	\$ 4.15
Certification of Notary Public Defender	\$ 10.50

PASSPORTS:

Passport book (Check payable to US Department of State)	\$ 75.00
Passport book (Children under 16 years of age)	\$ 60.00
Passport Card (Check payable to US Dept. of State)	\$ 20.00
Passport Card (Children under 16 years of age)	\$ 10.00
Check/Cash to Prothonotary's Office (per application)	\$ 25.00
Expedite fee (extra)	\$ 60.00

PETITIONS & MOTIONS (excluding "Petition Actions")	\$ 7.50
Motion for summary judgment	\$ 29.05
Petition to reassess damages	\$ 29.05

Petition for final judgment, quiet title	\$ 20.75
PHOTOCOPIES (per sheet)	\$.25
PROTECTION FROM ABUSE:	
Final Order	\$ 255.80
Final Order by Agreement	\$ 180.80
POLITICAL SUBDIVISION:	
Maximum charge	\$ 49.85
POUNDAGE:	
For handling of money paid into court First \$1,000.00	\$ 0.03
Each additional \$1,000.00	\$ 0.01
Reissuance of Complaint/Writ	\$ 10.50
REVIVALS:	
All amicable revivals	\$ 19.55
Adverse revivals	\$ 53.30
SERVICES IN COURT:	
Services in court per diem or part of day	\$ 32.85
Order of court	\$ 13.25
SUBPOENA (each)	\$ 4.15
Writ to join additional defendant/joinder complaint	\$ 10.50

For filings in cases not specifically enumerated, the charge imposed will be the same as that for a substantially similar specified filing.

Pursuant to 42 P. S. § 21073(b), the Prothonotary *shall not* be required to enter on the docket any suit, action or order of court, or enter any judgment thereon, or perform any service whatsoever for any person, political subdivision or the Commonwealth until the requisite fee is paid.

Please Note: Pursuant to the Protection From Abuse Act filing fees shall be assessed and paid in accordance with 23 Pa.C.S.A. § 6106(c).

January 27, 2009
Date

Approved:

JOANN BEHRENS,
Prothonotary

[Pa.B. Doc. No. 09-249. Filed for public inspection February 13, 2009, 9:00 a.m.]

MONROE COUNTY
Administrative Order 2009; No. AD 20

Order

And Now, this 9th day of February 2009, pursuant to Pa.R.Crim.P. 117, *It Is Ordered* that the following procedures shall be utilized to ensure sufficient availability of Magisterial District Judges to provide, within the Forty-Third Judicial District, those services required by the Rules of Criminal Procedure and the Protection from Abuse Act:

It Is Further Ordered that seven (7) certified copies of this Order shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies and one (1) diskette shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania; one copy to the *Monroe County Legal Reporter* for publication, and that one copy shall be filed

with the Clerk of Courts—Criminal of the Court of Common Pleas of Monroe County.

1. *During Normal Business Hours*

(a) Normal business hours shall be construed as Monday through Friday from 8:30 a.m. to 4:30 p.m. except when a Court holiday has been declared on such day.

(b) All court proceedings normally conducted before a Magisterial District Judge, which occur during normal business hours of the Court, shall be conducted at the established office of the appropriate Magisterial District Judge as determined by the rules relating to venue.

2. *Duty On-Call Magisterial District Judge*

(a) The Magisterial District Judge Court Administrator shall establish a rotating schedule assigning a duty Magisterial District Judge to be on-call outside of the normal business hours of the Court to fulfill all duties of an issuing authority within the County as required by the Rules of Criminal Procedure and the Protection from Abuse Act.

(b) On weekdays when the Court is open for business, the duty Magisterial District Judge shall be on duty from 4:30 p.m. until 8:30 a.m. the following morning. On weekends and holidays, he or she shall be on duty from 8:30 a.m. until 8:30 a.m. the following day.

3. *Bail and Warrants*

(a) The duty Magisterial District Judge shall be available without unreasonable delay throughout the hours of his or her duty assignment at the established office of the duty Magisterial District Judge for the purpose of accepting the posting of a defendant's bail.

(b) The duty Magisterial District Judge shall be available without unreasonable delay at his or her established office throughout the hours of his or her duty assignment for the issuance of search warrants pursuant to Pa.R.Crim.P. 203 and arrest warrants pursuant to Pa.R.Crim.P. 513. In the discretion of the duty Magisterial District Judge, advanced communication technology may be utilized to submit the warrant application and affidavit(s) and to issue the warrant in accordance with the requirements of Rules 203 and 513.

(c) Monetary bond may be posted outside of regularly scheduled daily work hours at the Monroe County Correctional Facility. The Warden of the Monroe County Correctional Facility, or in his absence, his designee in charge shall be authorized to accept bail deposits as provided in Rule 117, having the defendant sign the bail bond, releasing the defendant and delivering the bail deposit and bail bond to the issuing authority or The Clerk of Courts. After hour bail deposits must be in the form of cash, money order or bail bond. The posting of \$10,000.00 or more in cash shall require the submission of Form 8300, an Internal Service Regulation. All persons wishing to post bail after hours shall contact the Monroe County Correctional Facility at (570) 992-3232.

4. *Preliminary Arraignments Outside Normal Hours*

(a) Weekdays—When an individual is placed under arrest by law enforcement and requires arraignment:

(1) Between the hours of 4:30 p.m. and 8:30 a.m. the following day, the duty Magisterial District Judge shall be available without unreasonable delay at his or her established office. In the discretion of the duty Magisterial District Judge, advanced communication technology may be utilized for the arraignment. The duty Magisterial District Judge shall be responsible for conducting preliminary arraignments on individuals arrested during their emergency duty schedule.

(b) Saturdays, Sundays and Holidays—When an individual is placed under arrest by law enforcement and requires arraignment:

(1) Between the hours of 8:30 a.m. and 4:30 p.m., the duty Magisterial District Judge shall be available without unreasonable delay at his or her established office. In the discretion of the duty Magisterial District Judge, advanced communication technology may be utilized for the arraignment.

(2) Between the hours of 4:30 p.m. and 8:30 a.m. the following day, the duty Magisterial District Judge shall be available without unreasonable delay at his or her established office. In the discretion of the duty Magisterial District Judge, advanced communication technology may be utilized for the arraignment.

(3) Emergency Protection From Abuse Orders—When an individual seeks an emergency protection from abuse order outside normal Court business, the duty Magisterial District Judge shall speak with the individual by phone to establish a time at which the individual will be available for hearing. At the agreed time the duty Magisterial District Judge shall receive the petition for relief, conduct an ex parte hearing and either issue or deny the requested order by the use of advance communication technology. In the event of technological failure, the duty Magisterial District Judge shall conduct the proceedings at his or her established office without unreasonable delay.

5. The effective date of this Order shall be March 1, 2009.

By the Court

RONALD E. VICAN,
President Judge

[Pa.B. Doc. No. 09-250. Filed for public inspection February 13, 2009, 9:00 a.m.]

SUPREME COURT

In Re: Act 98 of 2008; No. 253; Magisterial; Doc. No. 1

Order

Per Curiam

And Now, this 29th day of January, 2009, the Order filed on January 21, 2009 at the above number is hereby transferred to the Judicial Administration Docket at No. 329 Judicial Administration Docket No. 1.

JOHN A. VASKOV,
Deputy Prothonotary

[Pa.B. Doc. No. 09-251. Filed for public inspection February 13, 2009, 9:00 a.m.]

In Re: Act 98 of 2008; No. 329; Judicial Administration; Doc. No. 1

Order

Per Curiam

And Now, this 21st day of January, 2009, in accordance with Act 98 of 2008 and pursuant to the authority set forth by Article V, Section 10(c) of the Constitution of Pennsylvania and 42 Pa.C.S. § 1701 et seq., it is hereby ordered that all references in any court rule, court order, court form (including citation), automated statewide court case management system (i.e., PACMS, CPCMS and DJS) or any other legal authority, except as provided for in Act 98 of 2008, to "bail commissioner" shall be deemed to be a reference to "arraignment court magistrate."

PATRICIA NICOLA,
Chief Clerk
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 09-252. Filed for public inspection February 13, 2009, 9:00 a.m.]

**In Re: Judge Mark A. Ciavarella, Jr.; Court of
Common Pleas of Luzerne County; No. 327;
Judicial Administration; Doc. No. 1**

Order

Per Curiam

And Now, this 28th day of January 2009, this Court has received notice of an information filed by the United States Attorney for the Middle District of Pennsylvania against Judge Mark A. Ciavarella, Jr., a judge of the Court of Common Pleas of Luzerne County, and an agreement by Judge Mark A. Ciavarella, Jr. to enter a plea of guilty to the offenses described in that information. In view of the compelling and immediate need to protect and preserve the integrity of the Unified Judicial System and the administration of justice for the citizens of Luzerne County, Judge Mark A. Ciavarella, Jr. is hereby relieved of any and all judicial and administrative responsibilities as a judge of the Court of Common Pleas of Luzerne County and ordered not to take any further administrative or judicial action whatsoever in any case or proceeding now or hereinafter pending until further order of this Court. This action will not result in any diminution in salary or benefits until further order of this Court. This Order is without prejudice to the rights of Judge Mark A. Ciavarella, Jr. to seek such relief in this Court for the purpose of vacating or modifying this

interim Order. Pa. Const. Article V § 10(a); *In re: Avelino*, 690 A.2d 1138 (Pa. 1997); and see, *In re: McFalls*, 795 A.2d 367 (Pa. 2002).

JOHN A. VASKOV,
Deputy Prothonotary

[Pa.B. Doc. No. 09-253. Filed for public inspection February 13, 2009, 9:00 a.m.]

**In Re: Judge Michael T. Conahan Senior Judge;
No. 328; Judicial Administration; Doc. No. 1**

Order

Per Curiam

And Now, this 28th day of January 2009, it is hereby ordered that the certification of Judge Michael T. Conahan as a senior judge in the Commonwealth of Pennsylvania is revoked and that any pending judicial assignments of Judge Michael T. Conahan are rescinded.

JOHN A. VASKOV,
Deputy Prothonotary

[Pa.B. Doc. No. 09-254. Filed for public inspection February 13, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 78]

Oil and Gas Wells

The Environmental Quality Board (Board) proposes to amend Chapter 78, Subchapter B (relating to permits, transfers and objections) by adding a new § 78.19 (relating to permit application fees schedule) as set forth in Annex A. The Board has the authority to establish fees, by regulation, under section 201 of the Oil and Gas Act (act) (58 P. S. § 601.201). Under this provision, the Board has the authority to set fees at an amount that bears a reasonable relationship to the cost of administering the program.

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

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Ronald Gilius, Director, Bureau of Oil and Gas Management, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P. O. Box 8765, Harrisburg, PA 17105-8461, (717) 772-2199; or Scott Perry, 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 proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us.

C. *Statutory Authority*

This proposed rulemaking is being made under the authority of section 201(d) of the act which authorizes the Department to establish, by regulation, well permit fees that bear a reasonable relationship to the cost of administering the act, section 604 of the act (58 P. S. § 601.604) which directs the Board to adopt regulations necessary to implement the act, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), authorizing and directing the Board to adopt regulations necessary for the proper performance of the work of the Department.

D. *Background of the Amendments*

The act was passed on December 19, 1984, and established a \$100 fee for oil and gas well permits. Section 201(d) of the act allows the Department to increase the fee by regulation. Under this provision, fees must be set at a level that "bears a reasonable relationship to the cost of administering" the act. The Department has never increased the current \$100 permit fee.

There are three considerations that support the promulgation of a regulation to increase the permit application fees authorized by the act. First, the costs of administering the act have increased significantly since 1984 when the General Assembly established the \$100 fee that the Department currently charges. This \$100 per permit application fee does not currently bear a reasonable relationship to the cost of administering the act.

In addition, the number of permit applications that the Department reviews annually has grown dramatically over the past several years. In 2000, 1,354 wells were drilled in this Commonwealth. Last year in 2007 the Department issued 7,241 well permits applications. In 2009, the Department expects to receive over 11,000 permit applications. The Department's current staffing levels for the oil and gas program were established at a time when the Department reviewed considerably fewer permit applications than it reviews today. To properly review the number of applications that the Department currently receives and to inspect the operations of sites that currently possess a permit, the Department needs additional staff that the current \$100 fee cannot support.

Finally, there is significant and recent interest in the development and recovery of natural gas resources in the Marcellus Shale formation that underlies much of this Commonwealth. The development of this geologic formation, which also extends beneath portions of West Virginia and New York, has long been considered prohibitively expensive to access. Recent advances in natural gas drilling technology and rising natural gas prices have attracted considerable interest in the previously untapped formation.

The recent technological advances that allow recovery of natural gas found in the Marcellus Shale present new and expanded environmental considerations that the Department must evaluate properly to ensure the gas is recovered in the most environmentally sensitive manner feasible. Many of the new or expanded environmental considerations are directly related to the use of water to recover natural gas from the Marcellus Shale formation. Extracting natural gas from the Marcellus Shale formation requires horizontal drilling within the formation after vertical drilling reaches the formation. The horizontal drilling and a process known as "hydraulic fracturing" are used to allow the natural gas to flow freely from the Marcellus Shale formation. Hydraulically fracturing the Marcellus Shale uses far greater amounts of water than traditional natural gas exploration. Large volumes of water are pumped into the formation, along with sand and other materials under high pressure, to fracture the rock surrounding the horizontal well bore. A single well can use millions of gallons of water to hydraulically fracture the rock. After the hydraulic fracturing process is completed, the wastewater must be properly managed.

The significantly greater use of water at Marcellus Shale wells creates a series of environmental issues during the drilling and development of a Marcellus Shale well. First, there are a number of considerations associated with withdrawal of water, including the need to monitor and restrict the amount of withdrawal to avoid dewatering streams and causing pollution. Under State water law, a person who withdraws water in the amounts generally associated with Marcellus shale well development shall register the withdrawal with the Department. Second, there are a number of considerations associated with the use and storage of the water used for hydraulic fracturing at the well site or at other locations. Third, there are a number of considerations associated with the proper management, treatment and discharge of the wastewater.

To address these additional environmental considerations associated with development of Marcellus Shale, the Department prepared a permit application addendum

specifically for Marcellus Shale Gas Well development. The Department expends considerable staff resources to review the additional information in the Marcellus Shale Addendum. Because the Department's review of the Addendum includes several water quality and quantity issues not normally associated with gas well permit application reviews, the Department needs to coordinate its Marcellus Shale permit application review among several water resource related program areas. Within the Susquehanna and Delaware River Basins, the Department also needs to coordinate its review with the Susquehanna and Delaware River Basin Commissions which have regulatory authority over water withdrawals within their respective river basins.

To properly evaluate the proposals to recover gas from the Marcellus Shale formation, the Department has expended additional staff resources. The current \$100 per permit application fee does not have any "reasonable relationship" to the actual cost to implement this portion of the act program covering development of the Marcellus Shale. The Department needs additional resources to properly allow the development of the Marcellus Shale natural gas resources and to protect the environment. This regulatory fee increase is needed to provide the Department with the resources to perform the additional work associated with the review of Marcellus Shale gas well permit applications and with the oversight of any permits that are issued.

E. Summary of Proposed Rulemaking

Section 78.19(a) contains three fee schedules for the following types of wells: Vertical wells, deviated wells and Marcellus Shale wells. Vertical wells are those that only have vertical well bores to reach the oil or gas producing formation. Nonvertical wells are those that have nonvertical portions of the well bore, in addition to the vertical portion, that are intentionally drilled to develop the oil and gas producing formations. The nonvertical well category does not include Marcellus Shale wells. The final type is the Marcellus Shale wells. Marcellus Shale wells are those that may have nonvertical portions of the well bore, in addition to the vertical portion, that are intentionally drilled to develop the gas producing Marcellus Shale formation. For nonvertical and Marcellus Shale wells, the vertical well bore and the nonvertical well bore are added together to determine the total well bore length for purposes of determining the fee.

In § 78.19(b), the proposed regulation provides that applicants for vertical well permits that have a total well bore greater than 12,000 feet shall pay an additional fee of \$100 for every 500 feet drilled beyond 12,000 feet. In § 78.19(c), the proposed regulation provides that applicants for nonvertical and Marcellus Shale well permits that have a total well bore greater than 12,000 feet shall pay an additional fee of \$100 for every 500 feet drilled beyond 12,000 feet. Section 78.19(d) establishes an additional fee for well bores that are actually drilled beyond the depth requested in the application. Section 78.19(e) provides that fees are nonrefundable. Section 78.19(f) provides that applicants for a vertical well with a well bore length of 1,500 feet or less for home shall use an application fee of \$200. Finally, § 78.19(g) provides that the Department will provide the Board with an evaluation, at least every 3 years, concerning the adequacy of the fees to cover program implementation costs.

The proposed rulemaking makes one other minor conforming change to the permitting regulations. Section 78.15(b), which covers application requirements and com-

pleteness requirements, includes a cross-reference to the new regulatory fee schedule in § 78.19.

F. Relationship to Final-Omit Rulemaking to Increase Fees

This proposed rulemaking was approved at the same meeting that the Board approved a final-omitted rulemaking that is intended to quickly increase permit application fees for permits that are issued for the Marcellus Shale formation for the "good cause" reasons set forth in that rulemaking. This proposed rulemaking also includes the new Marcellus Shale permit application fees included in the final-omitted rulemaking to allow interested persons to provide comments on the new Marcellus Shale permit application fees as part of this proposed rulemaking. When this proposed rulemaking is adopted as final, the Board will make appropriate changes to the Marcellus Shale permit application fees as part of this rulemaking in response to public comments. The final-omitted fees for Marcellus shale permit applications will only be in effect until these proposed amendments are adopted as final.

G. Benefits and Costs

Benefits

The residents of this Commonwealth and the regulated community will benefit from this proposed rulemaking because the Department will be able to continue to uphold the purposes of the act. The purposes of the act are:

- (1) Permit the optimal development of the oil and gas resources of this Commonwealth consistent with the protection of the health, safety, environment and property of the citizens of this Commonwealth.
- (2) Protect the safety of personnel and facilities employed in the exploration, development, storage and production of natural gas or oil or the mining of coal.
- (3) Protect the safety and property rights of persons residing in areas where the exploration, development, storage or production occurs.
- (4) Protect the natural resources, environmental rights and values secured by the Pennsylvania Constitution. See 58 P. S. § 601.102.

The public will benefit in two general ways. The public will benefit from a fiscal perspective when the costs of the regulatory program are imposed on the regulated community, as the act provides. For Marcellus Shale gas well development, the need for timely and special reviews has significantly increased the Department's cost of implementation of the program and it is in the public interest to impose these costs on the regulated community. The public also benefits from an environmental perspective since the review of the Marcellus Shale permit applications require new and extensive reviews to ensure that the development of this natural gas resource occurs in an environmentally protective manner which State law requires. The higher fees will support the Department's newly developed and extensive efforts to review Marcellus Shale permit applications.

The regulated community will also benefit because the regulated community wants timely reviews of permit applications, which State law also requires. Having the staff to evaluate these Marcellus Shale permit applications in a timely and environmentally protective manner will benefit the regulated community and the public.

Costs

This rulemaking will not impose any additional costs on the Department. This proposal will help the Department

offset the greater implementation costs to support new and extensive reviews of oil and gas permit applications.

The base fee would include a vertical well base fee of \$250 with an additional \$50 per 500 feet of well bore drilled from 2,000 feet to 5,000 feet and an additional \$100 per 500 feet for the well bore drilled past 5,001 feet. Nonvertical wells, which are also called horizontal wells, would have a base fee of \$900 with an additional \$100 per 500 feet of well bore drilled past 1,500 feet. An applicant for a vertical well with a well bore length of 1,500 feet or less for home use shall pay a permit application fee of \$200.

Compliance Assistance Plan

A compliance assistance plan is not necessary because the new fee structure does not create a situation where a well operator will be out of compliance with the regulation. Well permits that do not contain the appropriate fee will be deemed incomplete. The Department will return the application to the applicant and tell the applicant what the appropriate fee is. To minimize this circumstance from occurring, the Department will publicize the new permit fee requirements on its web site and inform potential applicants of the new fee structure at upcoming industry trainings.

Paperwork Requirements

No additional paperwork will be required as a result of this rulemaking. However, the Department will need to amend its well permit application form and instructions to incorporate and explain the new permit fee structure.

H. Sunset Review

These proposed 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

In accordance with section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 2009, the Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

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

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulations to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by March 16, 2009. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by March 16, 2009. The 1-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by March 16, 2009. A subject heading of the proposal and a return name and address must be included in each transmission.

JOHN HANGER,
Acting Chairperson

Fiscal Note: 7-431. No fiscal impact; (9) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 78. OIL AND GAS WELLS

Subchapter B. PERMITS, TRANSFERS AND OBJECTIONS

PERMITS AND TRANSFERS

§ 78.15. Application requirements.

* * * * *

(b) The permit application will not be considered complete until the applicant submits a complete and accurate plat, an approvable bond or other means of complying with section 215 of the act (58 P. S. § 601.215), the fee in **compliance with § 78.19 (relating to permit application fees schedule)**, proof of notification, necessary requests for variance or waivers or other documents required to be furnished by law or the Department. The person named in the permit shall be the same person named in the bond or other security.

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

§ 78.19. Permit application fees schedule.

(a) An applicant shall pay a permit application fee according to the following schedule:

Vertical Wells		Nonvertical Wells		Marcellus Shale Wells	
Total Well bore Length in Feet	Total fee for a vertical well	Total Well bore Length in Feet	Total fee for a nonvertical well	Total Well bore Length in Feet	Total fee for a Marcellus Shale well
0 to 2,000	\$250	0 to 1,500	\$900	0 to 1,500	\$900
2,001 to 2,500	\$300	1,501 to 2,000	\$1,000	1,501 to 2,000	\$1,000
2,501 to 3,000	\$350	2,001 to 2,500	\$1,100	2,001 to 2,500	\$1,100
3,001 to 3,500	\$400	2,501 to 3,000	\$1,200	2,501 to 3,000	\$1,200
3,501 to 4,000	\$450	3,001 to 3,500	\$1,300	3,001 to 3,500	\$1,300
4,001 to 4,500	\$500	3,501 to 4,000	\$1,400	3,501 to 4,000	\$1,400
4,501 to 5,000	\$550	4,001 to 4,500	\$1,500	4,001 to 4,500	\$1,500
5,001 to 5,500	\$650	4,501 to 5,000	\$1,600	4,501 to 5,000	\$1,600
5,501 to 6,000	\$750	5,001 to 5,500	\$1,700	5,001 to 5,500	\$1,700
6,001 to 6,500	\$850	5,501 to 6,000	\$1,800	5,501 to 6,000	\$1,800
6,501 to 7,000	\$950	6,001 to 6,500	\$1,900	6,001 to 6,500	\$1,900
7,001 to 7,500	\$1,050	6,501 to 7,000	\$2,000	6,501 to 7,000	\$2,000
7,501 to 8,000	\$1,150	7,001 to 7,500	\$2,100	7,001 to 7,500	\$2,100
8,001 to 8,500	\$1,250	7,501 to 8,000	\$2,200	7,501 to 8,000	\$2,200
8,501 to 9,000	\$1,350	8,001 to 8,500	\$2,300	8,001 to 8,500	\$2,300
9,001 to 9,500	\$1,450	8,501 to 9,000	\$2,400	8,501 to 9,000	\$2,400
9,501 to 10,000	\$1,550	9,001 to 9,500	\$2,500	9,001 to 9,500	\$2,500
10,001 to 10,500	\$1,650	9,501 to 10,000	\$2,600	9,501 to 10,000	\$2,600
10,501 to 11,000	\$1,750	10,001 to 10,500	\$2,700	10,001 to 10,500	\$2,700
11,001 to 11,500	\$1,850	10,501 to 11,000	\$2,800	10,501 to 11,000	\$2,800
11,501 to 12,000	\$1,950	11,001 to 11,500	\$2,900	11,001 to 11,500	\$2,900
		11,501 to 12,000	\$3,000	11,501 to 12,000	\$3,000

(b) An applicant for a vertical well exceeding 12,000 feet in total well bore length shall pay a permit application fee of \$1,950 + \$100 for every 500 feet the well bore extends over 12,000 feet. Fees shall be rounded to the foot interval.

(c) An applicant for a nonvertical well or Marcellus Shale well exceeding 12,000 feet in total well bore length shall pay a permit application fee of \$3,000 + \$100 for every 500 feet the well bore extends over 12,000 feet. Fees shall be rounded to the foot interval.

(d) If, when drilled, the total well bore length of the well exceeds the length specified in the permit application, the operator shall pay the difference between the amount paid as part of the permit application and the amount required by subsections (a)—(c) plus 10% of the total amount required by subsections (a)—(c).

(e) Fees are nonrefundable.

(f) An applicant for a vertical well with a well bore length of 1,500 feet or less for home use shall pay a permit application fee of \$200.

(g) At least every 3 years, the Department will provide the Board with an evaluation of the fees in this chapter and recommend regulatory changes to the EQB to address any disparity between the program income generated by the fees and the Department's cost of administering the program with the objective of ensuring fees meet all program costs and programs are self-sustaining.

[Pa.B. Doc. No. 09-255. Filed for public inspection February 13, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

[31 PA. CODE CH. 147]

Annual Audited Insurers' Financial Report Required

The Insurance Department (Department) proposes to amend Chapter 147 (relating to annual audited insurers'

financial report required) to read set forth in Annex A, under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) regarding to the general rulemaking authority of the Department; sections 320, 630, 1007 and 2452 of The Insurance Company Law of 1921 (40 P. S. §§ 443, 764a, 967 and 991.2452) regarding to the authority of the Insurance Commissioner (Commissioner) to require insurance companies, associations, exchanges, fraternal benefit

societies and preferred provider organizations to file statements concerning their affairs and financial condition; and sections 205 and 206 of The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.205 and 1600.206); section 731 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.731); 40 Pa.C.S. §§ 6125, 6331 and 6701 (relating to reports and examinations; and regulation); sections 11 and 14 of the HMO Act (40 P. S. §§ 1561 and 1564); sections 7 and 25 of the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3207 and 3225) which respectively, relate to the specific regulatory and rulemaking authority of the Department regarding financial reporting by the Pennsylvania Fair Plan, the Pennsylvania Professional Liability Joint Underwriting Association, hospital plan corporations, professional health service corporations, beneficial associations, health maintenance organizations and continuing care providers.

Purpose

The purpose of this rulemaking is to update Chapter 147, commonly referred to as the "CPA Audit Rule." Chapter 147 was initially adopted in 1979 and requires insurers to have annual audits of their year-end statutory financial statements performed by independent certified public accountants (CPAs). It is based on a model regulation developed by the National Association of Insurance Commissioners (NAIC) and included in the NAIC's Financial Regulation Standards and Accreditation Program.

The amendments in this rulemaking are consistent with a new version of the NAIC model adopted in 2006, entitled "Annual Financial Reporting Model Regulation" (Model Regulation 205). The revised NAIC model was developed as a result of the NAIC's review of the Sarbanes-Oxley Act of 2002, also known as the Public Company Accounting Reform and Investor Protection Act of 2002 or the Sarbanes-Oxley Act of 2002, (SOX), and includes provisions related to auditor independence, corporate governance and internal control over financial reporting. The Department expects that the proposed amendments to Chapter 147 will be required for the Department to maintain accreditation by the NAIC beginning in 2010.

Explanation of Regulatory Requirements

The following is a description of the changes contained in the proposed rulemaking:

The heading of Chapter 147 is being updated to reflect the content of the regulations.

Section 147.1 (relating to purpose) is being amended to reflect the additional financial reporting requirements related to audits included in this rulemaking.

Section 147.2 (relating to definitions) is being amended to: (1) reference definitions of terms used in the regulation as defined in the law relating to insurance holding companies; and (2) add definitions to clarify new terms relating to audit committee requirements, internal control over financial reporting and other SOX-related terms consistent with the revised NAIC model.

Subsection 147.3(a) (relating to filing and extensions for filing required reports and communications) is being amended to reference supplemental guidance published in the NAIC *Accounting Practices and Procedures Manual*, defined for purposes of this regulation as the "NAIC Implementation Guide." The Department is also proposing to amend the provisions in § 147.3(b) relating to requesting an extension of the June 1 annual filing date for audited financial reports by reducing the time period for extensions from 30 to 15 days. The reliability of

annual financial statements filed by insurers with state regulators is crucial to the Department's solvency monitoring and financial regulation efforts. Reducing the time period for any extensions is based on the Department's experience in dealing with financially troubled insurers and is an important part of the Department's efforts over the past several years to promote the submission of timely filings and reduce a relatively high number of annual requests for extensions. Because of the inter-relationship of the various reports and communications required under the chapter, the amendments also clarify that an extension of the filing date for an audited financial report provides for an extension of the due dates for these other filings.

Section 147.3a (relating to requirements for audit committees) is being added consistent with the revised NAIC model to require domestic insurers subject to the regulation to establish audit committees. The section includes requirements relating to the qualifications and independence of audit committee members and audit committee responsibilities. These new requirements allow for the designation of an audit committee for one or more controlled insurers and include exemptions based on the amount of premiums written by an insurer, whether the insurer is subject to audit committee requirements under SOX or Pennsylvania laws relating to insurance holding company systems, and for continuing care providers.

Section 147.4 (relating to contents of annual audited financial report) is being amended to update terminology to reflect current financial reporting requirements. In addition, § 147.4(b)(2) is being amended to provide the Commissioner with discretion in determining whether an insurer is required to file an amendment to its annual financial statement to reflect differences between that statement and the insurer's audited financial statement. The paragraph requires all differences to be disclosed and reconciled in the notes to the annual financial statements. This amendment would allow the Commissioner to determine whether the differences also require the filing of an amended statement.

Section 147.5 (relating to designation of independent certified public accountant) is being amended to clarify current requirements for notice provided to the Department relating to accountants retained by insurers to conduct the annual audits required under this chapter, particularly in instances where the accountant is replaced, dismissed or resigns.

Section 147.6 (relating to recognition, qualification and responsibilities of an independent certified public accountant) is being amended to include provisions from the revised NAIC model to avoid conflicts of interest in the engagement of accountants to conduct annual audits. The restrictions include situations when a current officer or director of an insurer was involved in an audit of the insurer during the year before the beginning of the current audit period and also specify what types of other services an accountant retained to conduct an audit may or may not provide to the insurer. In addition, § 147.6(d) is being amended to shorten the consecutive time period that an accountant may be primarily responsible for an insurer's audit from 7 to 5 years. Subsection 147.6(h) provides for application for relief and exemptions from these restrictions based on unusual circumstances, financial or organizational hardship. The criteria for determining whether relief may be granted include the size or amount of business written by the insurer. The new requirements do not apply to continuing care providers.

The provisions currently found in § 147.15 (relating to letter of qualifications of independent certified public accountant) are being moved to new § 147.6a to follow the related section establishing the accountant's qualifications and responsibilities. This change will facilitate efforts to understand and comply with these requirements and is in response to past questions and comments the Department has received from users of the regulation. In addition, § 147.6a(3) is being amended to clarify that descriptions of auditing experience is required for only the key staff assigned by an accountant to work on an audit.

Section 147.8 (relating to scope of audit and report of independent certified public accountant) is being amended to incorporate current National auditing standards relating to internal controls over financial reporting.

Section 147.9a (relating to establishment and communication of internal control over financial reporting) is being added consistent with the revised NAIC model to require insurers to establish policies and procedures providing for internal control over financial reporting. The section lists the required elements or outcomes of policies and procedures for internal control over financial reporting and requires insurers to file a written communication prepared by the accountant retained to conduct the audit describing internal control related matters identified in the audit. The communication must state whether any unremediated material weaknesses in the insurer's internal control over financial reporting were identified in the audit and what actions have or will be taken to eliminate any unremediated material weaknesses.

Section 147.9b (relating to management's report of internal control over financial reporting) is also being added consistent with the revised NAIC model to require insurers to file an annual report of internal control over financial reporting prepared by the insurer's management, including an assertion, made to the best of management's knowledge and belief after diligent inquiry, as to whether the insurer's internal control is effective to provide reasonable assurance regarding the reliability of its annual financial statement filed with the Department. The section includes a premium threshold for automatic annual filings of the report and criteria for the Department's acceptance of an annual report on internal control over financial reporting and related attestation filed under SOX, defined in § 147.2 (relating to definitions) as a "Section 404 Report."

Section 147.10 (relating to report on significant deficiencies in internal controls) is being rescinded as outdated since this report is being replaced by the new reporting requirements proposed in the amendments to this chapter.

Section 147.12 (relating to examinations) is also being rescinded as outdated and unnecessary. The Department is implementing a new risk-focused approach to the conduct of financial examinations that includes a consideration of an insurer's internal controls over financial reporting. The Department believes a reference to its statutory authority under the laws and regulations related to the Department's conduct of onsite financial examinations is not needed for purposes of this regulation, which relates to annual audited financial reports filed by insurers with the Department.

Section 147.13 (relating to effective date and exemption) is being amended to establish a January 1, 2010, effective date for the final-form rulemaking amending the chapter and to update and clarify current exemptions.

Affected Parties

The chapter applies to all types of insurers and continuing care providers licensed to transact business in this Commonwealth and the accountants retained by these entities to conduct audits of their annual financial statements.

Fiscal Impact

State Government

The rulemaking will strengthen and clarify existing regulatory requirements. There will be no material increase in cost to the Department as a result of this rulemaking.

General Public

The public will benefit to the extent the rulemaking strengthens financial solvency regulatory requirements for insurers, thereby promoting the ability of the insurance industry to meet obligations under insurance policies.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions.

Private Sector

The rulemaking would impose additional costs on insurers that are not currently subject to audit committee and internal control reporting requirements. However, the strengthened requirements are consistent with National standards to be adopted by all states participating in the NAIC Financial Regulation Standards and Accreditation Program. The rulemaking minimizes costs by including a number of exemptions for smaller insurers and insurers already subject to similar requirements under insurance holding company and Security Exchange Commission laws and regulations.

Paperwork

The rulemaking would not impose additional paperwork on the Department. The amendments would require insurers to file new reports relating to internal control over financial reporting; however, the rulemaking may reduce paperwork to the extent that it provides for the filing of documents in electronic form.

Effectiveness/Sunset Date

The rulemaking will become effective January 1, 2010. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 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 (act) (71 P. S. § 745.5(a)), on February 3, 2009, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee (Committees). In addition to the submitted proposed rulemaking, the Department has, as required by the 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: 11-238. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 147. ANNUAL [AUDITED INSURERS' FINANCIAL REPORT REQUIRED] FINANCIAL REPORTING REQUIREMENTS

§ 147.1. Purpose.

The purpose of this chapter is to improve the Department's surveillance [for] of the financial condition of insurers by requiring an annual audit by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers, **a written communication detailing internal control related matters noted in the audit, and a written report by management of internal control over financial reporting.**

§ 147.2. Definitions.

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

Affiliate—As defined in section 1401 of The Insurance Company Law of 1921 (40 P. S. § 991.1401).

Assumed premiums—Total premiums assumed by an insurer from nonaffiliated insurers.

Audit committee—

(i) A committee or equivalent body established by the board of directors or equivalent body of an insurer for the purpose of overseeing the accounting and financial reporting processes, audits of financial statements, and internal control structure of the insurer or insurer group.

(ii) The term includes a committee established under section 1405(c)(4) or (5) of The Insurance Company Law of 1921 (40 P. S. § 991.1405(c)(4) and (5)).

* * * * *

Control, controlling, controlled by and under common control with—As defined in section 1401 of The Insurance Company Law of 1921.

* * * * *

Direct written premiums—Total premiums directly written by an insurer.

Insurer—

* * * * *

(ii) Except as otherwise noted, the term also includes a continuing care provider licensed to transact business in this Commonwealth **under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3255).**

Insurer group—Two or more affiliated insurers identified by a controlling entity for the purpose of evaluating the effectiveness of internal control over financial reporting.

Internal control over financial reporting—The process effected by the board of directors, management and other personnel of an insurer or insurer group, which provides reasonable assurances regarding the reliability of the financial statements in accordance with § 147.9a (relating to establishment and communication of internal control over financial reporting).

NAIC—The National Association of Insurance Commissioners or successor organization.

NAIC Implementation Guide—The "Implementation Guide for the Annual Financial Reporting Model Regulation" published in the *NAIC Accounting Practices and Procedures Manual*, or successor publication, prescribed for financial reporting under section 320(a)(2) of The Insurance Company Law of 1921 (40 P. S. § 443(a)(2)).

Person—As defined in section 1401 of The Insurance Company Law of 1921.

Sarbanes-Oxley Act—The Sarbanes-Oxley Act of 2002, also known as the Public Company Accounting Reform and Investor Protection Act of 2002 (15 U.S.C.A. §§ 7201—7266).

Sarbanes-Oxley Act compliant entity—An entity that is either required to be or is voluntarily compliant with the following:

(i) The preapproval requirements of section 201 of the Sarbanes-Oxley Act (15 U.S.C.A. § 78j-1).

(ii) The audit committee independence requirements of section 301 of the Sarbanes-Oxley Act (15 U.S.C.A. § 78f).

(iii) The internal control over financial reporting requirements of section 404 of the Sarbanes-Oxley Act (15 U.S.C.A. § 7262) and 17 CFR 229.308.

Section 404 Report—The annual report on internal control over financial reporting and the related attestation report of the independent certified public accountant filed under section 404 of the Sarbanes-Oxley Act (15 U.S.C.A. § 7262) and 17 CFR 229.308 (relating to Item 308 internal control over financial reporting).

Securities Exchange Act—The Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78mm).

Ultimate controlling person—A person which is not controlled by another person. The term may include one or more of the following: individual, corporation, limited liability company, partnership, association, joint stock company, trust, unincorporated organization, or any similar entity or combination of the foregoing who controls another person.

§ 147.3. Filing and extensions for filing [of annual audited financial report] required reports and communications.

(a) Every insurer, unless exempted by the Commissioner under § 147.13 (relating to effective date and exemption), shall have an annual audit performed by an independent certified public accountant and shall file as instructed by the Commissioner an audited financial report for that year on or before June 1 for the year ending December 31 immediately preceding unless an extension is granted under subsection (b). The Commissioner may require an insurer to file an audited financial report earlier than June 1 by providing 90 days' advance notice to the insurer. The Commissioner may require audited financial reports and related information required under this chapter to be filed with the Department and the National Association of Insurance Commissioners in a form of electronic transmission acceptable to the Commissioner. **Supplemental information related to reporting required under this chapter is published in the NAIC Implementation Guide.**

(b) Extensions of the filing date may be granted by the Commissioner for [30-day] 15-day periods upon showing, by the insurer and its independent certified public accountant, the reasons for requesting an extension by the Commissioner. The request for extension shall be submitted in writing at least 10 days prior to the due date in sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension. **A 15-day extension of the filing date granted by the Commissioner for an audited financial report must provide for 15-day extensions of the filing dates for communication of internal control related matters noted in an audit under § 147.9a (relating to establishment and communication of internal control over financial reporting) and for management's report of internal control over financial reporting under § 147.9b (relating to management's report of internal control over financial reporting).**

* * * * *

§ 147.3a. Requirements for audit committees.

(a) Every insurer required to file an annual audited financial report under this chapter shall establish an audit committee.

(b) An ultimate controlling person may designate an audit committee of a controlling person to be the audit committee for one or more controlled insurers. The designation must:

- (1) Be in writing.
- (2) Identify the ultimate controlling person.
- (3) Explain the basis for the designation in sufficient detail for the Department to determine compliance with this chapter.
- (4) Be provided by the ultimate controlling person or the insurer to the Department and the chief insurance regulatory official of each other state in which the controlled insurers are domiciled no later than April 1 of the year in which the insurer's audited financial report is required to be filed under this chapter.
- (5) Be effective upon receipt by the Department and remain in effect unless modified or rescinded

by subsequent notice provided by the ultimate controlling person or the insurer as required under paragraph (4).

(c) Each member of the audit committee shall be a natural person who is either a member of the board of directors of the insurer or a member of the board of directors of a controlling person whose audit committee has been designated as the insurer's audit committee under subsection (b).

(d) If an audit committee other than the entire board of directors of the insurer has not been established by the insurer or designated by an ultimate controlling person under subsection (b), the insurer's entire board of directors shall constitute the audit committee.

(e) A proportion of an audit committee's members shall be independent in accordance with the following requirements:

(1) The proportion of audit committee members who shall be independent shall be calculated as follows:

(i) When an insurer's direct written and assumed premiums are less than or equal to \$300,000,000 at the end of the most recent calendar year, 0% of the members are required to be independent.

(ii) When an insurer's direct written and assumed premiums exceed \$300,000,000 but are not more than \$500,000,000 at the end of the most recent calendar year, at least 50% of members are required to be independent.

(iii) When an insurer's direct written and assumed premiums exceed \$500,000,000 at the end of the most recent calendar year, at least 75% of members of the audit committee are required to be independent.

(2) If an audit committee of a controlling person has been designated to be the audit committee for one or more controlled insurers, the proportion of audit committee members who shall be independent shall be based on the insurer in the group with the greatest direct written and assumed premium.

(3) If an insurer's direct written and assumed premiums meet or exceed the direct written and assumed premiums threshold in paragraph (1)(i) or (ii) as of the end of a calendar year, the insurer shall comply with the required minimum proportion of independent audit committee members by January 1 following the next full calendar year, as described in the NAIC Implementation Guide.

(4) To be considered independent for purposes of this subsection, an audit committee member may not:

- (i) Be an affiliate of the insurer.
- (ii) Accept any consulting, advisory or other compensatory fee from the insurer or an affiliate of the insurer other than in the member's capacity as a member of the audit committee, board of directors or any other board committee.

(5) If an audit committee member ceases to be independent under this chapter, the person may remain an audit committee member until the earlier of the next annual meeting of the insurer or controlling person or 1 year from the occurrence of the event that caused the member to be no longer

independent, if the insurer or ultimate controlling person provides the Department with written notice within 15 days of the occurrence of the event.

(f) The audit committee shall retain an independent certified public accountant to conduct the annual audit and issue an audited financial report under this chapter in accordance with the following requirements:

(1) The audit committee shall be directly responsible for the appointment, compensation and oversight of the work of the independent certified public accountant and resolve disagreements between management and the independent certified public accountant relating to financial reporting for the purpose of preparing or issuing the audited financial report or related work under this chapter.

(2) The independent certified public accountant retained to conduct the annual audit under this chapter shall report directly to the audit committee. The audit committee shall require the independent certified public accountant to report to the audit committee in sufficient time to enable the committee to take appropriate action as required by Statement on Auditing Standards 114 (SAS 114), *The Auditor's Communication with Those Charged With Governance*, or successor publication and all of the following requirements:

(i) All significant accounting policies and material permitted practices.

(ii) All material alternative treatments of financial information within statutory accounting principles that have been discussed with the management of the insurer, ramifications of the use of alternative disclosures and treatments, and the treatment preferred by the independent certified public accountant.

(iii) Other material written communications between the independent certified public accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(3) The report required under paragraph (2) may be provided to the audit committee on an aggregate basis for insurers in an insurer group, if the report identifies any substantial differences in reported items among the insurers in the group.

(g) Exemptions are as follows:

(1) This section does not apply to an insurer with direct written and assumed premiums less than \$500,000,000, excluding premiums reinsured with the Federal Crop Insurance Corporation and the Federal Flood Program, which has been granted an exemption by the Department on the basis of financial or organizational hardship under § 147.13(g) (relating to effective date and exemption).

(2) This section does not apply to continuing care providers, foreign insurers, Sarbanes-Oxley compliant entities or direct or indirect wholly-owned subsidiaries of Sarbanes-Oxley compliant entities.

(3) The requirements of subsections (b)—(e) do not apply to insurers subject to section 1405(c)(4) and (5) of The Insurance Company Law of 1921 (40 P. S. § 991.1405(c)(4) and (5)).

(h) This section may not be interpreted to limit the Department's authority to require an insurer to

take specific corrective action relating to the independence of audit committee members under sections 501—563, 501-A—515-A, and 501-B—515-B of The Insurance Department Act of 1921 (40 P. S. §§ 221.1—221.63, 221-1A—221-15A and 221.1-B—221-B) regarding suspension of business and risk-based capital requirements), Chapter 160 (relating to standards to define insurers deemed to be in hazardous financial condition) or other provisions of law.

§ 147.4. Contents of annual audited financial report.

* * * * *

(b) The annual audited financial report [shall] must, at a minimum, include the following:

(1) Financial statements that present in a comparable manner, as of the end of the current and the preceding calendar year, the financial condition of the insurer, including the following:

(i) [Balance sheet reporting] Statement of admitted assets, liabilities, capital and surplus.

* * * * *

(2) Notes to financial statements. These notes shall be those required by the appropriate National Association of Insurance Commissioners Annual Statement Instructions and Accounting Practices and Procedures Manual. The notes [shall] must include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statements filed with the Department, with a written description of the nature of these differences, particularly with respect to surplus or stockholder equity and the results of operations. The [insurer shall] Commissioner may require the insurer to file an amendment to its annual statement with the Department, the [National Association of Insurance Commissioners] NAIC and other states in which the insurer is licensed, to reflect differences between the audited statutory financial statement and the annual statement filed with the Department within 60 days of the filing date of the audited financial report. The Commissioner may require amendments to financial statements to be filed with the Department and the [National Association of Insurance Commissioners] NAIC in a form of electronic transmission acceptable to the Commissioner.

(3) The report of an independent certified public accountant prepared in compliance with this chapter, including notification of adverse financial condition, [report on significant deficiencies in internal controls] communication of internal control related matters noted in the audit, and letter of qualifications of the independent certified public accountant.

* * * * *

§ 147.5. Designation of independent certified public accountant.

(a) Each insurer required by this chapter to file an annual audited financial report shall, within 60 days after becoming subject to the requirement, register with the Commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit set forth in this chapter. [Insurers which have not retained an independent certified public accountant by November

11, 1995, shall engage and register the name and address of an independent certified public accountant with the Commissioner at least 6 months before the date when the first audited financial report is required to be filed. This subsection does not apply to insurers which registered with the Commissioner in writing the name and address of an independent certified public accountant in compliance with this chapter prior to November 11, 1995.]

(b) The insurer shall obtain a letter from its independent certified public accountant and file a copy with the Commissioner, in accordance with the Department's instructions, stating that the independent certified public accountant is aware of the provisions of the insurance statutes and regulations that relate to accounting and financial matters of the State in accordance with whose regulation the audited financial report is made and affirming that the independent certified public accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the Department, specifying the exceptions the independent certified public accountant may believe appropriate.

(c) If an independent certified public accountant who was the independent certified public accountant for the immediately preceding filed audited financial report is dismissed, resigns or is otherwise replaced, the insurer shall within 5 business days notify the Department of the dismissal, resignation or replacement.

* * * * *

(3) Within 60 business days of submitting a notification of dismissal, resignation or replacement, the insurer shall register with the Commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit required under this chapter and shall obtain and file an awareness letter from the independent certified public accountants as required under subsection (b).

* * * * *

§ 147.6. [Qualifications of] Recognition, qualification and responsibilities of an independent certified public accountant.

(a) [The] An annual audited financial report must be prepared by a qualified independent certified public accountant recognized by the Commissioner.

(b) Except for insurers organized in Canada or the United Kingdom of Great Britain and Northern Ireland, the Commissioner will not recognize a person or firm as a qualified independent certified public accountant nor accept an annual audited financial report prepared in whole or in part by the person or firm under any of the following conditions:

* * * * *

(5) The person or firm employed a partner or senior manager who was involved in an audit of the insurer during the 1 year period preceding the date that the most current annual audited financial report is due and who currently serves as a member of the board of directors, president, chief executive officer, controller, chief financial officer, chief accounting officer, or in any equivalent position for the insurer.

(6) The person or firm provides to the insurer contemporaneously with the audit any of the following nonaudit services:

(i) Bookkeeping or other services relating to the insurer's accounting records or financial statements.

(ii) Financial information systems design and implementation.

(iii) Appraisal or valuation services, fairness opinions or contribution-in-kind reports.

(iv) Actuarial advisory services.

(v) Internal audit outsourcing services.

(vi) Management functions or human resource services.

(vii) Broker or dealer, investment adviser or investment banking services.

(viii) Legal or expert services unrelated to the audit.

[(b)] (c) For an insurer organized in Canada or the United Kingdom of Great Britain and Northern Ireland, the Commissioner will not recognize a person or firm as a qualified independent public accountant nor accept an annual audited financial report prepared in whole or in part by the person or firm under any of the following conditions:

* * * * *

(3) The person or firm meets the criteria of subsection (b)(5) or provides to the insurer contemporaneously with the audit any of the nonaudit services prohibited under subsection (b)(6) and the insurer has not been granted an exemption under subsection (h).

[(c) Except as otherwise provided in this section, the Commissioner will recognize an independent certified public accountant as independent and qualified who conforms to the standards of the profession as contained in the "Code of Professional Ethics of the American Institute of Certified Public Accountants, Inc." and The CPA Law (63 P. S. §§ 9.1—9.16b) or similar laws.]

(d) [A] The qualified independent certified public accountant's lead partner or other person [responsible for rendering an audited financial report] primarily responsible for an insurer's audit may not act in that capacity for more than [7] 5 consecutive years. Following a [7-year] 5 year period of service, the person will be disqualified from acting in that or a similar capacity for the same insurer or its insurance subsidiaries or affiliates for 2 years. [An insurer may apply to the Commissioner for relief from the rotation requirement on the basis of unusual circumstances. In determining if the relief should be granted, the Commissioner may consider the following factors:

(1) The number of partners, the expertise of the partners or the number of insurance or continuing care provider clients in the currently registered firm.

(2) The premium volume of the insurer or revenue volume of the continuing care provider.

(3) The number of jurisdictions in which the insurer transacts business.]

(e) A qualified independent certified public accountant who performs an audit for an insurer may only engage in nonaudit services, including tax services, for the insurer if all of the following requirements are met:

(1) The services are not prohibited under subsection (b)(6).

(2) The independent certified public accountant does not function in the role of management, audit his own work or serve in an advocacy role for the insurer.

(3) The services have been approved in advance by the insurer's audit committee under subsection (f).

(f) Auditing and nonaudit services provided to an insurer by the insurer's qualified independent certified public accountant shall be preapproved in writing by the insurer's audit committee, except that preapproval of nonaudit services is not required if any of the following criteria are met:

(1) The insurer is a Sarbanes-Oxley compliant entity.

(2) The insurer is a direct or indirect wholly-owned subsidiary of a Sarbanes-Oxley compliant entity.

(3) The aggregate amount of the nonaudit services constitute 5% or less of the total amount of fees paid or owed by the insurer to the qualified independent certified public accountant.

(g) An insurer's audit committee may delegate the authority to grant the preapprovals required under subsection (f) to one or more designated members of the audit committee. A decision of any member to whom this authority is delegated shall be presented to the full audit committee at the next scheduled meeting.

(h) The following provisions apply to applications for relief and exemptions:

(1) An insurer may apply to the Commissioner for relief from subsection (b)(5) or subsection (d), or both, on the basis of unusual circumstances. In determining whether relief should be granted, the Commissioner may consider the following factors:

(i) The number of partners, the expertise of the partners or the number of insurance or continuing care provider clients in the currently registered firm.

(ii) The premium volume of the insurer or revenue volume of the continuing care provider.

(iii) The number of jurisdictions in which the insurer transacts business.

(2) If relief is granted, the insurer shall include a copy of the granted relief with its audited financial report filed under § 147.3(a) (filing and extensions for filing required reports and communications).

(3) An insurer with direct written and assumed premium less than \$100,000,000 in a calendar year may apply for exemption from subsection (b)(6) on the basis of financial or organizational hardship under § 147.13(g) (relating to effective date and exemption).

(4) The requirements of subsection (b)(5) and (6) and subsections (e), (f) and (g) do not apply to continuing care providers.

[(e)] (i) * * *

* * * * *

[(f)] (j) * * *

[(g)] (k) * * *

[(h)] (l) * * *

[(i)] (m) * * *

§ 147.6a. Letter of qualifications of independent certified public accountant.

The independent certified public accountant shall furnish the insurer for inclusion in the filing of the annual audited financial report a letter of qualifications that includes the following:

(1) A statement that the certified public accountant is independent from the insurer and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants, Inc. and The C.P.A. Law (63 P.S. §§ 9.1—9.16(b)) or similar laws.

(2) A general description of the independent certified public accountant's background and experience.

(3) A specific description of the insurer auditing experience of partners, senior managers, in-charge auditors or other key staff persons assigned to the engagement and a statement as to whether each staff person is an independent certified public accountant. This provision does not prohibit the independent certified public accountant from utilizing staff as the independent certified public accountant deems appropriate when consistent with the standards prescribed by generally accepted auditing standards.

(4) A statement that the independent certified public accountant understands that the annual audited financial report that the independent certified public accountant's opinion thereon will be filed in compliance with this chapter and that the Commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers.

(5) A statement that the independent certified public accountant consents to the requirements of § 147.11 (relating to definitions, availability and maintenance of independent certified public accountant workpapers) and that the independent certified public accountant consents and agrees to make available for review by the Commissioner, the Commissioner's designee or Department examiners, the workpapers, as defined in § 147.11.

(6) A declaration that the independent certified public accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants, Inc.

(7) A declaration that the independent certified public accountant is in compliance with § 147.6 (relating to recognition, qualification and responsibilities of an independent certified public accountant).

§ 147.6b. Conduct of insurer relating to audits.

(a) When communicating with any accountant relating to an audit, review or communication required under this chapter, an officer or director of an insurer may not directly or indirectly:

(1) Make or cause to be made a materially false or misleading statement.

(2) Omit or cause another person to omit any material fact necessary to make statements made, in light of the circumstances under which the statements are made, not misleading.

(b) An officer or director of an insurer or any other person acting under the direction thereof, may not, directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence an accountant performing an audit under this chapter if he knows or should have known that the action, if successful, could render the insurer's financial statements materially misleading.

(c) For purposes of subsection (b), actions that could render an insurer's financial statements materially misleading include, but are not limited to, actions which would result in the accountant:

(1) Issuing or reissuing a report on an insurer's financial statements that materially violates statutory accounting principles prescribed by the Commissioner, generally accepted auditing standards, or other professional or regulatory standards.

(2) Failing to perform an audit, review or other procedures required by generally accepted auditing standards or other professional standards.

(3) Failing to comply with § 147.9(d) (relating to notification of adverse financial condition).

(4) Failing to communicate matters to an insurer's audit committee.

(5) Violating any provision of this chapter.

§ 147.8. Scope of audit and report of independent certified public accountant.

* * * * *

(b) The scope of the audit and data testing procedures shall be conducted as required by the appropriate *Annual Statement Instructions* adopted by the [National Association of Insurance Commissioners] NAIC. Consideration shall also be given to other procedures in the *Financial Condition Examiner's Handbook* adopted by the [National Association of Insurance Commissioners] NAIC. The independent certified public accountant shall obtain an understanding of internal control sufficient to plan the audit in accordance with AU Section 319 of the Professional Standards of the American Institute of Certified Public Accountants, *Consideration of Internal Control in a Financial Statement Audit* (AU 319). To the extent required by AU 319 and as part of the independent certified public accountant's professional requirements defined in Statement on Auditing Standards (SAS) No. 102, *Defining Professional Requirements in Statements on Auditing Standards* or its replacement, the independent certified public accountant shall consider the most recently available Management's Report of Internal Control over Financial Reporting, as required under § 147.9b, in planning and performing the audit of an insurer's statutory financial statements.

* * * * *

§ 147.9. Notification of adverse financial condition.

(a) An insurer required by this chapter to [furnish the] file an annual audited financial report shall require the independent certified public accountant to report, in writing, within 5 business days to the board of directors or audit committee of the insurer, any of the following:

* * * * *

§ 147.9a. Establishment and communication of internal control over financial reporting.

(a) An insurer or insurer group shall establish internal control over financial reporting policies and procedures designed to provide reasonable assurance that:

(1) The financial statements of the insurer or insurer group as required under § 147.4(b) and (c) (relating to contents of annual audited financial report) are reliable.

(2) Records are created and maintained to accurately and fairly reflect dispositions of assets and other transactions.

(3) Transactions are recorded as needed to prepare financial statements.

(4) Receipts and expenditures are made only as authorized by the management or board of directors of the insurer or insurer group.

(5) Unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements of the insurer or insurer group are prevented or detected in a timely manner.

(b) An insurer required under this chapter to file an annual audited financial report shall provide the Department with a written communication prepared by the independent certified public accountant describing internal control related matters identified in the audit. The written communication shall be filed with the Department within 60 days after the filing of the annual audited financial report.

(c) The communication must include a description of any unremediated material weakness in the insurer's internal control over financial reporting as of the immediately preceding December 31 or a statement that no unremediated material weaknesses were identified in the audit. For purposes of this subsection, the term "material weakness" is as defined by AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants, (SAS 112) *Communicating Internal Control Related Matters Identified in an Audit*, or its replacement.

(d) If a communication of internal control related matters filed under subsection (b) includes a description of unremediated material weaknesses, either the independent certified public accountant or the insurer shall provide the Department, within 60 days after the filing of the annual audited financial report, a written description of actions taken or proposed to eliminate the unremediated material weaknesses.

§ 147.9b. Management's report of internal control over financial reporting.

(a) An insurer that is required to file an audited financial report and that has annual direct written

and assumed premiums equal to or greater than \$500,000,000, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, shall file with the Department a management's report of internal control over financial reporting of the insurer or insurer group. A management's report of internal control over financial reporting shall be filed for an insurer group if the annual direct written and assumed premiums of any one insurer in the group is equal to or greater than \$500,000,000, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program. However, the Commissioner may require an insurer that has less than \$500,000,000 in annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, to file a management's report of internal control over financial reporting under sections 501—563, 501-A—515-A, and 501-B—515-B of The Insurance Department Act of 1921 (40 P. S. §§ 221.1—221.63, 221.1-A—221.15-A and 221.1-B—221.15-B) regarding suspension of business and risk-based capital requirements, Chapter 160 (relating to standards to define insurers deemed to be in hazardous financial condition) or other provisions of law. If an insurer previously not required to file a management's report of internal control over financial reporting because it did not meet the \$500,000,000 threshold is subsequently required to file the report because its premiums equal or exceed the threshold, the insurer or the insurer group shall have 2 years following the year the threshold is exceeded to file the report.

(b) The management's report of internal control over financial reporting shall be prepared by management as of the immediately preceding December 31, filed with the report of internal control related matters required under § 147.9a (relating to establishment and communication of internal control over financial reporting) and include:

(1) Statement that management is responsible for establishing and maintaining adequate internal control over financial reporting.

(2) Statement that management has established internal control over financial reporting.

(3) Brief description of the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting.

(4) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of the immediately preceding December 31.

(5) Assertion to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles.

(A) Management may base its assertion, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(B) Management may not assert that internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statu-

tory accounting principles if one or more unremediated material weaknesses in internal control over financial reporting are disclosed as required by paragraph (4).

(C) Management shall create and maintain documentation relating to the basis upon which its assertion in management's report of internal control over financial reporting is made. Management shall have discretion as to the nature and extent of documentation to make its assertion in a cost-effective manner, including assembly of or reference to existing documentation. The documentation shall be made available to Department examiners and given confidential treatment under the authority of sections 901—908 of The Insurance Department Act of 1921 (40 P. S. §§ 323.1—323.8).

(6) Statement regarding the inherent limitations of internal control systems.

(7) Signatures of chief executive officer and chief financial officer or individuals holding equivalent positions. A management's report of internal control over financial reporting filed for an insurer group must include a statement identifying the officers or individuals in equivalent positions who have been authorized by management to sign the report on behalf of the affiliated insurers in the group.

(c) An insurer may satisfy the requirements of subsection (a) by filing a Section 404 report of the insurer or insurer group if:

(1) The insurer or insurer group is at least one of the following:

(i) Directly subject to Section 404.

(ii) A Sarbanes-Oxley compliant entity not directly subject to Section 404.

(iii) A member of a holding company system whose parent is directly subject to Section 404.

(iv) A member of a holding company system whose parent is not directly subject to Section 404 and is a Sarbanes-Oxley compliant entity.

(2) The scope of the Section 404 report includes internal controls of the insurer or insurer group that have a material impact on the preparation of the audited statutory financial statements of the insurer or insurer group as required under § 147.4(b) and (c) (relating to contents of annual audited financial report).

(3) The Section 404 report includes an addendum consisting of a positive statement by management that no material processes relating to the preparation of the audited statutory financial statements of the insurer or insurer group, as required under § 147.4 (b) and (c) are excluded from the Section 404 report.

(d) An insurer or insurer group that satisfies the requirements of subsection (c)(1) and (3) but the scope of its Section 404 report does not satisfy the requirements of subsection (c)(2) may satisfy the requirements of subsection (a) by filing one of the following:

(1) A management's report of internal control over financial reporting as required under subsection (b).

(2) A Section 404 report and a management's report of internal control over financial reporting for those internal controls that have a material impact on the preparation of the audited statutory financial statements of the insurer or insurer group and that are not included within the scope of the Section 404 report.

(e) This section does not apply to continuing care providers.

§ 147.10. [Report on significant deficiencies in internal controls] (Reserved).

[(a) Concurrently with the filing of the annual audited financial reports, each insurer shall furnish the Commissioner with a written report prepared by the independent certified public accountant describing significant deficiencies in the insurer's internal control structure noted by the independent certified public accountant during the audit. The *Statement of Auditing Standard No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants, Inc.)* requires an independent certified public accountant to communicate significant deficiencies, known as "reportable conditions," noted during a financial statement audit to the appropriate parties within an entity. A report should not be issued if the independent certified public accountant does not identify significant deficiencies.

(b) The insurer is required to provide, within 60 days of the date of the independent certified public accountant's report on significant deficiencies, a description of remedial actions taken or proposed to correct significant deficiencies, if the actions are not described in the independent certified public accountant's report.]

§ 147.12. [Examinations] (Reserved).

[(a) The Commissioner will determine the nature, scope and frequency of examinations conducted by Department examiners under the laws relating to the conduct of examinations. Examinations may, but need not, cover all aspects of the assets, condition, affairs and operations of the insurer and may include and be supplemented by audit procedures performed by the independent certified public accountant as provided in this chapter. Scheduling of examinations will take into account matters such as early warning test results, changes in management, results of market conduct examinations and annual audited financial reports. The type of examinations performed by Department examiners will be as follows:

(1) Compliance examinations will consist of a review of the workpapers of the independent certified public accountant defined under § 147.11 (relating to definition, availability and maintenance of independent certified public accountant workpapers) and a general review of the corporate affairs and insurance operations of the insurer to determine compliance with the Pennsylvania insurance statutes and this title. The examiners may perform alternative or additional examination procedures to supplement those performed by the independent certified public accountant when the

examiners determine that the procedures are necessary to verify the financial condition of the insurer.

(2) Limited scope examinations may cover areas such as life reserve valuations, claims analyses and organizational and capital changes and other areas the Commissioner may deem appropriate.

(3) Comprehensive examinations will be performed when the report of the independent certified public accountant as provided for in § 147.8 (relating to scope of audit and report of independent certified public accountant), the notification required by § 147.9 (relating to notification of adverse financial condition), the results of compliance or limited scope examinations, or other circumstances indicate in the judgment of the Commissioner that a complete examination of the condition and affairs of the insurer is necessary.

(b) Upon the completion of each examination described in subsection (a), the examiners appointed by the Commissioner will make a full and true report on the results of the examination. Each report will include a general description of the audit procedures performed by Department examiners and the procedures of the independent certified public accountant which the examiners may have utilized to determine the nature, timing and extent of their examination procedures. The cost of the examination shall be paid by the insurer examined in accordance with the laws and regulations relating to Department examinations.

(c) This chapter does not prohibit, preclude or in any way limit the Commissioner from ordering and conducting, or performing examinations of insurers under the laws and regulations of the Commonwealth and the practices and procedures of the Department.]

§ 147.13. Effective date and exemption.

* * * * *

(b) [For those insurers retaining an independent certified public accountant on November 11, 1995, the 7-year period of service referred to in § 147.6(d) (relating to qualifications of independent certified public accountant) begins when the independent certified public accountant or other person responsible for rendering the annual audited financial report was first retained or assigned that responsibility. The requirement that an insurer retain the services of a new independent certified public accountant in order to comply with the 7-year rotation provision in § 147.6(d) shall become effective November 11, 1997] Insurers shall comply with this chapter for annual audited financial reports beginning January 1, 2010.

* * * * *

(f) Foreign insurers filing annual audited financial reports in another state, pursuant to that state's requirements for annual audited financial reports whose requirements [have been found by the Commissioner to be] are substantially similar to the requirements of this chapter, are exempt from this chapter [if the insurer meets the following conditions:

(1) A copy of the annual audited financial report, report of evaluation of accounting procedures and system of internal controls, report on significant

deficiencies in internal controls, and the independent certified public accountant's letter of qualifications which are filed with the other state are filed as instructed by the Commissioner in accordance with the filing dates specified in this chapter. Canadian insurers may submit independent certified public accountant's reports as filed with the Canadian Dominion Department of Insurance.

(2) A copy of a notification of adverse financial condition report filed with the other state is filed with the Commissioner within the time frames specified in § 147.9 (relating to notification of adverse financial condition).]

(g) Upon written application of an insurer, the Commissioner may grant an exemption from compliance with **all or part of** this chapter if the Commissioner finds, upon review of the application, that compliance with this chapter would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. **If an exemption is granted, the insurer shall file a copy of the exemption with the NAIC and as required by the chief insurance regulatory official in all states where the insurer is licensed or is doing business.** Within 10 days from a denial of the written [request] application of an insurer for an exemption from this chapter, the insurer may request in writing a hearing on its application for an exemption. Hearings will be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and Chapters 56[and]—58 (relating to special rules of administrative practice and procedure; [and] publication of citations and notice of hearings; and objections and procedure for hearings on reports of examinations).

* * * * *

(i) In the case of insurers organized in Canada or the United Kingdom of Great Britain and Northern Ireland, the annual audited financial report is defined as the annual statement of total business on the form filed by the insurers with their domiciliary supervision authority, audited by an independent chartered accountant. For these insurers, the letter required in [§ 147.15 (relating to letter of qualifications of independent certified public accountant) shall] § 147.6a (relating to letter of qualifications of independent certified public accountant) must state that the independent certified public accountant is aware of the requirements relating to the annual audited financial report filed with the Commissioner under § 147.3 (relating to filing and extensions for filing **required reports and communications**) and [shall] affirm that the opinion expressed is in conformity with those requirements.

§ 147.15. [Letter of qualifications of independent certified public accountant] (Reserved).

[The independent certified public accountant shall furnish the insurer for inclusion in the filing of the annual audited financial report a letter including the following:

(1) A statement that the certified public accountant is independent with respect to the insurer and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants, Inc., and The C.P.A. Law (63 P. S. §§ 9.1—9.16(b)) or similar laws.

(2) A description of the background and experience in general and the experience in audits of insurers of the staff assigned to the engagement and whether each staff person is an independent certified public accountant. This chapter does not prohibit the independent certified public accountant from utilizing staff as the independent certified public accountant deems appropriate when consistent with the standards prescribed by generally accepted auditing standards.

(3) A statement that the independent certified public accountant understands that the annual audited financial report and the independent certified public accountant's opinion thereon will be filed in compliance with this chapter and that the Commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers.

(4) A statement that the independent certified public accountant consents to the requirements of § 147.11 (relating to definitions, availability and maintenance of independent certified public accountant workpapers) and that the independent certified public accountant consents and agrees to make available for review by the Commissioner, the Commissioner's designee or Department examiners, the workpapers, as defined in § 147.11.

(5) A representation that the independent certified public accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants, Inc.

(6) A representation that the independent certified public accountant is in compliance with § 147.6 (relating to qualifications of independent certified public accountant).]

[Pa.B. Doc. No. 09-256. Filed for public inspection February 13, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Continuing Education Requirements for Affiliated Qualified Inspectors of Certain Categories of Amusement Rides or Amusement Attractions

The Department of Agriculture (Department) administers and enforces the Amusement Ride Inspection Act (act) (4 P. S. §§ 401—419).

The regulations promulgated under authority of the act (7 Pa. Code Chapter 139 (relating to amusement rides and attractions erected permanently or temporarily at carnivals, fairs and amusement parks)) establish continuing education requirements for “qualified inspectors” of amusement rides and amusement attractions. These requirements are set forth in detail in 7 Pa. Code § 139.9(l) (relating to qualified inspectors). Qualified inspectors are divided into two categories: affiliated qualified inspectors and general qualified inspectors. An affiliated qualified inspector’s authority is limited only to rides and attractions owned or leased by a particular owner or lessee. A general qualified inspector has no such restriction, and may inspect rides or attractions without regard to who owns or leases them.

The continuing education requirements for qualified inspectors include a mandatory minimum number of hours of continuing education instruction that a qualified inspector must obtain before the Department will renew its certification of that qualified inspector. In general, this minimum-hour requirement is 24 hours for an affiliated qualified inspector and 48 hours for a general qualified inspector. This training must be obtained during the 3 years preceding an application for renewal of certification.

The regulation in 7 Pa. Code § 139.9(b) requires the Department to establish specific categories of amusement rides and amusement attractions by publishing this categorization on its web site. This has been done; and the list can be accessed through the following web site address: www.agriculture.state.pa.us.

The regulation in 7 Pa. Code § 139.9(l) allows the Department to reduce the continuing education require-

ment with respect to any of these Department-established categories of amusement rides and amusement attractions to as few as 16 hours if it determines that rides or attractions within that category are of a comparatively simple design or operation to “. . . reasonably justify a requirement of fewer hours of continuing education for qualified inspectors of that particular category of ride or attraction than are otherwise required under that subsection.”

Under the discretion afforded it under the regulation in 7 Pa. Code § 139.9(l), the Department hereby gives notice that the mandatory minimum continuing education requirement for persons who are affiliated qualified inspectors with respect to any of the following Department-designated categories of rides and attractions shall be 16 hours, rather than the 24 hours otherwise required under that subsection:

1. Water Attractions (including Water Slides).
2. Go-Carts and Bumper Boats.
3. Walk-through Attractions (including “Haunted” Attractions).
4. Inflatable Amusement Attractions.
5. Extreme Sports (including Climbing Walls and Bungee Trampolines).

This notice does not pertain to general qualified inspectors.

Interested persons may direct questions or comments to the Director of the Department’s Bureau of Ride and Measurement Standards at (717) 787-9089, or to the following address:

Pennsylvania Department of Agriculture
Bureau of Ride and Measurement Standards
ATTN: Director
2301 North Cameron Street
Harrisburg, PA 17110-9408

This Notice shall take effect January 29, 2009, and shall remain in effect until rescinded or modified.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 09-257. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending February 3, 2009.

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

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-28-2009	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	818 Haddonfield Road Cherry Hill Camden County, NJ	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-28-2009	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	<i>To:</i> Water Street and Kennedy Boulevard Pittston Luzerne County <i>From:</i> 801 Wyoming Avenue West Pittston Luzerne County	Approved

Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 2 West Main Street Mechanicsburg Cumberland County <i>From:</i> Main and Filbert Streets Mechanicsburg Cumberland County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 100 South Union Street Middletown Dauphin County <i>From:</i> 37 Brown Street Middletown Dauphin County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> Frankford Avenue and Teesdale Street Philadelphia Philadelphia County <i>From:</i> 7149 Frankford Avenue Philadelphia Philadelphia County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 2 East Baltimore Avenue Media Delaware County <i>From:</i> Second and Olive Streets Media Delaware County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 160 West Eagle Road Havertown Delaware County <i>From:</i> 1635 East Darby Road Havertown Delaware County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	70 Buckwalter Road Royersford Montgomery County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	8423 Frankford Avenue Philadelphia Philadelphia County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	190 Gamma Drive Pittsburgh Allegheny County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	656 Broadway McKees Rocks Allegheny County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	5925 Sixth Avenue Altoona Blair County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	2900 East College Avenue State College Centre County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1500 Garrett Road Upper Darby Delaware County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	5045 Township Line Road Drexel Hill Delaware County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	815 East 38th Street Erie Erie County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	270 Main Street Landisville Lancaster County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	222 West Main Street Collegeville Montgomery County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	512 Pennsylvania Avenue Fort Washington Montgomery County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	3154 SR 257 Seneca Venango County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	45 East Main Street Dallastown York County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	33 West Gay Street West Chester Chester County	Filed
1-27-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	720 Downingtown Pike West Chester Chester County	Filed
1-29-2009	Firsttrust Savings Bank Conshohocken Montgomery County	405 Oxford Valley Road Fairless Hills Bucks County	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
1-29-2009	Colonial American Bank West Conshohocken Montgomery County	Amend Articles II, V, VI, VII and XII of the Articles of Incorporation	Approved and Effective

Amendment to Article II provides for a change of the principal place of business of the institution *From:* 300 Conshohocken State Road, Suite 160, West Conshohocken, PA 19428 *To:* 300 Welsh Road, Building 4, Suite 100, Horsham, PA 19044.

Amendment to Articles V and VI provides for the issuance of common stock and preferred stock.

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
		Amendment to Article VII provides for a change of the authorized number of directors <i>From:</i> not less than five nor more than nine <i>To:</i> not less than five nor more than 15.	
		Amendment to Article XII clarifies provisions relating to the acquisition of voting control of the institution.	

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
1-29-2009	Alcose Credit Union, White Oak, and Basil Community Credit Union, Pittsburgh Surviving Institution: Alcose Credit Union, White Oak	White Oak	Filed

Branch Applications**De Novo Branches**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
1-30-2009	TruMark Financial Credit Union Trevose Bucks County	1931 South Broad Street Philadelphia Philadelphia County	Approved

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-258. Filed for public inspection February 13, 2009, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of March 2009

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of March, 2009, is 5 1/2%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 2.99 to which was added 2.50 percentage points for a total of 5.49 that by law is rounded off to the nearest quarter at 5 1/2%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-259. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**Conservation and Natural Resources Advisory Council Meeting**

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, February 25, 2009, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-260. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Robert Turner for Reinstatement of Teaching Certificate; Doc. No. Re-08-04

Hearing

Under the Professional Educator Discipline Act (act) (24 P. S. §§ 2070.1—2070.18a), the Professional Standards and Practices Commission (Commission) has initiated hearing procedures to consider the application of Robert Turner for reinstatement of his teaching certification.

On or about September 24, 2008, Robert Turner filed an application for reinstatement of his teaching certification under section 16 of the act (24 P. S. § 2070.16), 1 Pa. Code §§ 35.1 and 35.2 (relating to applications) and 22 Pa. Code § 233.123 (relating to reinstatements). Under section 16 of the act, the Department of Education on December 26, 2008, advised the Commission that it opposed the application for reinstatement. In accordance with the act and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), the Commission will appoint a hearing examiner to serve as presiding officer to conduct the proceedings and hearings as might be necessary, and to prepare a proposed report

to the Commission containing findings of fact, conclusions of law and a recommended decision on the application.

Interested parties who desire to participate in these hearing procedures must file a notice of intervention or a petition to intervene in accordance with 1 Pa. Code §§ 35.27—35.32 (relating to intervention) within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Persons objecting to the approval of the application may also, within 30 days after publication of this notice in the *Pennsylvania Bulletin*, file a protest in accordance with 1 Pa. Code § 35.23 (relating to protests generally).

Notices and petitions to intervene and protest shall be filed with Carolyn Angelo, Executive Director of the Professional Standards and Practices Commission, at 333 Market Street, Harrisburg, PA 17126-0333, on or before 4 p.m. on the due date prescribed by this notice. Persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodation to participate should contact Suzanne B. Markowicz at (717) 787-6576 to discuss how the Commission may best accommodate their needs.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 09-261. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0061786 (Minor Sewage)	Manwalamink Sewer Company Ft. DePuy P. O. Box 48 Shawnee on Delaware, PA 18356-0048	Smithfield Township Monroe County	Broadhead Creek 1E	Y
PA0020109 (Industrial Waste)	PPL Interstate Energy Company Martins Creek Terminal 214 Shoemaker Road Pottstown, PA 19464	Lower Mt. Bethel Township Northampton County	Delaware River 01F	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0085715 (Sew)	Lloyd and Bertha Geib 504 Hemlock Lane Lebanon, PA 17042-9015	Lebanon County Cornwall Borough	UNT Shearers Creek 7-G	Y
PA0055328 (IW)	New Morgan Landfill Company, Inc. 420 Quarry Road P. O. Box 128 Morgantown, PA 19543-0128	Berks County New Morgan Borough	UNT to East Branch Conestoga River 7-J	Y
PA0086908 (Sew)	Middle Creek Bible Conference, Inc. P. O. Box 1 Cascade, MD 21719	Adams County Freedom and Liberty Townships	Middle Creek 13-D	Y
PA0008761 (IW)	Armstrong World Industries, Inc. 1507 River Road Marietta, PA 17547	Lancaster County East Donegal Township	Susquehanna River 7-G	Y
PA0052396 (IW)	OZ/Gedney, LLC Shoemakersville Foundry 150 Birch Hill Road Shoemakersville, PA 19555	Berks County Perry Township	UNT Schuylkill River 3-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0115266 SP	Gregg Township Sewer Authority P. O. Box 103 Spring Mills, PA 16875-0103	Centre County Gregg Township	Penns Creek 6A	Y

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

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

PA0036447 A1, Industrial Waste, **Naval Surface Warfare Center, Carderock Division—SSES, Philadelphia Naval Business Center**, 5001 South Broad Street, Philadelphia, PA 19112.

This facility is located in the City of Philadelphia, **Philadelphia County**. The application is for an amendment of a NPDES permit to extend the monitor period for Total Residual Chlorine (TRC) of the fire pumps discharge at Monitoring Point MP105, though expiration of the permit. The current permit requires numerical limitations after 2 years of the permit. Due to installation and operational issues, the facility was not able to operate the fire pumps to collect TRC data during first 2 years of the permit. Amendment is also included reduction of flow from both fire pumps from 78,000 gallons per month to 45,000 gallons per month.

The receiving stream, Delaware Estuary, Zone 4, is in the State Water Plan Watershed 3F and is classified for WWF. There are no any known public water supply intakes downstream of the discharge.

The EPA waiver is in effect.

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

PA-0027065, Sewage, **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519-9068. This proposed facility is located in Archbald Borough, **Lackawanna County**.

Description of Proposed Activity: Renewal of NPDES permit for discharge of 6.0 mgd of treated sewage.

The receiving stream, Lackawanna River, is in the State Water Plan Watershed 5A and is classified for: HQ-CWF. The nearest downstream public water supply intake for Danville is located on the Susquehanna River and is approximately 83 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 6.0 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	22.6	34.0	45.2
Total Suspended Solids	30	45.0	60.0
NH ₃ -N			
(5-1 to 10-31)	4.0		8.0
(11-1 to 4-30)	12.0		24.0
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a Geometric Mean		
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine			

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report
Nitrate-Nitrate as N	Report	Report	Report	Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen		Report	Report	109,587*
Net Total Phosphorus		Report	Report	14,612*

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on September 1, 2011. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until August 31, 2011.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012.

*Outfall 019 (Stormwater)**

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
CBOD ₅				Report
Chemical Oxygen Demand				Report
Oil and Grease				Report
pH				Report
Total Suspended Solids (TSS)				Report
Total Kjeldahl Nitrogen (TKN)				Report
Total Phosphorus				Report
Iron (dissolved)				Report

* Permittee has the option to perform annual inspection of facility in lieu of annual monitoring.

Point Sources 002, 010—013 and 018 serve as combined sewer reliefs necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewer and/or the treatment plant. In accordance with the Department's CSO strategy, a special permit requirement is included in Part C of this permit.

In addition to the effluent limits, the permit contains the following major special conditions:

1. WETT, CSO, Stormwater, Chesapeake Bay Strategy, Industrial Pretreatment.

PA0053147, Sewage, **Upper Saucon Sewage Treatment Authority**, 5500 Camp Meeting Road, Center Valley, PA 18034-9444. This existing facility is located in Upper Saucon Township, **Lehigh County**.

Description of Proposed Activity: Renewal of a major NPDES permit to discharge treated sewage. This notice reflects changes from the notice published in 38 Pa.B. 3897 (July 19, 2008).

The receiving stream, Saucon Creek, is in the State Water Plan Watershed 02C and is classified for: aquatic life, CWF, water supply and recreation. The nearest downstream public water supply intake for Keystone Water Company is located on the Delaware River and is 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 2.5 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	10.0	15.0		20.0
(11-1 to 4-30)	20.0	30.0		40.0
Total Suspended Solids	30.0	45.0		60.0
NH ₃ -N				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Phosphorus as "P"	Monitor and Report			
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.			
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
pH	6.0 to 9.0 Standard Units at all times.			
Total Copper				
(Months 1—36)	Monitor and Report		Monitor and Report	
(Months 37—60)	0.030		0.047	0.060
Whole Effluent Toxicity				
(Months 1—48)	Monitor and Report maximum result			
(Months 49—60)	1.9 TUC maximum result			

In addition to the effluent limits, the permit contains the following major special conditions:

1. Whole Effluent Toxicity (WET) Permit Limit, WET testing within final 18 months of permit, Toxics Reduction Evaluation (TRE).

The EPA waiver is not in effect.

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

Application No. PA 0080314, Amendment No. 2, Sewage, **Hampden Township**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050-3097. This facility is located in Hampden Township, **Cumberland County**.

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

The receiving stream, Conodoguinet Creek, is in Watershed 7-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Steelton Municipal Waterworks is located on the Susquehanna River, approximately 15.2 miles downstream. The discharge is not expected to affect the water supply.

The proposed Interim effluent limits for Outfall 001 for a design flow of 4.65 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	67
Total Suspended Solids	30	45	81
NH ₃ -N			
(5-1 to 10-31)	6.9		18
(11-1 to 4-30)	15		40
Total Residual Chlorine	0.35		1.2
Total Phosphorus	2.0		5.4
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

The proposed Final effluent limits for Outfall 001 for a design flow of 4.82 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	15	22	40
Total Suspended Solids	30	45	81
NH ₃ -N			
(5-1 to 10-31)	1.8		4.8
(11-1 to 4-30)	5.4		14
Total Phosphorus	2.0		5.4
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) Monthly Average</i>	<i>Monthly</i>	<i>Mass (lbs) 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	101,997*
Net Total Phosphorus	XXX	Report	12,359*

* 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 (DMRs) submitted to the Department.

* Net Total Nitrogen and Net Total Phosphorus limits compliance date will begin on October 1, 2010. Since these reporting requirements are annual loads, reporting on compliance with the annual limitations will be required on the Supplemental DMR Report—Annual Nutrient Summary by November 28, 2011. The facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until October 1, 2010.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

Persons may make an appointment to review the Department's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0040274, Industrial Waste, SIC 3316, **Allegheny Ludlum Corporation**, 100 River Road, Brackenridge, PA 15014. This application is for a renewal of an NPDES permit to discharge treated process water, untreated noncontact cooling water and stormwater runoff from Vandergrift Plant in Vandergrift Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Kiskiminetas River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Authority, located at Allegheny River, 11.6 miles below the discharge point.

Internal Monitoring Point 107: existing discharge, design flow of 0.7 mgd.

<i>Parameter</i>	<i>Mass (lbs/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>	
Flow (mgd)	Monitor and Report					
Temperature (° F)						110
Total Residual Chlorine						1.25
pH	not less than 6.0 nor greater than 9.0					

Internal Monitoring Point 207: existing discharge, design flow of 0.45 mgd.

<i>Parameter</i>	<i>Mass (lbs/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>	
Flow	Monitor and Report					
Total Suspended Solids	312	728	30	70	87.5	
Oil and Grease						30
Chromium	4.2	10.4	0.4	1.0	1.25	
Nickel	3.1	9.4	0.3	0.9	1.13	
Total Residual Chlorine						1.25
Zinc						Monitor and Report
pH	not less than 6.0 nor greater than 9.0					

Outfall 007: existing discharge to Kiskiminetas River, design flow of 0.61 mgd.

<i>Parameter</i>	<i>Mass (lbs/day)</i>			<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
This discharge shall consist of uncontaminated stormwater runoff, the discharge from Internal Monitoring Point 107 and Internal Monitoring Point 207 and strainer backwash water from river pump house.					

Outfalls 008 and 009: existing stormwater discharge to Kiskiminetas River.

<i>Parameter</i>	<i>Mass (lbs/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>	
Zinc						Monitor and Report

The EPA waiver is not in effect.

PA0001465, Industrial Waste, SIC 2816, **Ceramic Color and Chemical Manufacturing Company**, P. O. Box 297, New Brighton, PA 15066. This application is for renewal of an NPDES permit to discharge noncontact cooling water from a glass frit manufacturing facility in New Brighton, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Blockhouse Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Municipal Authority of Midland Borough, located at Midland Borough, 13 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.00346 mgd.

<i>Parameter</i>	<i>Mass (lbs/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>	
Flow (mgd)	Monitor and Report					
Temperature (° F)						110
pH	not less than 6.0 nor greater than 9.0					

The EPA waiver is in effect.

PA0042234, Sewage, **Kittanning Borough Municipal Authority**, 300 South McKean Street, Kittanning, PA 16201. This application is for renewal of an NPDES permit to discharge treated sewage from Kittanning Borough STP in Kittanning Borough, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Allegheny River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority, Freeport Plant, on the Allegheny River.

Outfall 001: existing discharge, design flow of 1.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

Outfalls 002 and 011, which discharge to the receiving waters known as Allegheny River, serve as combined sewer overflows necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. These outfalls are permitted to discharge only for such reason. There are at this time no specific effluent limitations on the outfalls. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

Outfalls 020 and 021, which discharge to the receiving waters known as Allegheny River, serve as stormwater discharges from areas in and around the treatment plant. Refer to Part C of the NPDES permit, Requirements Applicable to Stormwater Outfalls.

The EPA waiver is not in effect.

PA0030856, Sewage, **Western Beaver County School District**, 343 Ridgemont Drive, Midland, PA 15059. This application is for renewal of an NPDES permit to discharge treated sewage from Western Beaver Jr./Sr. High School STP in Industry Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Swale to UNT to Wolf Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Municipal Authority.

Outfall 001: existing discharge, design flow of 0.032 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.1			4.2
(11-1 to 4-30)	4.4			8.8
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0216381, Sewage, **Holly Hill Inc.**, P. O. Box 801, Warrendale, PA 15095. This application is for renewal of an NPDES permit to discharge treated sewage from Holly Hill Mobile Home Park Sewage Treatment Plant in New Sewickley Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Crows Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority located on the Ohio River.

Outfall 001: existing discharge, design flow of 0.0178 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	20.0			40.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0037044, Sewage, **Ford City Borough Municipal Sewage Disposal Authority**, P. O. Box 66, Ford City, PA 16226. This application is for renewal of an NPDES permit to discharge treated sewage from Ford City Municipal Sewage Disposal Authority Wastewater Treatment Plant in Ford City Borough, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Allegheny River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Water Authority.

Outfall 001: existing discharge, design flow of 1.3 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)	.5			1.6
Total Residual Chlorine	not less than 6.0 nor greater than 9.0			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0253812, Sewage, **Glendale Valley Municipal Authority**, 743 Ridge Road, Fallentimber, PA 16639. This application is for issuance of an NPDES permit to discharge treated sewage from Glendale Valley Municipal Authority STP in White Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Clearfield Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Shawville Power Plant.

Outfall 001: new discharge, design flow of 0.3 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)	0.5			1.6
Total Residual Chlorine	not less than 6.0 nor greater than 9.0			
pH	not less than 6.0 nor greater than 9.0			

As part of Pennsylvania's Chesapeake Bay Tributary Strategy Implementation Plan for NPDES Permitting, the NPDES permit will include monitoring requirements for the first 2 years of the permit for the parameters of Ammonia-N, Total Nitrogen (calculated as the sum of Kjeldahl-N, Nitrite-N and Nitrate-N) and Total Phosphorus.

The EPA waiver is not in effect.

PA0092894, Sewage, **Consol Pennsylvania Coal Company, LLC**, P. O. Box J, Claysville, PA 15323. This application is for renewal of an NPDES permit to discharge treated sewage from Bailey Mine—Main Portal Sewage Treatment Plant in Richhill Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Enlow Fork, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the City of Sistersville Water Company located on the Ohio River.

Outfall 004: existing discharge, design flow of 0.05 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅ (5-1 to 10-31)	20			40
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-30)	4.0			8.0
(11-1 to 4-30)	12.0			24.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0263478, Sewage, **Edward F. and Lorraine D. Selvoski**, 3287 West Washington Street, Bradford, PA 16701. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Activity: To replace a malfunctioning onlot system within a HQ-CWF.

The receiving water is the Willow Creek. The receiving stream is in State Water Plan 16-B and is classified for the following uses: HQ-CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, the Emlenton Water Company, is located on the Allegheny River and is approximately 120 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100ml as a Geometric Average		
UV Light	XXX		
pH	6.0 to 9.0 Standard Units at all times		

XX—Monitor and report.

XXX—Inspect and Clean Monthly

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 2308405, Sewerage, **Central Delaware County Authority**, 212 B Unity Terrace, Rutledge, PA 19070. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Action/Activity: Reline segments of existing and provide and install supplemental/replacement segments of 12—42" diameter pipe.

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

WQM Permit No. 0509402, Sewerage, **Garren Wilkins**, 10538 Hyndman Road, Manns Choice, PA 15537. This proposed facility is located in Harrison Township, **Bedford County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage treatment system to serve their single-family residence.

WQM Permit No. 2109401, Sewerage, **Hampden Township Sewer Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17050. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a new sanitary sewer gravity main, sewage pumping station and force main in the Trindle Road area.

WQM Permit No. 0509403, Sewerage, **Municipal Authority of the Borough of Bedford**, 244 West Penn Street, Bedford, PA 15522. This proposed facility is located in Bedford Borough, **Bedford County**.

Description of Proposed Action/Activity: Seeking approval for the proposed improvements of construction and replacement of the sewage treatment facilities to comply with the regulations set forth by the Chesapeake Bay Tributary Strategy.

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

WQM Permit No. 4209401, Sewerage, **Eldred Township Municipal Authority**, 1834 West Eldred Road, Eldred, PA 16731. This proposed facility is located in Eldred and Otto Townships, **McKean County**.

Description of Proposed Action/Activity: Eldred Township is proposing to construct a wastewater collection and conveyance system to serve portions of the Township. Wastewater will be conveyed along SR 346 south to the existing Otto Township wastewater treatment plant. The proposed project will serve 87 EDU's and will consist of pressure sewer force main lines, low pressure sewer collectors and one duplex pump station.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1509005	Greenpoint Farms, Inc. 402 Bayard Road Suite 100 Kennett Square, PA 19348	Chester	East Nottingham Township	Little Elk Creek HQ-TSF-MF
PAI01 1509006	Hopewell Village, LP 722 Yorklyn Road Suite 350 Hockessin, DE 19707	Chester	Elverson Borough	South Branch French Creek EV East Branch Conestoga River WWF

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

Lehigh County Conservation District: Lehigh Agriculture Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023907003(1)	Susanne Meixsell Northwestern Lehigh School District 6493 Route 309 New Tripoli, PA 18066	Lehigh	Heidelberg and Lynn Townships	Tributary to Jordan Creek HQ-CWF, MF School Creek EV
PAI023909007	Joe Lenzi Prime Land Development P. O. Box 95 Womelsdorf, PA 19567	Lehigh	Lowhill Township	Tributary to Lyon Creek HQ-CWF, MF
PAI023909008	Kelly and Matthew Stubits 3608 East Grant Street Slatington, PA 18080	Lehigh	Heidelberg Township	Tributary to Jordan Creek HQ-CWF, MF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032809001	Humbert Ho Greenspring Valley Development 5709 Avery Park Drive Rockville, MD 20855	Franklin	Antrim Township	Muddy Run HQ-CWF

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

Erie County Conservation District: 1927 Wager Road, Erie, PA 16509, (814) 825-6403.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI062509002	ERI-Runway 6-24 Improvement Erie Regional Airport Authority 4411 West 12th Street Erie, PA 16505	Erie	Millcreek and Girard Townships	Lake Erie and Crooked Creek HQ-CWF, MF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

STATE CONSERVATION COMMISSION

NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), and that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92. This notice is provided in accordance with 25 Pa. Code Chapter 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC), or County Conservation Districts (CCD) working under a delegation agreement with the SCC, have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at www.pacd.org/districts/directory.htm or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based.

The address for the SCC is Agriculture Building, Room 407, 2301 North Cameron Street, Harrisburg, PA 17110.

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Renewal/New
Ted Miller Farm 1334 Valentine Road Ickesburg, PA 17037	Perry	87.1	585.1	Swine	None	Renewal

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact

basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 2009501, Public Water Supply.

Applicant	Raymond Drive Water Company
Township or Borough	West Mead Township Crawford County
Responsible Official	Ronald G. Irwin Principal Owner
Consulting Engineer	John C. Galbo, P. E. Allegheny Professional Services, LLC 24378 Gravel Run Road Cambridge Springs, PA 16403
Application Received Date	January 30, 2009
Description of Action	Permit existing public water supply system.

Application No. 4209501, Public Water Supply.

Applicant	Mount Jewett Borough Authority
Township or Borough	Mt. Jewett Borough Hamlin Township McKean County
Responsible Official	Christine B. Park Secretary
Consulting Engineer	Taffi J. Skopinski Project Coordinator Northwest Engineering P. O. Box Q Tidioute, PA 16351
Application Received Date	January 27, 2009
Description of Action	Addition of spring source to existing permitted water supply system.

MINOR AMENDMENT

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

Application No. 5298502MA, Minor Amendment, Public Water Supply.

Applicant	Municipal Authority of the Borough of Milford Milford Borough
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Responsible Official	Ronald Gregory Chairperson Municipal Authority of the Borough of Milford P. O. Box 459 120 Pear Alley Milford, PA
Type of Facility	Public Water System
Consulting Engineer	CDM Byrne E. Remphrey, P. E. 205 Granite Run Drive Suite 350 Lancaster, PA
Application Received Date	January 12, 2009
Description of Action	The replacement of the gas chlorination system at the drinking water treatment plant with liquid sodium hypochlorite.

Biosolids Individual Permits (PABIG and PABIS)

The following parties have applied for either an Individual Site Permit (PABIS) or an Individual Generator Permit (PABIG) for beneficial use of sewage sludge (biosolids) by land application. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to land apply biosolids subject to certain requirements set forth in the permit.

Persons wishing to comment on the proposed permit are invited to submit a statement to the responsible the Department Regional Office noted the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 30-day comment period, the Water Management Regional Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board (Board).

The application and related documents, comments received and other information are on file and may be inspected and arrangements made for copying at the responsible the Department Regional Office indicated previously the application.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

PABIS 3501, Municipal Authority of the Borough of Bedford WWTP, Bedford Township, **Bedford County**. The Municipal Authority of the Borough of Bedford, 244 West Penn Street, Bedford, PA 15522 has applied to beneficially use their biosolids on the Natali Brothers Farm in Colerain Township, Bedford County.

The permittee must notify the County Conservation District and Regional Department Staff 48 hours prior to each land application event at this site.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Valley Hand Screen Printing Property, City of Lebanon, **Lebanon County**. Earth Resource Associates, Inc., 544 Hemlock Lane, Lebanon, PA 17042, on behalf of The Housing Authority of Lebanon County, P. O. Box 420, Lebanon, PA 17402-0420, submitted a Notice of Intent to Remediate groundwater contaminated with VOCs from historical industrial activities. The site will be remediated as a Special Industrial Area, and will be developed for residential townhouses.

Pennfield Corporation/Diesel Fuel Release, Mount Joy Borough, **Lancaster County**. GemChem, Inc., 53 North Cedar Street, P. O. Box 384, Lititz, PA 17543-0384, on behalf of Pennfield Corporation, 711 Rohrerstown Road, Lancaster, PA 17604, and Kline's Services, 5 Holland Street, Salunga, PA 17538, submitted a Notice of Intent to Remediate site soils contaminated with diesel fuel released during a tractor trailer fire. The site will be remediated to a Residential Statewide Health Standard and will remain industrial.

Bard Town Houses, Shippensburg Township, **Cumberland County**. BL Companies, Inc., 213 Market Street, Harrisburg, PA 17101, on behalf of Shippensburg Reserve Partnership, 2601 West 26th Street, Erie, PA 16506, submitted a Notice of Intent to Remediate soils and groundwater impacted with No. 2 fuel oil. The site will be remediated to a combination of Statewide Health and Site-Specific Standards, and will remain residential.

3200 Market Street Site, Camp Hill Borough, **Cumberland County**. BL Companies, Inc., 213 Market Street, Harrisburg, PA 17101, on behalf of RAP Camp Hill, LLC, 571 McGlaughlin Road, P. O. Box 3247, Gettysburg, PA 17325, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline and petroleum products from the operation of a former automotive service station. The site will be remediated to a combination of Statewide Health and Site-Specific Standards, and will remain commercial.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Sunoco Pipeline Release. Coal Township, **Northumberland County**. CBA Environmental Services, Inc., 57 Park Lane, Hegins, PA 17938 on behalf of Mallard Contracting Company, Inc., 100 Lehigh Avenue, Mount Carmel, PA 17851 has submitted a Notice of Intent to Remediate soil contaminated with gasoline released from an underground pipeline owned by Sunoco Pipeline Partners, LP. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Republican Herald* on January 27, 2009. The proposed future use of the property will be nonresidential for mining related activities.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Erie Golf Course Expansion Parcel 33-186-554-25, Millcreek Township, **Erie County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of The City of Erie, 626 State Street, Room 400, Erie, PA 16501 has submitted a Notice of Intent to Remediate. Historical use of this parcel was a landfill for municipal wastes by the City of Erie. Wastes at the site consist of nonmedia solids including glass,

rubber, wood, concrete and small metal containers. Trichloroethene and vinyl chloride were detected in groundwater internal to the site. The future usage of the property is to remain as a public golf course. The Notice of Intent to Remediate was published in the *Erie Times-News* on January 15, 2009.

Former National Transit Company Pipeyard Site, Cornplanter Township, Venango County. URS Corporation, Foster Plaza 4, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15220 on behalf of Pennzoil-Quaker State Company DBA SOPUS Products, 12700 Northborough Drive, 300 E-11, Houston, TX 77067-2502 has submitted a Notice of Intent to Remediate. The site is affected by commingled releases of crude petroleum from former oil storage operations on the site and from a more recent release of unleaded gasoline on an adjacent retail petroleum property. Constituents of potential concern include benzene, ethylbenzene, xylenes, naphthalene and lead in soil; benzene and methyl tert-butyl ether in groundwater. The property is currently used for nonresidential purposes and will continue to be used for nonresidential purposes. The Notice of Intent to Remediate was published in *The Derrick* on January 12, 2009.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified

before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

56-00025H: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) for installation of a vibrating screen at their Bakersville Quarry in Jefferson Township, **Somerset County.**

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

46-0005AD: Merck and Co., Inc. (Sumneytown Pike, West Point, PA 19486) for installation of one portable emergency diesel-fired generator at their facility in Upper Gwynedd Township, **Montgomery County.** This installation is subject to the Department of Environmental Protection (Department) NSR regulations under 25 Pa. Code § 127.211(b)(1), for de minimis emission increases of VOC. Thirty-four and twenty-four hundredths (34.24) tons of VOC ERCs will be surrendered to the Department for this project. There are no add-on control devices for this source. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

1. To address the NSR regulations for this source, the permittee shall surrender 34.24 tons of VOC ERCs to the Department. These ERCs are currently held by the permittee in the Department's ERC registry. This amount includes the de minimis VOC increases (26.34 tons) times a multiplier of 1.3.

The generator shall not start up until the ERCs are transferred.

2. Air contaminant emissions shall not exceed any of the following:

- (a) VOC—0.29 g/bhp-hr;
- (b) NO_x—4.48 g/bhp-hr;
- (c) PM and PM₁₀—0.12 g/bhp; and
- (d) CO—1.42 g/bhp-hr.

3. Only diesel fuel with 0.05% sulfur or less, by weight, shall be used in the operation of this source.

4. The source shall not operate more than 500 hours in any 12-consecutive month period, including no more than 100 hours for maintenance checks and readiness tests.

5. The permittee shall monitor and record the hours of operation, and the operating hours for maintenance checks and readiness tests, using a nonresettable hour meter or Department approved equivalent.

6. The fuel usage and operating times for this source shall be recorded monthly and aggregated on a 12-consecutive month basis.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

63-00936A: MarkWest Liberty Gas Gathering, LLC, (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) construction of a depropanizer unit and other supporting equipment at their Houston Gas Processing Plant, in Chartiers Township, **Washington 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 depropanizer unit and other supporting equipment at the Houston Gas Processing Plant, located in Chartiers Township, Washington County.

Emissions from this depropanizer unit are estimated to be 6.06 tons of VOC per year and total facility emissions are estimated to be 22.98 tons of NO_x, 22.37 tons of CO and 15.35 tons of VOC per year. The proposed facility is subject to the applicable requirements of 25 Pa. Code, Chapter 127, related to construction, modification, reactivation and operation of sources. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. This Plan Approval is for the installation of a new depropanizer at the MarkWest Liberty Gas Gathering, LLC, Houston Gas Plant located in Chartiers Township, Washington County. (25 Pa. Code § 127.12b)

2. Permittee shall comply with the applicable requirements of 40 CFR 60, Subpart KKK—Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.

3. Permittee shall institute and conduct an audio, visual and olfactory leak detection and repair (LDAR) program performed on a biweekly basis to minimize VOC emissions. Records of each inspection must be maintained onsite for a period of 5 years and be made available to the Department upon request. Inspection records shall, at a minimum, identify each leak and the length of time until it is repaired. All repairs shall be made within 15 calendar days unless otherwise approved by the Department in writing. (25 Pa. Code § 127.12b)

4. Propane storage tanks shall be maintained at sufficient working pressures at all times to prevent vapor or gas loss to the atmosphere. (25 Pa. Code § 127.12b)

5. The owner/operator shall keep daily records of all product delivery. These records shall be kept onsite for a period of 5 years and be made available to the Department upon request. (25 Pa. Code § 127.12b)

6. This facility is subject to the odor emission requirements of 25 Pa. Code § 123.31(b).

7. Upon completion of the construction of the facility, company must request that the existing Operating Permit be updated to include the new equipment and the new requirements. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.

8. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA) (35 P. S. § 4003) and 25 Pa. Code § 121.1.

9. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority. (25 Pa. Code § 127.12b(a)(b))

10. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met.

(a) When construction, installation, modification or reactivation is being conducted, the permittee should provide written notice to the Department of the completion of the activity approved by this plan approval and the permittee's intent to commence operation at least 5 working days prior to the completion of said activity. The notice shall state when the activity will be completed and when the permittee expects to commence operation. When the activity involves multiple sources on different time schedules, notice is required for the commencement of operation of each source.

(b) Under 25 Pa. Code § 127.12b(d), temporary operation of the sources to facilitate the shakedown of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

(c) This plan approval authorizes a temporary operation period not to exceed 180 days from the date of commencement of operation, provided the Department receives notice from the permittee under paragraph (a), previously.

(d) The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 180 days.

11. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or

limitations established by the Department at the time as it notifies the company that testing is required. (25 Pa. Code § 127.12b)

12. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department. (25 Pa. Code § 127.12(a)(10))

13. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph (a) of this condition.

Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act. (25 Pa. Code § 127.12(c) and (d) and 35 P. S. § 4013.2)

14. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval.

Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

A justification for the extension.

A schedule for the completion of the construction.

If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (relating to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted. (25 Pa. Code § 127.13)

This plan approval may not be transferred from one person to another except when a change of ownership is

demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

15. Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

16. This plan approval is valid only for the specific source and the specific location of the source as described in the application. (25 Pa. Code § 127.32)

17. Under 35 P. S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

18. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

19. Nothing in this plan approval condition shall limit the ability of the Environmental Protection Agency (EPA) to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA. (25 Pa. Code § 127.12(4) and 35 P. S. §§ 4008 and 114 of the CAA)

20. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

The permittee constructs or operates the source subject to the plan approval in violation of the act, the CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

The permittee fails to submit a report required by this plan approval.

The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder. (25 Pa. Code § 127.13a)

21. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

22. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors. (25 Pa. Code §§ 121.9 and 127.216)

23. Reports, test data, monitoring data, notifications shall be submitted to the:

Regional Air Program Manager
 Department of Environmental Protection
 (At the address given on the plan approval transmittal
 letter or otherwise notified) (25 Pa. Code § 127.12c)

24. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (P.L. 106-40).

The permittee shall prepare and implement a Risk Management Plan (RMP) which meets the requirements of section 112(r) of the CAA, 40 CFR Part 68 and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act when a regulated substance listed in 40 CFR 68.130 is present in a process in more than the listed threshold quantity at the facility. The permittee shall submit the RMP to the EPA according to the following schedule and requirements:

The permittee shall submit the first RMP to a central point specified by the EPA no later than the latest of the following:

Three years after the date on which a regulated substance is first listed under § 68.130; or,

The date on which a regulated substance is first present above a threshold quantity in a process.

The permittee shall submit any additional relevant information requested by the Department or the EPA concerning the RMP and shall make subsequent submissions of RMPs in accordance with 40 CFR 68.190.

The permittee shall certify that the RMP is accurate and complete in accordance with the requirements of 40 CFR Part 68, including a checklist addressing the required elements of a complete RMP.

As used in this plan approval condition, the term "process" shall be as defined in 40 CFR 68.3. The term "process" means any activity involving a regulated substance including any use, storage, manufacturing, handling or onsite movement of the substances or any combination of these activities. For purposes of this definition, any group of vessels that are interconnected or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. (25 Pa. Code § 127.12(9) and 40 CFR Part 68)

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 Tapan Biswas, 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.

The comments must be received prior to the close of business 30 days after the date of this publication.

PLAN APPROVAL

PUBLIC HEARINGS

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

67-05083B: Conectiv Mid Merit, LLC, Delta Power Plant (P. O. Box 6066 92 DC 72, Newark, DE 19714-6066) to authorize the transfer and use of emission reduction credits (ERCs) for offset purposes for their gas turbine generator units located in Peach Bottom Township, York County. Conectiv Mid Merit, LLC (Conectiv) is a major facility subject to the emission offset requirements of 25 Pa. Code Chapter 127, Subchapter E (relating to new source review). This plan approval is granted solely for the transfer and use of ERCs according to 25 Pa. Code § 127.208(2), and does not authorize a person to construct, modify, or reactivate an air contaminant source or allow for the installation of an air cleaning device on an air contaminant source.

This plan approval authorizes the transfer and use of 3,521.09 tpy of NO_x, 13,241.30 tpy of SO₂ and 33.76 tpy of PM_{2.5} ERCs. This plan approval allows the use of 331.03 tpy of PM_{2.5} as offsets which is generated from the interpollutant trading of 13,241.30 tpy of SO₂ ERCs using Environmental Protection Agency's (EPA) recommended interpollutant trading ratio of 40 tpy of SO₂ to one tpy of PM_{2.5} as provided under EPA's final rule entitled "Implementation of the New Source Review Program for Particulate Matter less than 2.5 Micrometers (PM_{2.5})." (72 Fed Reg 28349, May 16, 2008). The Department may terminate, modify or suspend the transfer and use of interpollutant trading of PM_{2.5} credits based on a decision by EPA regarding interprecursor trading hierarchy and ratio as required under 40 CFR Part 51 Appendix S. The previously mentioned PM_{2.5}, SO₂ and NO_x ERCs were generated from the shutdown of PPL's Holtwood facility on April 29, 1999, in the Martic Township, Lancaster County, PA. This ERC transfer meets the criteria set forth in 25 Pa. Code § 127.208(11).

Interested persons may submit written comments. Comments, suggestions or objections shall be sent to William Weaver, Air Quality, 909 Elmerton Avenue, Harrisburg, PA 17110-8200 within 30 days of this notice. Written comments should include the name, address and telephone number of the persons submitting the comments along with the reference number of the proposed permit (67-05083B). Copies of the plan approval application, proposed plan approval and other relevant information are available for public inspection at the Department of Environmental Protection's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200. An appointment to review the documents may be scheduled by contacting Jennifer Troutman at (717) 705-4732 between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

One public hearing will be held for the purpose of receiving comments on the proposal. The hearing will be held on Tuesday, March 17, 2009, at the Department's South Central Regional Office, located at 909 Elmerton Avenue, Harrisburg, PA from 9 a.m. until all scheduled comments are presented.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

TV 39-00014: Department of Public Welfare—Allentown State Hospital (1600 Hanover Avenue, Allentown, PA 18109-2408) for operation of a State Hospital facility, Title V Operating Permit in City of Allentown, **Lehigh County**.

TV 39-00069: Victaulic Co. (P. O. Box 31, Easton, PA 18044-0031) for operation of gray and ductile foundries, Title V Operating Permit in Alburtis Borough, **Lehigh County**.

TV 48-00018: Rockwood Pigments—Easton (1525 Wood Avenue, Easton, PA 18042-3186) for manufacture of inorganic pigments, Title V Operating Permit in City of Easton, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

36-05072: Mount Joy Wire Corp. (1000 East Main Street, Mount Joy, PA 17552) for operation of a steel wire manufacturing facility in Mount Joy Borough, **Lancaster County**. The Title V operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This action is a renewal of the facility's Title V operating permit issued in 2003.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00117: Heucotech, LTD (99 Newbold Road, Fairless Hills, PA 19030) for issuance of a State-only Operating Permit to operate organic pigments production in Falls Township, **Bucks County**. The facility is natural minor. Plan Approval, PA-09-00117B is being incorporated into this new State-only Operating Permit. This Operating Permit shall include monitoring and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

35-00028: Moses Taylor Hospital (700 Quincy Avenue, Scranton, PA 18510) for operation of boilers at their facility in the City of Scranton, **Lackawanna County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

35-00045: Eureka Stone Quarry, Inc. (P. O. Box 249, Chalfont, PA 18914) for operation of a rock crushing operation and batch asphalt plant with associated air cleaning devices at their Daleville Quarry in Covington Township, **Lackawanna County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

35-00048: Pioneer Aggregates, Inc. (202 Main Street, Laflin, PA 18702) for operation of a rock crushing operation and associated air cleaning devices at their Simpson Stone Quarry in Fell Township, **Lackawanna County**. This action is a renewal of the State-only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

39-00058: Packaging Corporation of America (7451 Centronia Road, Trexlertown, PA 18087) for a State-only (Natural Minor) Operating Permit for operation of a corrugated and solid fiber box manufacturing facility in Upper Macungie Township, **Lehigh County**. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

40-00054: Barletta Materials and Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) for operation of a batch asphalt plant and associated air cleaning devices at their facility in Nescopeck Township, **Luzerne County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

48-00062: Haines and Kibble House, Inc. (2052 Lucon Road, Skippack, PA 19474) for operation of a rock crushing operation and associated air cleaning devices at their ABE Materials—Easton Crushing Plant in Lower Mount Bethel Township, **Northampton County**. This action is a renewal of the State-only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

54-00017: Lehigh Asphalt Paving & Construction Co. (P. O. Box 449, Tamaqua, PA 18252) for operation of a rock crushing operation and associated air cleaning devices at their facility in West Penn Township, **Schuylkill County**. This action is a renewal of the State-only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

54-00047: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104) for operation of a rock crushing operation and associated air cleaning devices at their Summit Station Quarry in Wayne Township, **Schuylkill County**. This action is a renewal of the State-only (Natural Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

64-00005: Wayco, Inc. (P. O. Box Y, Waymart, PA 18472) for operation of a batch asphalt plant and associated air cleaning devices at their facility in Hawley Borough, **Wayne County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting re-

quirements designed to ensure this facility complies with all applicable air quality regulations.

45-00007: National Electrical Carbon Products (100 Stokes Avenue, East Stroudsburg, PA 18301) for manufacture of carbon and graphite products in East Stroudsburg Borough, **Monroe County**. This is a renewal of a State-only Natural Minor operating permit for this facility.

35-00004: Steamtown National Historic Site (150 South Washington Avenue, Scranton, PA 18503) for operation of their facility in Scranton, **Lackawanna County**. This is a renewal of a State-only Natural Minor operating permit for this facility.

40-00027: PPL Susquehanna, LLC (769 Salem Boulevard, Berwick, PA 18603) for operation of an electric transmission and utilities facility in Salem Township, **Luzerne County**. This is a renewal of a State-only Synthetic Minor operating permit for this facility.

48-00029: GAF Premium Products—Wind Gap (440 Katherine Road, Wind Gap, PA 18091) for manufacture of fiber cement siding in Wind Gap Borough, **Northampton County**. This is a renewal of a State-only Synthetic Minor operating permit for this facility.

40-00066: Hazelton Casting Co. (P. O. Box 196, Skippack, PA 19474) for operation of a small foundry operation in Foster Township, **Luzerne County**. This is a renewal of a State-only Synthetic Minor operating permit for this facility.

40-00113: Hazelton Materials, LLC (P. O. Box 196, Skippack, PA 19474) for operation of a small foundry operation in Foster Township, **Luzerne County**. This is a State-only Synthetic Minor operating permit.

40-00015: Mountaintop Anthracite (1550 Crestwood Road, Mountaintop, PA 18707-2132) for operation a coal processing plant in Wright Township, **Luzerne County**. This is a State-only Natural Minor operating permit.

39-00091: Service Tire Truck Center, Inc. (2255 Avenue A, Bethlehem, PA 18017) for operation of tire retreading facility in Bethlehem, **Lehigh County**. This is a State-only Natural Minor operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

01-05033: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) to operate their Peach Glen fruit processing facility in Tyrone Township, **Adams County**. This is a renewal of the State-only operating permit issued in August 2003.

06-03015: F. M. Brown's Sons, Inc. (South Furnace Street, Birdsboro, PA 19508) for operation of their existing feed mill in Birdsboro Borough, **Berks County**. This is a permit renewal of their existing operating permit. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

28-03043: CAM Superline, Inc. (4763 Zane A. Miller Drive, Waynesboro, PA 17268) for operation of their surface coating facility in Washington Township, **Franklin County**. This is a renewal of the State-only operating permit issued in September 2003.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

63-00883: Pennsylvania Transformer Technology, Inc. (30 Curry Avenue, Canonsburg, PA 15317) for operation of an electrical transformer manufacturing facility in Canonsburg Borough, **Washington County**. This is a renewal for this synthetic minor facility.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.

10-00326: Oesterling Sandblasting and Painting, Inc. (686 Glennwood Way, Butler, PA 16001-8422) for re-issuance of the Natural Minor Operating Permit for operation of their facility's air contamination sources consisting of: 1.2 mmBtu/hr natural gas space heaters, Abrasive Blasting, two large Paint Booths and a 30-gallon parts washer in Center Township, **Butler County**. The facility is not permitted to emit more than 20 tpy of VOCs from the spray painting operation.

25-00066: Accuride Erie, LP (1015 East 12th Street, Erie, PA 16503-1520), for re-issuance of the Synthetic Minor Permit, to operate a nonferrous forging plant in the City of Erie, **Erie County**. The significant sources included, 1,995 quench tank, 5,000 ton forging press, 8,000 ton forging press, three 7,000 ton forging presses, 2,000 heat treating furnaces, 1,995 solution furnace, 1,995 age furnace, cold cleaning machines, process heating, miscellaneous natural gas usage, three wheel washers, two carbottom furnaces, 2,006 solution furnace, 2,006 quench tank and 2,006 age furnace. The facility has taken a restriction of CO emission, 95 tpy to qualify as synthetic minor. The permit also contains additional monitoring, recordkeeping and reporting requirements to assure compliance with the facility-wide CO emission limit.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's

newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality

standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

Effluent Limits—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
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.

17041301 and NPDES Permit No. PA0235628, (Rosebud Mining Company, 301 Market Street, Kittanning, PA 16201), to revise the permit for the Penfield Mine in Huston Township, **Clearfield County** to add underground permit and subsidence control plan acreage. Underground Acres Proposed 388.0, Subsidence Control Plan Acres Proposed 388.0. No additional discharges. Application received January 12, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56010105 and NPDES No. PA0249068. Godin Brothers, Inc., P. O. Box 216, Boswell, PA 15531, revision of an existing bituminous surface mine to change land use from woodland to unmanaged natural habitat in Jenner Township, **Somerset County**, affecting 34.8 acres. Receiving streams: UNTs to/and Quemahoning Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning SW1. Application received January 21, 2009.

56090101 and NPDES No. PA0262714. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, commencement, operation and restoration of a bituminous surface mine in Elk Lick Township, **Somerset County**, affecting 186.0 acres. Receiving streams: UNT to/and Casselman River; UNTs to Piney Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 13, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26090101 and NPDES Permit No. PA0251569. Neiswonger Construction, Inc. (17592 Route 322,

Strattanville, PA 16258). Application for commencement, operation and reclamation of a bituminous surface mine, located in Dunbar Township, **Fayette County**, affecting 160.7 acres. Receiving streams: Craig Branch to Bute Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received January 28, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

40940203C4 and NPDES Permit No. PA0224731. Hudson Anthracite, Inc., (202 Main Street, Laflin, PA 18702), correction to an existing anthracite coal refuse reprocessing operation to include surface mining and an NPDES Permit for discharge of treated mine drainage affecting 174.1 acres, receiving stream: Susquehanna River, classified for the following use: CWF. Application received January 27, 2009.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

3072SM3. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201) Renewal of NPDES Permit No. PA0605336, Mercer and Marion Townships, **Butler County**. Receiving streams: Two UNTs to McMurray Run, classified for the following statewide water use: CWF. There are no potable surface water supply intakes within 10 miles downstream. The Department of Environmental Protection has made a tentative determination to impose effluent limitations within the ranges specified on Table 1 for Iron, Manganese and Total Suspended Solids (in addition to the limits identified in Table 2). NPDES Renewal application received January 29, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

64940804. Pykus Sand and Gravel, Inc., (1880 Great Bend Turnpike, Honesdale, PA 18431), Stages I and II bond release for a quarry operation in Buckingham Township, **Wayne County** affecting 2.0 acres on property owned by Pykus Sand and Gravel, Inc. Application received January 23, 2009.

7975SM5C5. KPK Development Corp., (1082 Temperance Lane, Richboro, PA 18954), correction of an existing quarry operation to reconstruct earthen berms using clean fill in Falls Township, **Bucks County** affecting 454.3 acres, receiving stream: Delaware Canal by means of Martin's Creek. Application received January 26, 2009.

58992809. Douglas G. Kilmer, (R. R. 1, Box 85K, Union Dale, PA 18470), Stages I and II bond release for a quarry operation in New Milford Township, **Susquehanna County** affecting 1.0 acre on property owned by Robert Alexander. Application received January 28, 2009.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office

noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E46-1037. Upper Gwynedd Township, P. O. Box 1, West Point, PA 19486, Upper Gwynedd Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

Project Description:

To construct and maintain an approximately 200-foot long, 8-foot wide, 15-foot high pedestrian bridge across Wissahickon Creek (TSF). The site is located just north of the existing Sumneytown Pike Bridge over Wissahickon Creek (Lansdale, PA USGS Quadrangle N: 16.2"; W: 5.8").

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E64-278. Department of Transportation, Engineering District 4-0, 55 Keystone Industrial Park, Dunmore, PA 18103, in Palmyra Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a 2-span, steel I-beam bridge over Middle Creek (HQ-CWF, MF) and to relocate 132 linear feet of a tributary to Middle Creek. The project is located at SR 2004, Segment 0030, Offset 0000, approximately 1.1 mile west of the intersection of SR 2004 and SR 2006 (Hawley, PA Quadrangle Latitude: 41° 28' 49"; Longitude: 75° 12' 04").

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E19-274. Kawneer Company, Inc., 500 East 12th Street, P. O. Box 629, Bloomsburg, PA 17815. Culvert Crossing, in Town of Bloomsburg, **Columbia County**,

United States Army Corps of Engineers, Baltimore District (Bloomsburg, PA Quadrangle Latitude: 40° 59' 47.5"; Longitude: 76° 26' 32.3").

The applicant proposed to remove the existing culvert crossing and replace it with a new 14 foot by 9 foot box culvert with a clear span of 12 feet. The length of the crossing will be 66 feet not to include the end sections on the inlet and outlet of the structure. This structure will impact less than 100 linear feet of Kinney Run and will only impact 0.66 acre of total area. This project will not impact any wetlands. This project is located on Kinneys Run and carries a 25 Pa. Code Chapter 93 water quality designation as CWF.

E49-302. West Chillisquaque Township, P. O. Box 252, Montandon, PA 17850. Old Canal Culvert Replacement, in West Chillisquaque Township, **Northumberland County**, United States Army Corps of Engineers, Baltimore District (Northumberland, PA Quadrangle Latitude: 40° 58' 3.8"; Longitude: 76° 51' 50.1").

The applicant proposes to replace an existing culvert under SR 0045. The existing 42-inch, 78 foot long culvert pipe is intended to be replaced with a 60-inch, 85 foot long culvert with a slight change in horizontal alignment. The existing headwalls will be removed and new headwalls installed at the inlet and outlet of the structure. This project is intending to lower the bottom elevation of the new culvert 3 feet below the existing structure. The proposed 3 foot depression is to facilitate a potential future project of stormwater removal for the Municipality. This project impacts 100 linear feet of a UNT to the Chillisquaque Creek, which carries a water quality designation of WWF and the present project does not impact any wetlands.

Southwest Region: Watershed Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E03-448. Roaring Run Watershed Association, P. O. Box 333, Apollo, PA 15613-1338. To construct a pedestrian bridge in Kiskiminetas Township, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District (Vandergrift, PA Quadrangle N: 6.7 inches; W: 0.55 inch, Latitude: 40° 32' 14"; Longitude: 79° 30' 14"). The applicant proposes to construct and maintain a pedestrian bridge having a span of 32 feet and an underclearance of 7 feet on a trail across a UNT to the Kiskiminetas River (WWF).

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

E24-252. Jeffrey L. Buchheit, Elk County Freshwater Association, 10 Erie Avenue, Saint Marys, PA 15837. Ellithorpe Run Treatment System, in Highland Township, **Elk County**, United States Army Corps of Engineers, Pittsburgh District (James City, PA Quadrangle N: 41° 34' 55"; W: 78° 49' 8").

The applicant proposes to construct and maintain a passive water treatment system on a UNT to Ellithorpe Run situated approximately 2,000 feet upstream from its confluence with Ellithorpe Run. The treatment system proposes to mitigate the impacts of acid deposition by alkaline addition. The applicant proposes to conduct the following activities associated with the construction of the passive water treatment system.

1. To install and maintain across the UNT to Ellithorpe Run a reinforced concrete dam having dimensions of 25 feet wide by 1 1/2 feet thick and having a maximum height of 2.95 feet.

2. To install and maintain an intake structure consisting of a screened pipe upstream of the dam to divert a portion of stream flow to the treatment system.

3. To install and maintain a passive water treatment system involving a combination aerobic limestone basin and anaerobic vertical flow wetland within 50 feet of the top of the western bank of the UNT to Ellithorpe Run.

4. To install and maintain a rock lined channel downstream of the treatment facility to return the treated flow to the UNT to Ellithorpe Run.

The UNT to Ellithorpe Run is a perennial stream classified as HQ-CWF.

E62-420, WestPanet, 216 Pennsylvania Avenue West, Warren, PA 16365. Fiber Optic Crossing Allegheny River, in City of Warren, **Warren County**, United States Army Corps of Engineers, Pittsburgh District (Warren, PA Quadrangle N: 17.0 inches; W: 3.4 inches).

The applicant proposes to install and maintain a 420-foot long aerial fiber optic cable crossing of the Allegheny River adjacent to the upstream end of the Hickory Street Bridge. The Allegheny River is a perennial stream classified as a WWF.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D64-007. Glass Pond One, LTD, 162 Smith Farm Road, Honesdale, PA 18431. To modify, operate and maintain Glass Pond No. 1 Dam across a tributary to West Branch Lackawaxen River (HQ-CWF), for the purpose of constructing a new spillway on an existing recreational dam to pass the required design storm in (Honesdale, PA Quadrangle N: 21.9 inches; W: 8.9 inches), Dyberry Township, **Wayne County**.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060852 (Minor Sewage)	St. Michael's School P. O. Box 370 Tunkhannock, PA 18657-0370	Falls Township Wyoming County	Susquehanna River 04G	Y
PA-0061417 (Minor Industrial Waste)	Northeast Power Company P. O. Box 7 McAdoo, PA 18237	Schuylkill County Kline Township	Little Schuylkill River 5E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0085537 (IW)	Altoona City Authority 20 Greenwood Road Altoona, PA 16602-7114	Blair County Antis Township	Bells Gap Run 11-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0112054	Mifflin Manor STP 2152 Heim Hill Road Montoursville, PA 17754	Lycoming County Mifflin Township	Larrys Creek SWP 10A	Y
PA0112305 Sewerage	Wyalusing Municipal Authority P. O. Box 61 Wyalusing, PA 18853-0061	Wyalusing Borough Bradford County	Susquehanna River 4D	Y

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0090832 Sewage	West Pike Run Township P. O. Box 222 Daisytown, PA 15427	Washington County West Pike Run Township	UNT of Pike Run	Y
PA0252603 Sewage	Cecil Township Municipal Authority 3599 Millers Run Road Suite 104 Cecil, PA 15321	Washington County Cecil Township	UNT of Millers Run	Y
PA0026824 Sewage	Clairton Municipal Authority One North State Street Clairton, PA 15025	Allegheny County City of Clairton	Peters Creek	N
PA0252531 Sewage	Independence-Cross Creek Joint Sewer Authority 16 Campbell Street P. O. Box 156 Avella, PA 15312	Washington County Independence Township	Cross Creek	Y

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

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

NPDES Permit No. PA0028649, Amendment No. 1, Sewage, Borough of Sinking Spring, 3940 Penn Avenue, Sinking Spring, PA 19608. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to the Cacoosing Creek in Watershed 3-C.

NPDES Permit No. PA0031062, Sewage, Robeson-Wernersville Municipal Authority, P. O. Box 202, Wernersville, PA 19565. This proposed facility is located in Heidelberg Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to the Spring Creek in Watershed 3-C.

NPDES Permit No. PA0029866, Sewage, Cumberland Valley School District, 6746 Carlisle Pike, Mechanicsburg, PA 17050. This proposed facility is located in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Conodoguinet Creek in Watershed 7-B. **NPDES Permit No. PA0080268**, Sewage, **Regency Woods North Mobile Home Park**, 130 Rex Drive, Carlisle, PA 17015. This proposed facility is located in Middlesex Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of the Conodoguinet Creek in Watershed 7-B.

NPDES Permit No. PA0246719, CAFO, **Rodney Metzler, Pleasant View Farms, Inc.**, R. D. 1, Box 124, Martinsburg, PA 16662. This proposed facility is located in North Woodbury Township, **Blair County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 2,938-AEU dairy operation located in Watershed 11-A.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0002941-A1, Industrial Waste, **Allegheny Energy Supply Company**, LLC, 800 Cabin Hill Drive, Greensburg, PA 15601. This existing facility is located in Monongahela Township, **Greene County**.

Description of Proposed Action/Activity: Permit amendment issuance.

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

NPDES Permit No. PA0238686, Sewage, **Brandy One, LLC**, P. O. Box 449, Mars, PA 16046. This proposed facility is located in Connoquenessing Township, **Butler County**.

Description of Proposed Action/Activity: New permit for an existing discharge of treated sewage.

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, (717) 705-4707.

WQM Permit No. 0194403, Amendment No. 08-1, Sewage, **Blue Ridge Sportsman Association, Inc.**, 3009 Waynesboro Pike, Fairfield, PA 17320. This proposed facility is located in Liberty Township, **Adams County**.

Description of Proposed Action/Activity: Permit amendment approving the modification of sewerage facilities consisting of the installation of two new small extended aeration treatment units, an integral settling tank and a Bio-Kinetic effluent filter into the existing treatment train.

WQM Permit No. 5003403 T-1, Sewage, **Camille Otto**, 100 Reed Drive, Marysville, PA 17053. This proposed facility is located in Rye Township, **Perry County**.

Description of Proposed Action/Activity: Amendment approval for the transfer of sewerage facilities consisting of an aerobic treatment unit, 500-gallon dosing tank with pump, three 40-ft sand filters, tablet chlorinator and chlorine contact tank.

WQM Permit No. 0608403 T-1, Sewage, **Borough of Sinking Spring**, 3940 Penn Avenue, Sinking Spring, PA 19608. This proposed facility is located in Spring Township, **Berks County**.

Description of Proposed Action/Activity: Permit transfer approving the transfer of sewerage facilities consisting of collection/interceptor sewers and a wastewater treatment plant comprised of grit removal, fine screen oxidation ditches, final clarifiers, chlorine contact tanks, aerobic digesters, reed beds, buildings, pumps and other appurtenances.

WQM Permit No. 6708404, Amendment No. 08-1, Sewage, **Springettsbury Township**, 3501 North Sherman Street, York, PA 17402. This proposed facility is located in Springettsbury Township, **York County**.

Description of Proposed Action/Activity: Permit approving the construction of sewerage facilities consisting of the replacement of the existing chlorination system with a new UV disinfection system.

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

WQM Permit No. 1908201, Industrial Waste, SIC 2041, **Del Monte Corporation**, One Market Street, San Francisco, CA 94119-3575. This proposed facility is located in South Centre Township, **Columbia County**.

Description of Proposed Action/Activity: The applicant proposes to reline and resize their earthen extended aeration basin.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 465S23-A2, Sewerage, **Belle Vernon Municipal Authority**, P. O. Box 181, 10 Main Street, Belle Vernon, PA 15012. This existing facility is located in Belle Vernon Borough, **Fayette County**.

Description of Proposed Action/Activity: Permit amendment issuance.

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

WQM Permit No. WQG018666, Sewerage, **Daniel R. and Diane M. Wheeler**, 10100 Silverthorn Road, Edinboro, PA 16412. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions**V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 0908006	Josh Duke 1929 Route 212 Quakertown, PA 18951	Bucks	Springfield Township	Cooks Creek EV
PAI01 0908013	Our Kinder, LP 5 Glen Eagles Drive New Hope, PA 18938	Bucks	Solebury Township	UNT Aquetong Creek HQ
PAI01 1508067	Chester County Parks and Recreation Department 601 Westtown Road Suite 160 P. O. Box 2747 West Chester, PA 2747	Chester and Montgomery	East Whiteland, West Whiteland, Tredyffrin and Upper Merion Townships	Little Valley Creek EV
PAI01 1506018	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106-7676	Chester	Charlestown, East Whiteland and Tredyffrin Townships	Cedar Hollow Run/Valley Creek Watershed EV
PAI01 2308010	Anderson & Anderson, LLC 4511 Helton Drive Florence, AL 35630	Delaware	Upper and Lower Chichester Townships	Naaman's Creek/Marcus Hook Creek WWF-MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024507012	First National Community Bank 102 East Drinker Street Dunmore, PA 18512	Monroe	Paradise Township	Swiftwater Creek HQ-CWF
PAI025808001	Turn Key Operations, LLC 10 Durham Court Middletown, NY 10940	Susquehanna	New Milford Township	Salt Lick Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032108005	The Business Airport of Carlisle Jim Kingsborough 228 Petersburg Road Carlisle, PA 17013-3178	Cumberland	South Middleton Township	Letort Spring Run—Susquehanna River EV

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application

PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Richland Township Bucks County	PAG200 0903113-R	Judd Builders, Inc. 1750 Walton Road Blue Bell, PA 19422	Morgan Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG200 0908150	Department of Transportation District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	Geedes Run to Tohickon Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Chester Borough Chester County	PAG200 1508074	Borough of West Chester 401 East Gay Street West Chester, PA 19380	Taylor Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG200 1503119-R	Jeff Berlin 402 Pyles Mountain Lane Avondale, PA 19311	Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Caln Township Chester County	PAG200 1508028	Downingtown Quarry Assoc., Inc. 1195 McDermott Drive Greenhill Corporate Park West Chester, PA 19380	UNT East Branch Brandywine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Ridley Township Delaware County	PAG200 2308003	Charlene Schwartz 41 University Avenue Suite 105 Newtown, PA 18940	Darby Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Conshohocken Borough Montgomery County	PAG200 4608168	Rumsey Electric 15 Colwell Lane Conshohocken, PA 19428	Plymouth Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Towamencin Township Montgomery County	PAG200 4608161	Regency Realty Group, Inc. 121 West Forsyth Street Suite 200 Jacksonville, FL 32202	Towamencin Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick and Upper Providence Townships Montgomery County	PAG200 4608158	Spring Ford Area School District 199 Bechtel Road Collegeville, PA 19426	Mingo Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Montgomery County	PAG200 4608142	West Oak Lane Church of God 7401 Limekiln Pike Philadelphia, PA 19138	Cresheim Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<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>
Lower Pottsgrove Township Montgomery County	PAG200 4608111	Eye Consultants of Pennsylvania 1 Granite Point Drive Suite 100 Wyomissing, PA 19610	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Gwynedd Township Montgomery County	PAG200 4608046	Upper Gwynedd Township P. O. Box 1 Parkside Place West Point, PA 19486	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG200 4608073-1	Ribon Partnership, Ltd. 1502 East Philadelphia Avenue Gilbertsville, PA 19525	UNT Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG200 4608141	Windlestrae Associates 375 Morris Road P. O. Box 1479 Lansdale, PA 19446	UNT Minister Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG200 4608094	Department of Transportation District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	West Branch Neshaminy Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG200 4608106	Vincent Mazzamuto 51 Heffner Road Limerick, PA 19468	Mingo Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108019	School District of Philadelphia 440 North Broad Street Philadelphia, PA 19130-4015	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108028	The Provco Group 795 East Lancaster Avenue Building 2 Suite 200 Villanova, PA 19085	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108030	Universal Health Systems 561 Fairthome Avenue Philadelphia, PA 19128-2412	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Smithfield Township Monroe County	PAR10S031R(1)	Smithfield Dev. Corp. c/o Peter Ahnert, Jr. P. O. Box 1158 Marshalls Creek, PA 18335	Sambo Creek CWF, MF	Monroe County Conservation District (570) 629-3060
Duryea Borough Luzerne County	PAG2004008028	Copart of Connecticut, Inc. Attn: Tom Smith 4665 Business Center Drive Fairfield, PA 94534	Lackawanna River CWF	Luzerne County Conservation District (570) 674-7991
Pittston Township Hughestown Borough Luzerne County	PAG2004008029	Pittston Plaza Commons, LP Attn: Anthony Mazonkey P. O. Box 1389 Kingston, PA 18704-1389	Susquehanna River WWF	Luzerne County Conservation District (570) 674-7991

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Saucon Township Lehigh County	PAR10Q126-3	James Wrigley Trefoil Properties 4000 West Drive Center Valley, PA 18034	Saucon Creek CWF	Lehigh County Conservation District (610) 391-9583
Hazle Township Luzerne County	PAG2004008020	Hazle Township Supervisors Attn: William Gallagher P. O. Box 506 Harleigh, PA 18225-0506	Black Creek CWF	Luzerne County Conservation District (570) 674-7991
Jackson Township Luzerne County	PAG2004008019	Presidential Land Co., Inc. Attn: Frank Pedriani P. O. Box 239 Mahanoy City, PA 17948	Huntsville Creek CWF	Luzerne County Conservation District (570) 674-7991
Susquehanna and Lower Paxton Townships Dauphin County	PAG2002208027	The Roman Catholic Diocese of Harrisburg 4800 Union Deposit Road Harrisburg, PA 17105-2153	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Derry Township Dauphin County	PAG2002208041	Rebecca Hills 1281 Waltonville Road Hummelstown, PA 17036	Iron Run WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Lower Paxton Township Dauphin County	PAG2002204046	Pinnacle Health Systems P. O. Box 8700 Harrisburg, PA 17105-8700	Spring Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Lower Paxton Township Dauphin County	PAG2002204002-R	Larry Hatter and Cliff Weaver 3245 Market Street Camp Hill, PA 17011	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Greene Township Franklin County	PAG2002809002	The Sunny Company Jeff Knouse DLL Properties 5800 Cumberland Highway Chambersburg, PA 17201	UNT to Rowe Run CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
Southampton Township Shippensburg Borough Franklin County	PAG2002809003	Volvo Site Expansion Chris Stone 312 Volvo Way Shippensburg, PA 17257	Rowe Run CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
Southampton Township Franklin County	PAG2002808035	Maizefield Bonnie Heights Homes 7048 Carlisle Pike Carlisle, PA 17015	UNT to Rowe Run CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
St. Thomas Township Franklin County	PAG2002808039	River Brethren Church Matthew Meyers 2246 Community Center Road St. Thomas, PA 17252	UNT to Wilson Run TSF	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>
Warrington Township York County	PAG2006707086	Donald W. Samples 22 Dartmouth Lane Haverford, PA 19041-1020	Bermudian Creek Watershed WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Todd Township Fulton County	PAG2002909001	Jason Hawkins Fulton County Medical Center 214 Peach Orchard Road McConnellsburg, PA 17233	Big Cove Creek CWF	Timothy Keebaugh Fulton County Conservation District 216 North Second Street McConnellsburg, PA 17233 (717) 485-3547, Ext. 122
Cumberland Township Adams County	PAG2000108018	Edward Jenkins Adams County Interfaith Housing Corporation 40 East High Street Gettysburg, PA 17325	Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Reading Township Adams County	PAG2000107022	Chester Linka 1675 Hanover Road Gettysburg, PA 17325	West Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Highland Township Adams County	PAG2000108027	Tom McLaughlin DTM Land Development, Inc. 116 Artillery Drive Gettysburg, PA 17325	UNT to Marsh Creek CWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
West Earl Township Lancaster County	PAG2003608088	Warren H. Nolt 152 North Hershey Avenue Leola, PA 17540	Groff Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Earl Township Lancaster County	PAG2003609001	JA-LYN Developers 148 Brick Church Leola, PA 17540	Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
West Donegal Township Lancaster County	PAG2003609002	Robert L. Gruber 48 South Market Street Elizabethtown, PA 17022	Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Providence Township Lancaster County	PAG2003609003	David L. Fite 103 Fite Way Suite D Quarryville, PA 17566	Big Beaver Creek South Fork WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Cambria County Blacklick Township	PAG2001108013	Blacklick Township 138 Duman Road Belsano, PA 15922	UNT to Elk Creek CWF	Cambria County Conservation District (814) 472-2120
Cambria County Cambria Township	PAG2001108015	Daniel L. Penatzer Borough of Ebensburg 300 West High Street Ebensburg, PA 15931	South Branch Blacklick Creek CWF	Cambria County Conservation District (814) 472-2120

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Fayette County North Union and Dunbar Townships	PAG2002608019	Terry Shallenberger Fayette County Airport Authority 874 Airport Road Lemont Furnace, PA 15456	UNT to Redstone Creek WWF	Fayette County Conservation District (724) 438-4497
Washington County North Strabane Township	PAG2006309005	Meadowlands Hospitality, Inc. 303 East Sixth Street Tarentum, PA 15084	UNT to Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Elk County Johnsonburg Borough	PAG200240 001	Johnsonburg Municipal Authority 520-A Market Street Johnsonburg, PA 15845	Clarion River CWF	Elk County Conservation District (814) 776-5373
Erie County Millcreek Township	PAG 002508025	Sisters of Saint Joseph 5301 West Ridge Road Erie, PA 16506-1429	UNT Wilkins Run CWF; MF	Erie County Conservation District (814) 825-6403
McKean County Eldred and Otto Townships	PAG2004208003	Eldred Township 1834 West Eldred Road Eldred, PA 16731	Knapp Creek and UNTs CWF	McKean County Conservation District (814) 887-4001
Mercer County City of Sharon	PAG2004309001	Department of Transportation P. O. Box 398 255 Elm Street Oil City, PA 16301	Shenango River WWF	Mercer County Conservation District (724) 662-2242

*General Permit Type—PAG-4**Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Berks County Colebrookdale Township	PAG043612	Frank Gussoni 2825 Soni Drive Trooper, PA 19403	Ironstone Creek 3D TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
McKean Township Erie County	PAG049483	Daniel R. and Diane M. Wheeler 10100 Silverthorn Road Edinboro, PA 16412	UNT to Elk Creek 15	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
East Mead Township Crawford County	PAG048502	Pedro J. Figueroa 22368 West Oil Creek Road Meadville, PA 16335	UNT to Tamarack Lake Mill Run 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pine Grove Township Warren County	PAG048497	Gail R. Wright 11 Wildwood Lane Russell, PA 16345-5433	UNT to Akeley Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Elk Creek Township Erie County	PAG049489	Howard T. Wagner 6565 Meadville Road Girard, PA 16417-7301	UNT to Cussawago Creek 16D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
South Middleton Township Cumberland County	PAG083603	South Middleton Township Municipal Authority 345 Criswell Drive P. O. Box 8 Boiling Springs, PA 17007	South Middleton Township Cumberland County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-12**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>
Lancaster County Sadsbury Township	PAG123674	Keith Beiler 2185 Smyrna Road Paradise, PA 17562	Buck Run TSF 7K	DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802
Franklin County St. Thomas Township	PAG123668	Jeffrey Kline 167 Coble Road Chambersburg, PA 17201	UNT Back Creek TSF 13-C	DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802
Perry County Miller Township	PAG123606	Ken Beers 1236 Newport Road Duncannon, PA 17020	Craig Run WWF 12-B and Losh Run WWF 12-B	DEP—SCRO Watershed Management 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4802

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 0907523, Public Water Supply.

Applicant	Ole Colonial Greene P. O. Box 557 Fountainville, PA 18923
Township	Doylestown
County	Bucks
Type of Facility	PWS
Consulting Engineer	Ebert Engineering, Inc. 4092 Skippack Pike Skippack, PA 19474
Permit to Construct Issued	December 13, 2007

Permit No. 4605501, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
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Township Whitemarsh
 County **Montgomery**
 Type of Facility PWS
 Consulting Engineer CET Engineering Services
 1240 North Mountain Road
 Harrisburg, PA 17112
 Permit to Construct December 1, 2005
 Issued

Permit No. 4608504, Public Water Supply.

Applicant **New Life Youth and Family Services**
 585 Freeman School Road
 Schwenksville, PA 19473

Township Lower Salford
 County **Montgomery**
 Type of Facility PWS
 Consulting Engineer Carroll Engineering Corporation
 555 Second Avenue
 Collegeville, PA 19426
 Permit to Construct December 6, 2008
 Issued

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

Permit No. 2450034, Operations Permit, Public Water Supply.

Applicant **Brodhead Creek Regional Authority**
 410 Stokes Avenue
 East Stroudsburg, PA 18301
 Stroud Township

County **Monroe**
 Type of Facility PWS
 Consulting Engineer Russell D. Scott, P. E.
 RKR Hess Associates
 112 North Courtland Street
 East Stroudsburg, PA 18301
 Permit to Operate January 23, 2009
 Issued

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Operations Permit issued to **The York Water Company**, 7670100, Berwick Township, **Adams County** on January 29, 2009, for the operation of facilities approved under Construction Permit No. 0108510.

Operations Permit issued to **Williamstown Borough Authority**, 7220037, Williams Township, **Dauphin County** on January 28, 2009, for the operation of facilities approved under Construction Permit No. 2208506 MA.

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

Permit No. 6003501—Construction, Public Water Supply.

Applicant **Borough of Mifflinburg**
 Township or Borough Mifflinburg Borough
 County **Union**

Responsible Official Steven B. Benner
 Borough of Mifflinburg
 333 Chestnut Street
 Mifflinburg, PA 17844

Type of Facility Public Water
 Supply—Construction

Consulting Engineer Jason Wert, P. E.
 HRG, Inc.
 474 Windmere Drive
 State College, PA 16801

Permit Issued Date January 30, 2009

Description of Action Construction of Well No. 2, with associated appurtenances and a transmission line to the existing filtration plant.

Permit No. 1407502-IT—Operation, Public Water Supply.

Applicant **Madisonburg Water Works**
 Township or Borough Miles Township
 County **Centre**
 Responsible Official Timothy Snyder, Board President
 Madisonburg Water Works
 P. O. Box 50
 Madisonburg, PA 16852

Type of Facility Public Water Supply—Operation

Consulting Engineer Michael J. Peleschak
 Alfred Benesch & Company
 400 One Norwegian Plaza
 Pottsville, PA 17901

Permit Issued Date January 30, 2009

Description of Action Approval of Innovative Technology Operation of a Siemens/Memcor 3L10V microfiltration plant, disinfection and a 60,000 gallon finished water storage tank.

Permit No. Minor Amendment—Operation, Public Water Supply.

Applicant **Madisonburg Water Works**
 Township or Borough Miles Township
 County **Centre**
 Responsible Official Timothy Snyder, Board President
 Madisonburg Water Works
 P. O. Box 50
 Madisonburg, PA 16852

Type of Facility Public Water Supply—Operation

Consulting Engineer Michael J. Peleschak
 Alfred Benesch & Company
 400 One Norwegian Plaza
 Pottsville, PA 17901

Permit Issued Date February 2, 2009

Description of Action Temporary operation of treatment for compliance with the lead and copper rule, pH adjustment with 25% caustic soda.

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

Permit No. 4287502-MA5, Public Water Supply.

Applicant **Bradford City Water Authority**
 Township or Borough City of Bradford
 County **McKean County**
 Type of Facility Public Water Supply
 Consulting Engineer Kirt Ervin, P. E.
 US Engineering, LLC
 13742 Mary Lane
 Aviston, IL 62216
 Permit to Construct Issued January 30, 2009

Transfer and Consolidation of Operations Permits issued to **Riverview Communities, LP**, PWSID No. 6620036 (North Well) and PWSID No. 6620883 (South Well), Conewango Township, **Warren County**, February 2, 2009, under Permit No. 6207503-T1, for the operation of Riverview Communities, per specifications approved by construction permit 62875103, issued October 22, 1987, and 6207503, issued November 7, 2008. All historic information, including applications and reviews are now incorporated into Permit No. 6207503-T1.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lynn Township	7911 Kings Highway New Tripoli, PA 18066	Lehigh County

Plan Description: The approved plan provides for the upgrade and expansion of the Wastewater Treatment Plant (WWTP) from 80,000 gpd to 160,000 gpd (average daily flow). The Virginia Initiative Plant (VIP) Process has been identified as the preferred method of wastewater treatment. The WWTP discharges effluent to the Ontelaunee Creek, which flows into Maiden Creek, a tributary of the Schuylkill River and the Delaware River.

The approved plan also provides for a New Sewer Service Area for the WWTP, as indicated on Map IV-2 dated December 17, 2004, as prepared by Keystone Consulting Engineers, Inc. The approved project will require an NPDES Permit Amendment for the proposed increase in the effluent discharge and also will require a Water Quality Management Permit for the construction and operation of the proposed sewage facilities. The permit applications must be submitted in the name of the municipality or authority, as appropriate. The Department of Environmental Protection's review of the Plan has not identified any significant environmental impacts from the proposal.

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

Categorical Exclusion

Altoona City Authority—Westerly Treatment Plant, 20 Greenwood Road, Altoona, PA 16602.

The Pennsylvania Infrastructure Investment Authority (Authority) which administers the Commonwealth's State Revolving Fund is intended to be the funding source for this project. The project is undertaken by the Authority to meet future NPDES limits on annual Total Nitrogen and Total Phosphorus at the Westerly plant. 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.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Sugar Grove Township	195 Creek Road Sugar Grove, PA 16350	Warren County

Plan Description: The approved plan provides for the extension of sewers into 10 areas of the Township to serve 125 existing EDU's. The areas involve Jones Hill, Route 957 East, Creek/Trask Roads, Teal Hill, Rounds Hill, Chandlers Valley, Page Hollow/Stoney Run, Patchen Road, Hessel Valley and SR 27. Wastewater will be conveyed to the Sugar Grove Area Sewage Authority and Youngsville WWTP. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Eldred Township	1834 West Eldred Road Eldred, PA 16731	McKean County

Plan Description: The approved plan provides for the construction of a small diameter low pressure sewer system to serve 84 existing EDU's in the West Project area, which includes portions of Route 346 and Windfall, Smith and Loop Roads. Wastewater will be conveyed to the Otto Township WWTP for treatment. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

Plan Disapprovals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Sadsbury Township	7182 White Oak Road Christiana, PA 17509	Lancaster County

Plan Description: The Jonathan Zook proposed plan revision for a second dwelling on an existing lot using an onlot sewage system, was disapproved because the well tested on the previous subdivision creating this current lot (A3-36949-193-2) to be used for the second dwelling had a well sample for nitrate nitrogen of 9.52 ppm. However, the well sampled for this current proposal used a well supplying the new house but did not use the well for the previous subdivision which is nearer to the newly proposed residence and thus would better characterize the background nitrate nitrogen concentration underneath the site. Further, the preliminary hydrogeologic study from the previous subdivision determined that the minimum lot size of 26.5 acres was necessary to dilute the nitrates from the septic system to below the MCL of 10 ppm. The lot proposed for the second dwelling in this proposal is not in conformance with the previous planning as it is only 22.3 acres in size, over 4 acres too small based on the planning which created it. The Department of Environmental Protection code number for the current proposal is A3-36949-219-2 and the APS number is 663587. It is located on the west side of Mount Vernon Road off of Clearwater Drive in Sadsbury Township, Lancaster County.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Paradise Township	2 Township Drive Paradise, PA 17562	Lancaster County

Plan Description: The White Oak Road Subdivision proposed plan revision for two lot residential subdivision using an onlot sewage disposal plus a lot addition, was disapproved because The Preliminary Hydrogeologic study failed to accurately characterize the background nitrate-nitrogen concentration of the groundwater beneath the site of the subdivision. Groundwater samples that are not hydrogeologically representative of the site were used to generate an average concentration of nitrate-nitrogen for the mass balance equation. The groundwater sample which is most representative of the site is the sample from Lot 2, with a concentration of 11.6 mg/l, indication that the groundwater is already polluted with nitrates. If the groundwater is already polluted, the proposed groundwater recharge easements will do nothing to mitigate the impact of the onlot sewage system on the waters of this Commonwealth. Further, the proposed groundwater recharge easements are not located downgradient from the sewage disposal systems, both existing and proposed and would therefore have no effect on mitigating the impact of the on lot systems on the waters of this Commonwealth. The topographic lines indicate that the property is sloping generally to the northwest. The proposed groundwater recharge easements are located west and southwest of the sewage disposal systems. In addition, no language appeared in either the project narrative or on the plot plan to detail the restrictions to activities with on the groundwater recharge easements. The Department of Environmental Protection Code number for this project is A3-36943-177-2 and the APS number is 662268. The proposal is located on the north side of White Oak Road at its intersection with Peach Lane in Paradise Township, Lancaster County.

Plan Location: Located along Rice Road in Southampton Township, Franklin County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Southampton Township	P. O. Box 352 Shippensburg, PA 17257	Franklin County

Plan Description: The Official Plan Revision, entitled Melvin Diem, proposing a new single-family residence using an individual onlot sewage disposal system, was disapproved because the hydrogeologic study required by Chapter 71 § 71.62(c) indicated that the proposed lot is not sized large enough to provide enough clean groundwater recharge to dilute the proposed septic system discharge which would lead to pollution of the waters of this Commonwealth. The groundwater easement proposed to mitigate said pollution largely failed to lie down gradient of the proposed lot and is not acceptable as a mitigation measure. As proposed, the onsite sewage system proposed for this subdivision will pollute the Waters of the Commonwealth in violation of The Clean Streams Law. Such a condition is considered a nuisance and is prohibited.

Plan Location: Located on the northwest corner of the intersection of College Street and Arch Street in Palmyra Borough, Lebanon County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Palmyra Borough	325 South Railroad Street Palmyra, PA 17078	Lebanon County

Plan Description: The Official Plan Revision, entitled Jubilee Ministries, Department of Environmental Protection Code No. A3-38804-040-3, proposing four townhouse units using sewer service provided by the Palmyra Borough Authority, was disapproved because the planning module forms were not filled out completely and lacked the necessary supporting documentation and review fee.

Plan Location: Located on the southeast corner of the intersection of North Chestnut and East High Streets in Palmyra Borough, Lebanon County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Palmyra Borough	325 South Railroad Street Palmyra, PA 17078	Lebanon County

Plan Description: The Official Plan Revision, entitled Kuligowski Bricker Development, Department of Environmental Protection Code No. A3-38804-041-3, proposing four townhouse units using sewer service provided by the Palmyra Borough Authority, was disapproved because the planning module forms were not filled out completely and lacked the necessary supporting documentation and review fee.

**HAZARDOUS SITES CLEAN-UP
UNDER THE ACT OF
OCTOBER 18, 1988**

Public Notice of Proposed Consent Order and Agreement

Dupont/New Castle Junk Site City of New Castle and Union Township, Lawrence County

Under Section 1113 of the Hazardous Sites Cleanup Act (HSCA), (35 P. S. §§ 6020.101—6020.1305), notice is hereby provided that the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement with CJLM Real Estate, LP (CJLM) concerning the redevelopment of a portion of the DuPont/New Castle Junk Site (Site).

In the past, wastes containing hazardous substances were disposed at the Site and these substances contaminated the environment at the Site. The Department and some of the responsible persons for the Site conducted response actions at the Site between 1992 and 2002. These response actions included treatment of wastes and soils contaminated by hazardous substances, followed by placement of a soil cap on one portion of the treated wastes and proper closure of a residual waste landfill on another portion of the Site. In the past, the Site contained two properties: the treated waste and soils area is primarily within the "Battery property" and the closed residual waste landfill is primarily within the "China property." Realities U.S.A., Inc. currently owns the China property and D&D Development, LP (D&D) owns a portion of the Battery property.

CJLM is purchasing a portion of the Site that includes the China property and a portion of the Battery property, currently owned by D&D. CJLM is not a "responsible party" as defined in section 103 of HSCA, (35 P.S. § 6020.103). However, in recognition of the extensive cleanup efforts at the Site, under the terms of the Consent Order and Agreement (Agreement), CJLM has agreed to manage this portion of the Site property consistent with the completed response actions at the Battery Property. Any additional redevelopment on this parcel will require a Department approved work plan.

The specific terms of this settlement are set forth in the Agreement between the Department and CJLM. The Department will receive and consider comments relating to the Agreement for 60 days from the date of this Public Notice. The Department has the right to withdraw its consent to the Agreement if the comments disclose facts or considerations that indicate that the Agreement is inappropriate, improper or not in the public interest. After the public comment period, the Department's settlement with CJLM shall be effective upon the date that the Department notifies CJLM, in writing, that this Agreement is final and effective in its present form and that the Department has filed a response to significant written comments to the Agreement, or that no such comments were received.

Copies of the Agreement are available for inspection at the Department's Northwest Regional Office. Comments may be submitted, in writing, to Gary Mechtly, Environmental Group Manager, Hazardous Sites Cleanup, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335. Further information may be obtained by contacting Gary Mechtly, at (814) 332-6648. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 645-5984.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated

substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Bethlehem Commerce Center—Lot 51, 1235 Easton Road, Bethlehem City, **Northampton County**. Kenneth G. Robbins, P. E., HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 has submitted a Final Report (on behalf of his client, Lehigh Valley Industrial Park, Inc., 1805 East 4th Street, Bethlehem, PA 18015), concerning the remediation of soils found to have been impacted by VOCs, semi-VOCs and heavy metals as a result of historical manufacturing operations at the site. The Report was submitted to document attainment of the Site-Specific Standard for soils. A public notice regarding the submittal of the Final Report was published in *The Morning Call* and *The Express-Times* on January 19, 2009.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Betty Miller Residence, Millersburg Borough, **Dauphin County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823, on behalf of Betty Miller, 279 Center Street, Millersburg, PA 17061, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Former J. C. Ehrlich Site, City of Williamsport, **Lycoming County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Victor Hammel, JCE Real Estate, LLC, 500 Spring Road Drive,

Wyomissing, PA 19610 has submitted a Remedial Investigation/Final Report concerning remediation of site soil contaminated with No. 2 fuel oil and gasoline. The reports are intended to document remediation of the site to meet the Site-Specific Standard.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Honeywell Farmers Valley South of Cole Creek (Farmers Valley Wax Plant—Area South of Cole Creek), Keating Township, **McKean County**. URS Corporation, Foster Plaza 4, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15220, on behalf of Pennzoil-Quaker State Company, d/b/a SOPUS Products, 12700 Northborough Drive, 300 E-11, Houston, TX 77067, has submitted a Cleanup Plan concerning remediation of site soil and site groundwater contaminated with compounds related to petroleum refining. The Cleanup Plan is intended to document remediation of the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may

approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Former Sherwood Herring Signs, Inc., 423—429 Green Street, Emmaus Borough, **Lehigh County**. Donald G. Rood and Christopher A. Jacangelo, J. Rockwood & Associates, Inc., P. O. Box 1006, Easton, PA 18044-1006 submitted a Final Report (on behalf of their client, Stellar Construction Company, P. O. Box 52, Route 309 and Lowhill Road, Schnecksville, PA 18078), concerning the remediation of soils found to have been impacted by unleaded/leaded gasoline and heating oil constituents. The report documented attainment of the Statewide Health Standard and was approved on January 26, 2009.

Tarkett, Inc., 1139 Lehigh Avenue, Whitehall Township, **Lehigh County**. Kenneth Battyanyi, ENSR, Inc., Four Gateway Center, 444 Liberty Avenue, Suite 700, Pittsburgh, PA 15222-1220 submitted a Final Report Addendum (on behalf of his client, Tarkett, Inc., 1001 Yamaska Street, East, Farnham, Quebec, Canada J2N 1J7), concerning the remediation of groundwater found to have been impacted by several VOCs. The report documented attainment of the Statewide Health Standard in groundwater for all compounds analyzed and was approved on December 26, 2008.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Myers Great Value Market, Dillsburg Borough, **York County**. EPSYS Corporation, 1414 North Cameron Street, Harrisburg, PA 17103, on behalf of Parula Properties, LLC, 100 South 7th Street, Akron, PA 17501, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated by leaded gasoline from underground storage tanks. The combined report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on January 30, 2009.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Sel-lo Oil Co. Gasoline Tanker Spill, Muncy Creek Township, **Lycoming County**. Taylor GeoServices, 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073 on behalf of Sel-lo Oil Co., R. R. 2, Box 269, Altoona, PA 16601 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 6, 2009.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. WMGR038 NC-006. Tire Advantage Group, Inc., 29 Frosty Valley Road, Bloomsburg, PA 17815, Hemlock Township, **Columbia County**. The Determination of Applicability under existing Department of Environmental Protection's (Department) General Permit ID No. WMGR038 for the processing of waste tires was approved by the Regional Office on January 26, 2009.

Persons interested in reviewing the general permit should contact David Garg, P. E., Environmental Engineer Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the Determination of Applicability application should contact the Williamsport Regional Office, (570) 327-3740. TDD users should contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit Revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. WMGR038SE001. Bergeys, Inc., 462 Harleysville Pike, Franconia, PA 18924. The Perkasio Rubber Recycling Facility, a tire processing facility located in West Rockhill Township, **Bucks County**, has been clean closed and the permittee has requested that the permit be revoked and the bond released. The permit was revoked by the Southeast Regional Office on January 26, 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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

GP1-36-03148: Heart of Lancaster Regional Medical Center (1500 Highlands Drive, Lititz, PA 17543) on January 29, 2009, for a Small Gas and No. 2 Oil Fired Combustion Unit under GP1 in Warwick Township, **Lancaster County**.

GP9-36-03076: Lancaster General Hospital (555 North Duke Street, P. O. Box 3555, Lancaster, PA 17604) on January 28, 2009, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in the City of Lancaster, **Lancaster County**.

GP19-07-03057: McLanahan Corp. (200 Wall Street, Hollidaysburg, PA 16648) on January 27, 2009, for Dry Abrasive Blasting Operations under GP19 in Hollidaysburg Borough, **Blair County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-63-00937A: Mark West Liberty Gas Gathering, LLC (1515 Arapahoe Street, Tower 2, Suite 700, Denver CO 80202-2126) on January 26, 2009, authorized under BAQ-GPA/GP-5 to construct and operate two Caterpillar 3516LE compressor engines rated at 1,340-bhp and one NATCO Dehydrator rated at 0.275 mmBtu/hr at their Fulton Booster Compressor Station located at Mount Pleasant Township, **Washington County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

46-0048D: Wyeth Pharmaceuticals (500 Arcola Road, Collegeville, PA 19426) On January 29, 2009, to install one 2,000-kW No. 2 fuel oil/diesel fired electric generator at an existing facility in Upper Providence Township, **Montgomery County**. The engine will be limited to 17,363 gallons of diesel/No. 2 fuel oil and 2.79 tons of NOx both on a 12-month rolling sum basis. The Plan Approval is a modification of the earlier Plan Approval 46-0048C. The generator will be used exclusively for emergency power generation. The facility is a major facility. The owner/operator shall keep records of fuel usage and sulfur content to show compliance with the requirements of the Plan Approval.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

05-05021A: Hill & Smith Holdings, Inc. (214 Industrial Lane, Alum Bank, PA 15521-8304) on January 22, 2009, to install a pultrusion machine at their Alum Bank facility in West St. Clair Township, **Bedford County**.

21-03078B: Carlisle Coatings & Waterproofing, Inc. (1275 Ritner Highway, Carlisle, PA 17013-9381) on January 28, 2009, to vent an existing dust collector directly to the atmosphere at their sheet roofing plant in Carlisle Borough, **Cumberland County**.

ERC-44-05002: CNH America, LLC (700 State Street, Racine, WI 53404) on January 27, 2009, to operate a farm equipment manufacturing facility in Union Township, **Mifflin County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

35-00077B: Texas Eastern Transmission, LP (P. O. Box 1642, Houston, TX 77251-1642) on January 26, 2009, to authorize installation of a new Solar Mars 100-150002S III turbine rated at 15,000 hp, installation of a turbine fuel gas heater rated at 0.874 mmBtu/hr, installation of a remote reservoir parts washer, update of transient emission estimates for an existing Solar Mars 100-150002S II turbine and removal of four existing Cooper Bessemer GMV-10-S internal combustion engines (Sources 103—105, 107) at Texas Eastern's Holbrook Station located in Wind Ridge, Richhill Township, **Greene County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

25-996B: Advanced Finishing, USA (7401 Klier Drive East, Fairview Business Park, Fairview, PA 16506) on January 14, 2009, to construct an additional coating booth in Fairview Township, **Erie County**. This is a State-only facility.

43-036B: Hodge Foundry, Inc. (42 Leech Road, Greenville, PA 16125) on January 29, 2009, to expand the foundry operations, increase the sand processing capacity and improve and modernize the casting finishing processes and work flow at the facility in Hempfield Township, **Mercer County**. This is a State-only facility.

61-185F: Heath Oil Co. (SR 8, Barkeyville, PA 16038) on January 7, 2009, to modify the fuel usage condition for the heaters to include the use of reprocessed/recycled No. 5 fuel oil at the facility in Barkeyville Borough, **Venango County**. This is a State-only facility.

62-032D: Ellwood National Steel (3 Front Street, Irvine, PA 16329) on January 13, 2009, to install two natural gas fired annealing furnaces at their facility in Brokenstraw Township, **Warren County**. This is a Title V facility.

Plan Approvals Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and the provisions of 25 Pa. Code §§ 127.13b and 127.13c.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

56-00305A: SG Somerset Power, LLC (94 Spruce Street, Indiana, PA 15701) on February 1, 2009, Plan Approval denied for the SG Somerset Waste Coal Fired Power Generation Facility in Shade Township, **Somerset County**. The plan approval application has been deemed technically deficient. Per section 165(c) of the Clean Air Act, final action on a PSD application must be taken within 1 year of the date it is deemed to be administratively complete. The application was deemed to be administratively complete on February 1, 2008.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Norman Frederick, Facilities Permitting Chief, (570) 826-2507.

35-00007: Department of Public Welfare—Clarks Summit State Hospital (1451 Hillside Drive, Clarks Summit, PA 18411) on January 30, 2009, for renewal of a Title V Operating Permit to operate two anthracite coal

fired boilers, one No. 2 fuel oil fired boiler and 11 emergency generators ranging from 7.5 kW to 200 kW at their facility in Newton Township, **Lackawanna County**.

48-00017: C.F. Martin & Co., Inc. (510 Sycamore Street, Nazareth, PA 18064) on January 30, 2009, for renewal of a Title V Operating Permit to operate a guitar manufacturing facility in Upper Nazareth Township, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05013: MI Metals, Inc. (P. O. Box 4490, Clearwater, FL 33758-4490) on January 26, 2009, to operate a surface coating facility in Millersburg Borough, **Dauphin County**. This is a renewal of the Title V operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

24-00016: Keystone Powdered Metal Co. (251 State Street, St. Marys, PA 15857) on January 26, 2009, the Department of Environmental Protection re-issued Title V Permit Number 24-00016, for Keystone Powdered Metal Company to operate a Fabricated Metal Products facility, in the City of St. Marys, **Elk County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

15-00061: Phoenixville Hospital (140 Nutt Road, Phoenixville, PA 19460) on January 29, 2009, for operation of boilers and emergency generators at their hospital in Phoenixville Borough, **Chester County**. The renewal permit is for a non-Title V (State-only) facility. The facility has elected to cap their NO_x and SO₂ emissions to Minor Source threshold levels to remain a Synthetic Minor. The renewal permit includes one new source, Source ID 105—two Ethylene Oxide Sterilizers. The source is of minor significance, according to 25 Pa. Code § 127.14(a)(8) and (b) because potential VOC emissions are less than 1 tpy. The source is subject to the work practice standard and reporting requirement of 40 CFR Part 63 Subpart WWWW—National Emission Standards for Hospital Ethylene Oxide Sterilizers (the facility is an area source for HAPs). The permit will include monitoring, recordkeeping and reporting requirements designed to keep the hospital operating within all applicable air quality requirements.

09-00136: Powdersize, Inc. (20 Pacific Drive, Quakertown, PA 18951-3601) on January 29, 2009, for operation of pulverizing powder form products to meet customer specifications in Richland Township, **Bucks County**. This action is a renewal of the State-only Operating Permit (Natural Minor). The original State-only Operating Permit was issued on January 29, 2004. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting designed to keep the facility operating within all applicable air quality requirements.

09-00115: Draper DBS, Inc. (1803 North 5th Street, Perkaspie, PA 18944) on January 30, 2009, for a State-only,

Synthetic Minor Operating Permit in East Rockhill Township, **Bucks County**. Draper designs, manufactures and finishes custom wood cabinetry. The facility operates four spray booths in which the primary pollutants of concern are VOCs and HAPs. The company has elected to take appropriate operating and emission restrictions to restrict VOC emissions to below 24.9 tpy and maintain a minor operating status. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

09-00084: Grandview Hospital (700 Lawn Avenue, Sellersville, PA 18960) on January 30, 2009, for renewal of the State-only Operating Permit in West Rockhill Township, **Bucks County**. The initial permit was issued on January 29, 2004. The permit is for the operation of three dual fuel (that is, natural gas and No. 6 fuel oil) boilers and four diesel-fired emergency generators. The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

15-00074: RA Ferris & Co., Inc. (899 Fern Hill Road, West Chester, PA 19380) on January 30, 2009, for operation of three Waste Type I and Type IV retorts (that is, crematories) in West Goshen Township, **Chester County**. The permit is a renewal of a non-Title V, State-only Operating Permit. The facility's potential to emit criteria pollutants is less than major thresholds; therefore the facility is a Natural Minor. The renewed permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

09-00114: Active Brass Foundry (330 Progress Drive, Telford, PA 18969) on January 30, 2009, for renewal of State-only (Natural Minor) Operating Permit No. 09-00114, which was originally issued on November 18, 2002. The State-only Operating Permit (SOOP) is for the operation of four electric induction and two No. 2 fuel oil-fired crucible furnaces and various operations for producing metal castings at the facility, as well several dust collectors to control PM emissions from each of these sources or operations. No changes have occurred at the facility since the SOOP was originally issued. The renewed SOOP will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

09-00082: Quakertown Veterinary Clinic, PC (2250 North Old Bethlehem Pike, Quakertown, PA 18951) On January 30, 2009, for operation of one unit of animal crematorium in Milford Township, **Bucks County**. This action is a renewal of a State-only Operating Permit (Natural Minor), which was originally issued on July 30, 2004. Plan Approval, No. 09-0082 (the replacement of the animal crematorium), has been incorporated in to the permit. The renewal contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00052: Pottstown Memorial Medical Center (1600 East High Street, Pottstown, PA 19464) on January 30, 2009, for operation of three boilers and five emergency generators in Pottstown, **Montgomery County**. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued on October 14, 2003. Several typographical changes have been made to the permit. An emergency generator was added to the facility. The facility shall continue to remain a synthetic minor. The permit includes monitoring, recordkeeping

and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00024: McNeil Consumer Healthcare (7050 Camp Hill Road, Fort Washington, PA 19034-2210) on January 3, 2009, for operation of pharmaceutical manufacturing of healthcare products in Whitmarsh Township, **Montgomery County**. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued on November 24, 2003, and amended on April 15, 2008. Several typographical changes have been made to the permit. A source installed under an RFD is being incorporated into this renewed Operating Permit. The facility shall continue to remain a synthetic minor. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Ray Kempa, New Source Review Chief, (570) 826-2507.

40-00082: Reading Materials, Inc. (2052 Lucon Road, Skippack, PA 19474) on January 29, 2009, to issue a State-Only (Synthetic Minor) Operating Permit to operate a batch asphalt plant and associated air cleaning devices at their facility in Foster Township, **Luzerne County**.

48-00075: Crayola, LLC (1100 Church Lane, Easton, P. O. Box 431, Easton, PA 18044-0431) on February 3, 2009, for watercolor paint manufacturing and paint and paste manufacturing processes in Bethlehem Township, **Northampton County**. This is a State-only Natural Minor operating permit.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, William R. Weaver, New Source Review Chief, (717) 705-4702.

22-03040: Advanced Communications Agency, Inc. (3000 Canby Street, Harrisburg, PA 17103-2148) on January 20, 2009, for operation of a printing facility in Penbrook Borough, **Dauphin County**. This is a renewal of the State-only operating permit.

22-03055: Kimmel's Coal & Packaging, Inc. (Machamer Avenue, P. O. Box 1, Wiconisco, PA 17097) on February 2, 2009, for operation of a coal preparation facility located in Wiconisco Township, **Dauphin County**. This is a renewal of the State-only operating permit.

28-05033: Appalachian Mill, Inc. (11427 Church Hill Road, Mercersburg, PA 17236-9664) on January 21, 2009, for operation on a woodworking plant located in Mercersburg Borough, **Franklin County**. This is a renewal of the State-only operating permit.

36-03063: Kearney A. Snyder Funeral Home, Inc. (141 East Orange Street, Lancaster, PA 17602-2851) on January 21, 2009, for operation of a cremation chamber in the City of Lancaster, **Lancaster County**. This is a renewal of the State-only operating permit.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

37-00257: Mohawk Area School District—Mohawk Elementary School (Mohawk School Road, Bessemer, PA 16112) on January 28, 2009, to re-issue a Natural Minor Operating Permit for their educational facility in North Beaver Township, **Lawrence County**. The facility's primary emissions are from two tri-fuel boilers and a water heater used to provide comfort heat and hot water to the school.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

23-00049: PPL Interstate Energy Co. (1111 Ridge Road, Linwood, PA 19061) on January 30, 2009, for an Administrative Amendment to State-only (Synthetic Minor) Operating Permit No. 23-00049 for their Marcus Hook pump station facility in Linwood, Lower Chichester Township, **Delaware County**. The Administrative Amendment incorporates the requirements of Plan Approval No. 23-0049 for the reactivation of three mainline fuel heaters permitted under the original State-only Operating Permit (SOOP).

Other significant changes reflected in the amended SOOP include:

The addition of a natural gas and No. 2 fuel oil throughput restriction (expressed as an equation) for the facility.

The changing of the PM and SO_x emission restrictions for the mainline fuel heaters and maintenance heater as a result of correcting the source type from 'combustion unit' to 'process.'

The addition of emission factors, based on the results of the most recent stack testing, to be used to calculate the emissions from the mainline fuel heaters and maintenance heater.

The Administrative Amendment to SOOP No. 23-00049 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

09-00030: Brightsmith, LLC (120 Enterprise Avenue, Morrisville, PA 19067-3703) on January 30, 2009, for operation of metal coil coating in Falls Township, **Bucks County**. On January 30, 2009, the Title V Operating Permit was administratively amended to transfer ownership from Material Sciences Corporation to Brightsmith, LLC.

46-00107: ITW Phila. Resins (130 Commerce Drive, Montgomeryville, PA 18936) on January 30, 2009, to operate seven mixers that manufacture both VOC and non-VOC containing materials for the manufacture of a variety of adhesives and specialty coatings for industrial and marine applications in Montgomery Township, **Montgomery County**.

The State-only Operating Permit has been administratively amended to remove the baghouse-carbon absorption unit (Source C01), which had not been in use and add two cold cleaning machines subject to the provisions of 25 Pa. Code § 129.63(a) (Degreasing Operations).

09-00022: Cleveland Steel Container Corp. (350 Mill Street, Quakertown, PA 18951) on January 3, 2009, for an Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450 in Quakertown Borough, **Bucks County**. The facility's major emission points include paint booths and lithographic printing presses, which emits major levels of VOCs. The amendment includes pressure drop ranges across the Roller Coater Pillar System Incinerator (C02) and the Regenerative Thermal Oxidizer (C05). The requirement appears as a work practice standard condition for each

source (C02 and C05). The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

15-00027: Johnson Matthey, Inc. (456 Devon Park Drive, Wayne, PA 19087) on January 3, 2009, for a minor modification of TVOP No. 15-00027 for their facility in Tredyffrin Township, **Chester County**. The minor modification changes the operating pH range of the acid gas scrubber control device (Source C012A) to better control bacteria and fungi growth in the scrubber. 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. 15-00027 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.462.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

16-00021: Nature's Blend Wood Products, Inc.—North Plant (2465 Penn Street, Fairmount City, PA 16224) on February 2, 2009, to administratively amend the Title V Operating Permit to incorporate the change of ownership, responsible official and permit contact person into the Operating Permit in Redbank Township, **Clarion County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Applications Returned

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

56841608 and NPDES Permit No. PA0213721, PBS Coals, Inc., (P. O. Box 260, Friedens, PA 15541), to revise the permit for the Cambria Fuel Prep Plant in Stonycreek Township, **Somerset County** to treat water transported by a buried pipeline to existing water treatment facilities at the prep plant from a dewatering borehole at the abandoned Cambria Fuels Mine and to inject slurry into the mine through an injection borehole. Dewater the mine will promote safety for miners at the adjacent Horning mine. Surface Acres Proposed 3.3. No additional discharges. Application received May 6, 2008. Application withdrawn January 15, 2009.

Coal Permits Actions

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

03871303 and NPDES Permit No. PA0213667, TJS Mining, Inc., (2340 Smith Road, Shelocta, PA 15774), to revise the permit for the Darmac No. 2 Deep Mine in Washington Township, **Indiana County** to add underground and subsidence control plan area permit acres. Underground Acres Proposed 515.3, Subsidence Control Plan Acres Proposed 515.3. Application received September 10, 2008. Permit issued January 26 2009.

30841312 and NPDES Permit No. PA0013790, Consolidation Coal Company, (1 Bridge Street, Monongah, WV 26554), to revise the permit for the Blacksville No. 2 Mine in Jackson and Gilmore Townships, **Greene County** to install 30 degasification boreholes. Surface Acres Proposed 24.7. No additional discharges. Application received May 1, 2007. Permit issued January 26, 2009.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

17773075 and NPDES No. PA0127949. Black Oak Development, Inc., P. O. Box 176, Glen Campbell, PA 15742, permit renewal for reclamation only of a bituminous surface mine in Banks, Bell and Burnside Townships, **Indiana and Clearfield Counties**, affecting 343.0 acres. Receiving streams: Martin Run and two UNTs to West Branch Susquehanna River to Susquehanna River classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received November 25, 2008. Permit issued January 23, 2009.

56930107 and NPDES No. PA0212466. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 70.3 acres. Receiving streams: UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 5, 2008. Permit issued January 23, 2009.

56930110 and NPDES No. PA0212610. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Black Township, **Somerset County**, affecting 129.0 acres. Receiving streams: UNTs to Rhoades Creek; Rhoades Creek; UNT to Isers Run and UNT to Casselman River classified for the following uses: WWF; WWF; EV; CWF, respectively. There are no potable water supply intakes within 10 miles downstream. Application received October 27, 2008. Permit issued January 26, 2009.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

63080102 and NPDES Permit No. PA0251429. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Permit for commencement, operation and reclamation of a bituminous surface mine, located in Somerset Township, **Washington County**, affecting 187.8 acres. Receiving streams Center Branch of Pigeon Creek. Application received June 17, 2008. Permit issued January 30, 2009.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

24880103 and NPDES Permit No. PA0104779. Energy Resources, Inc. (34 Kelley Way, Suite 100, Brilliant, OH 43913) Renewal of an existing bituminous strip operation in Horton Township, **Elk County** affecting 541.0 acres. This renewal is issued for reclamation only. Receiving streams: UNT to Mead Run, UNT to Vineyard Run, two UNTs to Laurel Run, two UNTs to West Branch Walburn Run. Application received October 31, 2008. Permit issued January 27, 2009.

10030101 and NPDES Permit No. PA0242331. (4955 Steubenville Pike, Suite 245, Pittsburgh, PA 15205) Renewal of an existing bituminous strip, auger and coal ash placement operation in Venango Township, **Butler County** affecting 108.0 acres. Receiving streams: UNT No. 2 to Seaton Creek. Application received November 21, 2008. Permit issued January 27, 2009.

33990106 and NPDES Permit No. PA0228010. (568 Silvis Hollow Road, Kittanning, PA 16201) Renewal of an existing bituminous strip and auger operation in McCalmont Township, **Jefferson County** affecting 168.7 acres. This renewal is issued for reclamation only. Receiving streams: Turnip Run. Application received December 10, 2008. Permit issued January 29, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54860206R4 and NPDES Permit No. PA0593583. WPS Westwood Generation, LLC, (1716 Lawrence Drive, DePere, WI 54115), renewal of an existing anthracite coal refuse reprocessing operation and NPDES Permit for discharge of treated mine drainage in Frailey and Porter Townships, **Schuylkill County** affecting 441.4 acres, receiving stream: Lower Rausch Creek. Application received August 13, 2008. Renewal issued January 27, 2009.

54793009R4. Coal Contractors (1991), Inc., (P. O. Box 39, Hazleton, PA 18201), renewal of an existing anthracite surface mine operation for reclamation activities only in North Union, Beaver and Black Creek Townships, **Schuylkill, Luzerne and Carbon Counties** affecting 991.3 acres, receiving stream: none. Application received December 30, 2004. Renewal issued January 28, 2009.

54840202T2. Penn Equipment Corp., (15 Main Street, Port Carbon, PA 17965), transfer of an existing coal refuse reprocessing operation in Branch Township, **Schuylkill County** affecting 50.0 acres, receiving stream: none. Application received November 24, 2008. Transfer issued January 30, 2009.

Noncoal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56980301 and NPDES Permit No. PA0234991. Keystone Lime Company, P. O. Box 278, Springs, PA 15562, renewal of NPDES permit, Addison and Elk Lick Townships, **Somerset County**. Receiving streams: Christener Run, UNT to Zehner Run, UNT to Christener Run classified for the following uses: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 7, 2008. Permit issued January 27, 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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

15094102. American Rock Mechanics, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Worthington in East Whiteland Township, **Chester County** with an expiration date of January 15, 2010. Permit issued January 28, 2009.

46094104. American Rock Mechanics, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Allentown Road Sewer Extension in Franconia Township, **Montgomery County** with an expiration date of January 15, 2010. Permit issued January 28, 2009.

36094103. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Pine Hill Project in East Lampeter Township, **Lancaster County** with an expiration date of June 30, 2009. Permit issued January 29, 2009.

36094104. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in Earl Township, **Lancaster County** with an expiration date of June 30, 2009. Permit issued January 29, 2009.

45094103. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Winona Lakes in Middle Smithfield Township, **Monroe County** with an expiration date of February 28, 2010. Permit issued January 29, 2009.

45094104. Silver Valley Drilling & Blasting, Inc., (R. R. 4, Box 4196, Saylorsburg, PA 18353), construction blasting for Borgor Development in Polk Township, **Monroe County** with an expiration date of August 19, 2009. Permit issued January 29, 2009.

52094101. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Mt. Lake Estates in Lackawaxen and Lehman Townships, **Pike County** with an expiration date of January 31, 2010. Permit issued January 29, 2009.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E23-472. BPG Land Partners XII Seaport GP, LLC, 322 A Street, Suite 300, Wilmington, DE 19438, City of Chester, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following activities in and along the 100-year floodplain of the Delaware River (WWF/MF):

1. To construct and maintain an approximately 18,500 seat professional soccer stadium.
2. To construct and maintain approximately 3,200 linear feet of a proposed trail.
3. To rehabilitate and maintain approximately 350 linear feet of the existing bulkhead.
4. To construct and maintain approximately 1,200 linear feet of proposed bulkhead.
5. To stabilize approximately 500 linear feet of the existing shoreline.
6. To place 0.5 acre of fill in the existing tidal channel associated with the relocation of the existing combined Sanitary Sewer Overflow outfall Structure.

This work permanently impacts 0.85 acre of open waters. The site is located approximately 80 feet south of the intersection of Byram Road and Front Street, adja-

cent to Commodore Barry Bridge (SR 0433) (Marcus Hook, PA USGS Quadrangle N: 15.2 inches; W: 0.75 inch).

E23-466. Borough of Upland, 224 Castle Avenue, Upland, PA 19015, Upland Borough, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To modify the Kerlin Street Bridge along the Chester Creek (WWF-MF) by performing the following water obstructions or encroachments:

1. To construct and maintain 100 linear feet of twin 24-foot arch culverts through the causeway approach fill south of the existing bridge.

2. To grade and stabilize the floodplain upstream and downstream of the existing bridge.

3. To construct and maintain a rock weir upstream of the existing bridge and a debris deflector at the center pier of the Kerlin Street Bridge.

The project will require the relocation or modification of the following utilities:

1. 20-inch diameter water main.
2. 21-inch diameter sanitary interceptor line.
3. 30-inch diameter combined sewer overflow pipe.

This project, the Chester Creek Flood Abatement Pilot Project, is part of Delaware County's Renaissance Program in conjunction with the Borough of Upland. The upstream boundary of the project is the Incinerator Road Bridge (Upland Road) and the downstream boundary is just downstream of the Kerlin Street Bridge. The Kerlin Street Bridge is located 240 feet southeast of the intersection of Upland Avenue and Kerlin Street (Marcus Hook, PA USGS Quadrangle N: 19.2 inches; W: 0.3 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

E22-535: Susquehanna Township Authority, Attn. Pamela Winters, 1900 Linglestown Road, Harrisburg, PA 17110, Susquehanna Township, **Dauphin County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain approximately 2,739.0 lineal feet of 15.0-inch sanitary sewer pipe in the floodway of a UNT to Paxton Creek (WWF) (Harrisburg East, PA Quadrangle N: 14.0 inches; W: 15.0 inches, Latitude 40° 19' 32"; Longitude: 76° 51' 17"). The 15.0-inch sanitary sewer interceptor will also cross the UNT and wetlands associated with the UNT to Paxton Creek (WWF) (Harrisburg East, PA Quadrangle N: 14.0 inches; W: 15.0 inches, Latitude 40° 19' 32"; Longitude: 76° 51' 17"). The sanitary sewer line will impact 0.024 acre of PEM wetland. The project is located east of North Progress Avenue, approximately 1,400.0 feet south of its intersection with Linglestown Road in Susquehanna Township, Dauphin County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-454. Johnson Quarries, Inc., R. R. 1, Box 23C, LeRaysville, PA 18829. Water Obstruction and Encroach-

ment Joint Permit in Asylum Township, **Bradford County**, United States Army Corps of Engineers, Susquehanna River Basin District (Wyalusing, PA Quadrangle N: 41° 42' 35.8"; W: 76° 21' 40.8").

To construct and maintain a permanent ford of Durell Creek to provide access for an existing rock quarry. The ford is approximately 30-feet in length and 25-feet in width. The ford is located 150-feet northwest of the intersection of T-376, O'Brian Road and SR 0187 in Durell Creek, Asylum Township, Bradford County. This project proposes to impact an approximate total of 30 linear feet of Durell Creek, which is designated as a WWF and does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects."

E14-512. Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. Jonathan Run Acid Rock Drainage Treatment Facility in Boggs and Snow Shoe Townships, **Centre County**, United States Army Corps of Engineers, Baltimore District (Snow Shoe, PA Quadrangle Latitude: 41° 1' 0.62"; Longitude 77° 52' 58").

The applicant proposes to construct, operate and maintain an acid rock drainage treatment system containing both active and passive treatment system components in an effort to remediate acid rock drainage entering Jonathan Run from historic Interstate 80 embankment fill containing pyritic sandstone. Jonathan Run is classified as a CWF. Siting of treatment system components will result in 0.32 acre of permanent wetland impacts (PFO, PSS and PEM), 0.01 acre of temporary wetland impacts (PEM), 191 feet of temporary stream impacts and 60 feet of permanent stream impacts. The applicant is proposing to construct 0.75 acre of wetland replacement onsite. This project was issued under a Standard Joint Permit. This permit also includes 401 Water Quality Certification.

E14-515. Glenn O. Hawbaker, Inc., 1952 Waddle Road, State College, PA 16803. Water Obstruction and Encroachment Joint Permit in Patton Township, **Centre County**, United States Army Corps of Engineers, Susquehanna River Basin District (Julian, PA Quadrangle N: 40° 48' 47.7"; W: 77° 54' 38.4").

To construct and maintain three culvert pipe crossings in a UNT to Spring Creek to provide vehicular and construction access to the divided property. Culvert crossing No. 1 will consist of placing a 60-inch CMP, having a length of 129.85 linear feet, at the southern end of the site. Culvert crossing No. 2 will consist of placing three 42-inch HDPE pipes, having a length of 87.96 linear feet, near the northcentral end of the site. Culvert crossing No. 3 will consist of placing an 18-inch HDPE pipe, having a length of 74.30 linear feet, at the northeastern corner of the site. The projects are located 450-feet northeast of the intersection of North Atherton Street and Hawbaker Industrial Boulevard in a UNT to Spring Creek, Patton Township, Centre County. This project proposes to impact an approximate total of 292 linear feet of a UNT to Spring Creek, which is designated as a CWF and does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects."

E55-221. Kevin and Betty Klinger, 37 East Market Street, Middleburg, PA 17842. Shed in Floodway, in Middleburg Borough, **Snyder County**, United States Army Corps of Engineers, Baltimore District (Middleburg, PA Quadrangle N: Latitude 40° 47' 32.47"; W: 77° 2' 40.71").

To construct, operate and maintain a 10 foot by 10 foot concrete pad level with the existing ground in the floodway of Middle Creek. This permit also authorizes the installation of 80 linear feet of underground utility line, an outdoor wood furnace set to a bottom elevation of 498.5 and a stream crossing hung on an existing foot bridge, all within the floodway of Middle Creek. The project is located behind the property located at 37 East Market Street in the Borough of Middleburg. This permit was issued under section 105.13(e) "Small Projects."

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335.

E20-572, Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. SR 0018-0010-1442 Channel Cleaning in West Fallowfield Township, **Crawford County**. United States Army Corps of Engineers, Pittsburgh District (Greenville East, PA Quad-range N: 41° 29' 21.84"; W: 80° 22' 10.65").

To apply stream bank stabilization along approximately 50 feet of the left (north) bank of a tributary to Crooked Creek extending downstream from SR 18 and to abandon fill from channel cleaning remaining along the right (south) bank and within the assumed floodway having a total width of approximately 20 feet and a maximum depth of 2.25 feet extending approximately 200 feet downstream from SR 0018, Segment 0010, Offset 1442 approximately 1.5 miles south of Adamsville.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control (ESCP) Permits have been issued.

ESCP 0809805	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford County	Armenia and Troy Townships	North Branch Towanda Creek CWF
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STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
09-46-004	Norristown State Hospital DPW 1001 East Sterigere Street Norristown, PA 19401-5300 Attn: Clifford K. Schwartz	Montgomery	Norristown Borough, West and East Norriton Townships	3 ASTs storing No. 2 Fuel Oil	120,000 gallons total

SPECIAL NOTICES

Notice of Planning Grant Awards under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) hereby announces the following grants to counties under section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 901 and section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

JOHN HANGER,
Secretary

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southeast				
Northeast				
Southcentral				
Northcentral				
Southwest	Washington	Washington	Plan Revision	\$64,000
Northwest				

Draft Hazardous Waste Permit

Public Hearing and Notice of Intent to Modify a Hazardous Waste Storage Permit

Permit ID NO. PAD002389559. Keystone Cement Company, P. O. Box A, Bath, PA 18014-0058, East Allen Township, Northampton County.

The Department of Environmental Protection (Department) will hold a public hearing regarding Keystone Cement Company's proposed modification of their Hazardous Waste Storage permit, PAD002389559, in accordance with an Application for Class 3 Hazardous Waste Permit Modification. The Hazardous Waste Storage Facility, located in Bath, PA, between Routes 512 and 329, consists of the site access roads, weight scales, site laboratory, truck staging area, truck unloading area and the hazardous waste storage tanks. The Permit Modification will permit a new "dry process" cement kiln to burn wastes for energy recovery; approve a closure schedule and plan for the two existing "wet process" kilns; permit a new "Combined Hazardous Waste Management Unit" including new storage tanks, new truck/railcar unloading and staging areas; permit the acceptance and management of rail-shipped wastes onsite; permit the closure and partial conversion of the existing HW storage tanks and truck unloading area to waste oil management; and modify the Waste Analysis Plan and Standard Operating Procedures. The Permit will regulate the incoming approved wastes and their use as fuel within the site cement kilns.

A public hearing is scheduled for March 4, 2009, at 7 p.m. The hearing will be held at the East Allen Township Municipal Building, 5344 Nor-Bath Boulevard, Northampton, PA 18067. The public hearing will be held on the Draft Permit Modification for Hazardous Waste Management.

Copies of the application, draft permit and fact sheet for the Hazardous Waste Management Facility may be reviewed at the following offices of the Department:

Bethlehem District Office
4530 Bath Pike
Bethlehem, PA 18017
(610) 861-2070

Northeast Regional Office
2 Public Square
Wilkes-Barre, PA 18711-0790
(570) 826-2511

Those interested in reviewing the draft permit and fact sheet should call to schedule an appointment to review the files.

The Department, in completing its review and prior to taking final action on the permit application to Keystone Cement Company, will consider all written comments received during the comment period and oral or written statements received during the public hearing, the requirements of the hazardous waste regulations of 25 Pa. Code Chapter 260a—270a and 40 CFR Parts 260—270 and 273 as incorporated by reference and the Department's permitting policies.

The public comment period will begin on February 14, 2009, and will end on March 31, 2009. Any person interested in commenting on the application or draft permit must do so within this comment period.

Persons intending to testify at the hearing should submit written notice to Mark Carmon, Hearing Examiner, Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711-0790. This written notice should include the person's name, address, telephone number and a brief description as to the nature of the testimony. Comments should be kept brief and, depending on the number of speakers, may be limited to 10 minutes per speaker. The Department requests that individuals present written copies of their testimony in addition to their oral presentation.

Persons may present oral or written statements or data concerning the draft permit directly to the Department before, during, or after the public hearing, as long as the Department receives the statement and data before March 31, 2009. Comments should include name, address and telephone number of the writer and a concise statement to inform the Department regarding the exact basis of any comment and relevant fact on which it is based.

Following the public comment period, the Department will make a final determination regarding the draft hazardous waste permit. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time the determination may be appealed to the Environmental Hearing Board. The Department will provide a written justification for changes to the draft hazardous waste permit to persons providing comment to the Department.

Persons with disabilities who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact Mark Carmon of the Department at (570) 826-2035 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of January 2009, the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act, act of July 9, 1987 (P. L. 238, No. 43) (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in this

Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Anthracite Radon	768 SR 307 Moscow, PA 18444	Mitigation
Michael Ashburn	629 Shearer Street Greensburg, PA 15601	Testing
William Astorino	3 Banyan Street Selinsgrove, PA 17870	Testing
Roger Burens, Jr.	630 Freedom Business Center Drive Third Floor King of Prussia, PA 19406	Testing
Jason Carlson	3624 Derry Street Harrisburg, PA 17111	Testing
Mark Desmond	4 Lindberg Avenue Wilmington, DE 19804	Mitigation
Clete Isenberg	5126 Chevy Chase Drive Finleyville, PA 15332	Testing
Scott Kelly	8491 East Barkhurst Drive Pittsburgh, PA 15237	Testing
John Kerrigan RHIS, Inc.	100 Old Kennett Road Wilmington, DE 19807	Testing
David Koloskee	4021 West 12th Street Erie, PA 16505	Testing
Ronald Kuntz	P. O. Box 174 Alexandria, PA 16611	Testing
Paul Malmquist	P. O. Box 410 4327 Point Pleasant Pike Danboro, PA 18916	Testing
James Nuzum, Jr.	400 Interchange Road Lehighton, PA 18235	Testing
James Nuzum, Jr. R.F. Ohl Fuel Oil, Inc.	400 Interchange Road Lehighton, PA 18235	Mitigation
Anne Parke	3201 Addison Drive Wilmington, DE 19808	Testing
Roger Priest	132 Old Skippack Road Salfordville, PA 18958	Testing
David Sperring	4826 Thoroughbred Loop Erie, PA 16506	Testing
David Teter	224 East Mifflin Street Orwigsburg, PA 17961	Testing
Todd Giddings & Associates, Inc.	3049 Enterprise Drive State College, PA 16801	Mitigation
Keith Weigman	P. O. Box 165 Orefield, PA 18069	Testing
Terry A. Wilver Pro-Tech Home & Business	1015 Green Street Milton, PA 17847	Mitigation
Bill Wright	768 SR 307 Moscow, PA 18444	Mitigation

**Request for Comment and Notice of Public Meeting
Proposed Total Maximum Daily Load (TMDL)s for
the Ferguson Run Watershed in Fayette County**

*Greensburg District Mining Office: Armbrust Building,
8205 Route 819, Greensburg, PA 15601.*

The Department of Environmental Protection (Department) is holding a public meeting on March 5, 2009, beginning at 11 a.m. at the Greensburg District Mining Office, Armbrust Building, 8205 Route 819, Greensburg, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment in the Ferguson Run Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals and acidity. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
38171	Ferguson Run	1.0

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and acidity, while maintaining levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0 to 9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected from 2007 through 2008.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Scott Heidel at (717) 787-1421 between 7:45 a.m. and 3:45 p.m., Monday through Friday, at Rachel Carson State Office Building, 10th Floor, 400 Market Street, Harrisburg, PA 17101. E-mail will be received at scheidel@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by March 20, 2009.

Persons who plan to make a presentation at the public meeting should notify the Department no later than 3 p.m. Friday, February 27, 2009. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

**Request for Comment and Notice of Public
Meeting—Correction Notice Proposed Total
Maximum Daily Load (TMDL)s for Deer Creek
(Clarion County), Redbank Creek (Armstrong and
Clarion Counties) and the Lower Clarion River,
(Forest, Clarion and Jefferson Counties)**

The Department of Environmental Protection (Department) is announcing a correction to the closing date of the public comment period for the Deer and Redbank Creeks and Lower Clarion River TMDLs. The date of the closing of the public comment period was published incorrectly in the January 31, 2009, *Pennsylvania Bulletin* as Wednesday, April 1, 2009. The correct deadline for the submission of written comments is Monday, March 2, 2009.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Elias Heferle at (814) 797-1191 between 8 a.m. and 4 p.m., Monday through Friday, at the Knox District Mining Office, White Memorial Building, P. O. Box 669, Knox, PA 16232. E-mail will be received at ehferle@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDLs can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

**Request for Comment and Notice of Public Meeting
for the Proposed Total Maximum Daily Loads
(TMDLs) Developed for the West Branch
Susquehanna River Watershed**

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission are holding a public meeting on March 5, 2009, at 7 p.m., at the Clearfield County Conservation District, 650 Leonard Street, Clearfield, PA. The purpose of the meeting is to discuss and accept comments on the proposed TMDLs developed for the West Branch Susquehanna River. In accordance with the requirements of section 303(d) of The Clean Water Act, stream segments in the West Branch Susquehanna River have been identified as impaired due to high levels of metals and low pH as a result of abandoned mine drainage.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in the West Branch Susquehanna River for iron, manganese, aluminum and acidity. Loads have been allocated to both point and nonpoint sources. The TMDLs were established using field data collected in 2004 and 2005, as well as data collected from prior water quality surveys performed by other agencies.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site (www.dep.state.pa.us/watermanagement_apps/tmdl/). To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than 30 days

from the date of this bulletin notice. The Department will consider all comments in developing the final TMDL, which will be submitted to United States Environmental Protection Agency for approval.

[Pa.B. Doc. No. 09-262. Filed for public inspection February 13, 2009, 9:00 a.m.]

Bid Opportunity

BOGM 08-3, Cleaning out and plugging 46 abandoned oil wells, (Oil Creek State Park Property), Cornplanter Township, Venango County. The principal items of work include cleaning out and plugging 46 abandoned oil wells, estimated to be 650 feet in depth, to Department of Environmental Protection specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on February 20, 2009, and bids will be opened on March 26, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is scheduled for March 10 and 11, 2009. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-263. Filed for public inspection February 13, 2009, 9:00 a.m.]

Bid Opportunity

BOGM 08-11, Cleaning out and plugging 17 abandoned and orphan oil wells, (Mr. and Mrs. Terence Bane Property), Otto Township, McKean County. The principal items of work include cleaning out and plugging 17 abandoned and orphan oil wells, estimated to be between 1,440 and 2,050 feet in depth, to Department of Environmental Protection's specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on February 13, 2009, and bids will be opened on March 19, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is scheduled for March 3, 2009. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-264. Filed for public inspection February 13, 2009, 9:00 a.m.]

Bid Opportunity

OSM 37(4481)101.1, Abandoned mine land reclamation project, Duckrun East, Wayne Township, Lawrence County. The principal items of work and approximate quantities include mobilization and demobilization, 26,000 cubic yards of grading, 500 cubic yards of

ditch excavation, 700 square yards of high velocity erosion control blanket, 200 square yards of seeding and implementation of erosion and sediment pollution control plan. This project issues on February 13, 2009, and bids will be opened on March 12, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-265. Filed for public inspection February 13, 2009, 9:00 a.m.]

Bond Rate Guidelines for the Calculation of Land Reclamation Bonds on Coal Mining Operations

The Department of Environmental Protection (Department) announces the 2009 bond rate guidelines for anthracite and bituminous coal mining operations. These rates become effective April 1, 2009. The authority for bonding coal mining operations is found under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66) and 25 Pa. Code Chapter 86, Subchapter F (relating to bonding and insurance requirements). The unit costs listed in these guidelines will be used in calculating the land reclamation bonds for surface coal mining operations including, surface mines, coal refuse disposal sites, coal refuse reprocessing sites, coal processing facilities and the surface facilities of underground mining operations. The procedures for calculating land reclamation bonds are described in technical guidance 563-2504-001, "Conventional Bonding for Land Reclamation—Coal," which is available on the Department's web site at the following link: <http://164.156.71.80/WXOD.aspx?fs=2087d8407c0e0000800006fb000006fb&ft=1>.

The Department may review the adequacy of bonds on existing permits based on the bond rate guidelines at any time. The Department will conduct these reviews before issuing permit renewals. The Department may conduct similar reviews at the midterm of a permit and before approving a permit revision.

The bond rate guidelines do not apply to bonds assuring replacement of water supplies under subsection 3.1(c) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.3a(c)) or to bonds ensuring compliance with the requirements of the Bituminous Mine Subsidence and Land Conservation Act (52 P.S §§ 1406.1—1410d).

General Methodology

The Department developed the bond rate guidelines for 2009 from the unit costs for competitively bid contracts for mine reclamation. Contract bid data is available for various unit operations needed to complete reclamation of a mine site for the years 1998-2008. For most categories, a 3-year (2006-2008) average was used to calculate the guidelines. Some categories required another approach due to limited data. For example, there were no contracts

in 2007 that included selective grading, and during 2006 there were only 30 acres of selective grading under contract. Therefore, a 5-year average was used for the 2009 selective grading bond rate.

In general, the bond rate for a given unit operation is the weighted average of the three lowest total bids for each contract. However, grading costs were calculated using the number of bids at a cost per cubic yard frequency distribution and a weighted total number of yards at a cost per cubic yard frequency distribution, in combination with the averages and a cost trend analysis.

In the event that a unit operation necessary to calculate a reclamation bond is not listed in Tables 1 or 2, then any additional cost information available will be used. If enough data is still not available, the rate will be set from a standard reference like "Means Building Construction Cost Data" or "Walker's Building Estimator's Reference Book."

The fees associated with the Land Maintenance Bond Program are presented in Table 3. There has been no

change in these rates for 2009.

The bond rate guidelines are available electronically at <http://www.dep.state.pa.us/dep/deputate/minres/bmr/programs/bonding.htm>. For background information and supporting documentation regarding bonding rate guidelines, contact the Bureau of Mining and Reclamation, Division of Monitoring and Compliance, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103.

Mine Sealing Costs

The mine sealing bond rate guidelines are presented in Table 2. Review of the contract data for mine sealing projects reveals that they are designed and bid on a volume and material basis. The Department has evaluated these bond rate guidelines resulting in updated mine sealing bond rate guidelines for 2009. The Department also developed bond rate guidelines for sealing boreholes.

Effective Date

The bond rate guidelines in this notice become effective April 1, 2009.

TABLE 1
Standard Bond Rate Guidelines
For Year 2009

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
<i>Mobilization/Demobilization</i>	<i>Job</i>	<i>4% of direct costs or \$40,000, whichever is less</i>
Grading (< 500-foot push)	Cubic Yard	0.95
Grading (≥ 500-foot push/haul)	Cubic Yard	1.20
Selective Grading	Acre	1,250.00
Revegetation	Acre	1,600.00
Tree Planting	Tree	0.15
Ditch Excavation	Cubic Yard	5.25
Jute Matting	Square Yard	3.25
High Velocity Erosion Control	Square Yard	3.50
R3 Rock Lining	Square Yard	25.00
R4 Rock Lining	Square Yard	22.00
R5 Rock Lining	Square Yard	21.00
Geotextile/Filter Fabric	Square Yard	2.00
PVC Lining ¹	Square Yard	11.00
Subsurface Drain	Lineal Foot	18.50
Erosion and Sedimentation Control (Temporary Installation)	Job	Lump sum (5% of direct costs for site)
Pond Removal Active Phase ²	Pond	3,800.00
Stage 3 Maintenance Bond Noncropland Areas (Land Uses Where Crop Yields Are Not Required)	Acre	100.00
Stage 3 Maintenance Bond Cropland (Not Row Crops) Pastureland Or Land Occasional Cut For Hay (Excludes Seed Cost)	Acre	550.00
Stage 3 Maintenance Bond Cropland Area-Row Crops (includes seed cost)	Acre	800.00
Stage 3 Mobilization	Job	2,500.00

¹ Typically used for lining of ponds or ditches crossing fill material.

² Unit cost not from BAMR bids; includes dewatering, grading, topsoil placement and revegetation.

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
<i>Mobilization/Demobilization</i>	<i>Job</i>	<i>4% of direct costs or \$40,000, whichever is less</i>
Pond Removal-Stage ³	Cubic Yards (Embankment volume) Plus Topsoiling and Revegetation Cost	Use < 500 grading for pond embankment volume plus Topsoiling and Revegetation cost for the area disturbed
Ditch Removal-Stage ³	Lineal Foot	0.75
Equipment Tire Removal and Disposal	Tire	300.00
Structure Demolition	Costs will be calculated using costs listed in the construction industry's latest annual cost publications, such as <i>Means Building Construction Cost Data</i> .	

TABLE 2

**Mine Sealing Bond Rate Guidelines
For Year 2009**

Sealing Bituminous Underground Mine Drift and Slope Openings

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
Concrete Work	Cubic yard	128.00
Masonry Work	Square foot	11.00
Fill Material and Earthwork ³	Cubic yard	23.00
Security Fencing	Lineal foot	29.00
Mobilization Cost	Job	5% of Total Amount

Sealing Bituminous Underground Mine Shaft Openings

Concrete Material	Cubic Yard	96.00
Aggregate Material	Cubic Yard	27.00
Fill material and Earthwork ³	Cubic Yard	4.00
Security Fencing	Lineal Foot	29.00
Mobilization Cost	Job	5% of Total Amount

Sealing Boreholes at Bituminous Underground Mines

<i>Dimension</i>	<i>Minimum Cost Per Hole (\$)</i>	<i>Unit Cost (\$ Per Lineal Foot</i>
12 Inch or Less Diameter	1,500	5.50
Larger Than 12 Inch Diameter	2,000	5.50

³ Mine sealing costs are minimum costs. Additional costs per mine seal will be assessed based on specific design criteria, such as the thickness of the seal and the volume of backfill material required, using appropriate material, equipment, and labor costs from BAMR bid abstracts or from an industry-standard cost estimation publications, such as, *Means Estimating Handbook* or *Walker's Building Estimator's Reference Book*.

TABLE 3

**Land Maintenance Financial Guarantee Fees
For Year 2009**

<i>Fee Category</i>	<i>Fee (\$)</i>
Publication	\$1,000
Administrative	\$300

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-266. Filed for public inspection February 13, 2009, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program; Nutrient Trading Program Activities and NPDES Permits

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) (DEP 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 National Pollutant Discharge Elimination System (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 January 27, 2009.

Background

Before a credit can be used by an NPDES permittee, a three-step process is followed. First, the credit or offset proposal must be approved, second, it must be verified and third, 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. 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 65 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 43 have been approved, one is in review, one has been withdrawn and the remaining need additional clarification prior to certification.

Proposals under Review

There are currently no new proposals under review.

Certifications

The Department has given conditional pre-approval to ElectroCell Technologies, Inc., for calculating credits, related to a hog manure technology that the company operates.

Correction: At 39 Pa.B. 288 (January 10, 2009), the credit certification for Lancaster County Conservation District noticed that nitrogen credits were generated by implementation of cover crops and no-till and nitrogen and phosphorus credits generated by manure export. The notice was not specific in the credit amounts related to each activities. To clarify, Lancaster County Conservation District generated 10,680 nitrogen credits and 1,335 phosphorus credits by the exportation of poultry manure and will generate 3,590 nitrogen credits by the implementation of cover crops and no-till.

Verifications and Registrations

To date, there are no verifications and registrations.

For further information about the 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,
Acting Secretary

[Pa.B. Doc. No. 09-267. Filed for public inspection February 13, 2009, 9:00 a.m.]

Proposed Designation Recommendations for the 2008 8-Hour Ozone Standard; Public Meetings Announcement

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat and can also cause damage to crops, forests and wildlife. In March 2008, the U. S. Environmental Protection Agency (EPA) promulgated a revised 8-hour ozone national ambient air quality standard (NAAQS). The revised ozone standard of 75 parts per billion, measured over an 8-hour period, is more protective of public health than the 1997 8-hour ozone standard.

The Governor of each state must now submit designation recommendations to EPA in accordance with Section 107(d) of the Federal Clean Air Act. Pennsylvania's designation recommendations are based on air quality monitoring data for 2006-2008, demographic information and other criteria, as recommended by EPA. EPA expects to make final designations in March 2010.

The Department of Environmental Protection (Department) is seeking public input on the proposed designation recommendations for the 2008 ozone NAAQS. Based on air quality, demographic information and political boundary factors, the Department is proposing to recommend that:

- Erie, Greene, Indiana, Lancaster, Berks and Monroe Counties be designated as single-county nonattainment areas;

- Allegheny, Armstrong, Beaver, Butler, Washington, Fayette and Westmoreland Counties be designated as a multicounty nonattainment area;

- Adams and York Counties be designated as a multicounty nonattainment area;

- Cumberland, Perry, Dauphin and Lebanon Counties be designated as a multicounty nonattainment area;

- Carbon, Lehigh and Northampton Counties be designated as a multicounty nonattainment area;

- Bucks, Chester, Delaware, Montgomery and Philadelphia counties be designated as part of a multicounty interstate nonattainment area; and

- Mercer County be designated as a nonattainment area, most likely part of an interstate area.

The remainder of the Commonwealth would be designated as attainment.

This proposal is available on the Department's web site at www.depweb.state.pa.us or through the contact persons listed. The Department will hold public informational meetings as follows:

March 3, 2009 1 p.m. Waterfront A 400 Waterfront Drive Pittsburgh, PA	March 3, 2009 1 p.m. Susquehanna Room 909 Elmerton Avenue Harrisburg, PA	March 4, 2009 1 p.m. Delaware River Room 2 East Main Street Norristown, PA
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For more information on the public meetings, contact Yvette House at (717) 787-9495; yhouse@state.pa.us. Individuals with a disability who wish to attend a meeting and require an auxiliary aid, service or other accommodation to participate in the proceeding should also contact Yvette House. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Written comments on the recommendations should be sent to Arleen Shulman, Chief, Air Resource Management Division, Bureau of Air Quality, Department of Environmental Protection, P. O. Box 8468, Harrisburg, PA 17105-8468 or ashulman@state.pa.us (preferred) no later than 4 p.m. on March 6, 2009. Written comments (including e-mail submittals) must include the name, affiliation (if any), mailing address and telephone number of the interested person.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-268. Filed for public inspection February 13, 2009, 9:00 a.m.]

visual inspection of emission components performed by safety inspection stations in 42 Pennsylvania counties as part of the vehicle safety inspection program. These 42 counties are not subject to the Commonwealth's vehicle inspection and maintenance program. In addition to ensuring that statutorily required emissions components are present and have not been rendered inoperative, the safety program visual inspection test and quality assurance program bolster emission reductions toward meeting the goals of areas of the Commonwealth that are subject to I/M program testing.

The proposed SIP revision pertains only to a portion of the quality assurance program in the SIP implemented by PennDOT. The quality assurance program in the SIP provides a window in which program auditors can determine whether randomly selected vehicles properly passed the visual inspection portion of the safety inspection. PennDOT has conducted a pilot study in which the timing of the audit of inspected vehicles was examined. As a result of the study, PennDOT advised increasing the length of the window between the initial inspection of a vehicle and the audit inspection from 2 days to 5 days. The Department is proposing to revise Pennsylvania's SIP to update the quality assurance program information in this way. This proposal is available on the Department's web site at www.depweb.state.pa.us (DEP Keyword: Air Plans), or through the contact persons listed.

The Department will hold a public hearing to receive comments on the proposed SIP revision on Thursday, March 19, 2009, at 1 p.m. at the Department of Environmental Protection's Southcentral Regional Office, 909 Elmerton Avenue, Susquehanna Room A, Harrisburg, PA 17110.

Persons who wish to present testimony at the hearing should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, yhouse@state.pa.us to reserve time. 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 March 20, 2009. 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,
Acting Secretary

[Pa.B. Doc. No. 09-269. Filed for public inspection February 13, 2009, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for the Vehicle Emissions Anti-Tampering Quality Assurance Program in the Inspection and Maintenance Program; Public Hearing

The Department of Environmental Protection (Department) is seeking public comment on a State Implementation Plan (SIP) revision. The proposed SIP revision addresses the quality assurance program implemented by the Department of Transportation (PennDOT) for the

Rates to Be Used for Calculating Long-Term Operation and Maintenance Cost Bonds for Water Supply Replacement-Mining Operations

The Department of Environmental Protection (Department) announces the rates to be used to calculate bond amounts for water supply replacement operation and

maintenance costs for anthracite and bituminous coal and industrial mineral mining operations. The authority for bonding mining operations is found under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21), the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326) and the regulations promulgated thereunder at 25 Pa. Code Chapters 77 and 86 (relating to noncoal mining; and surface mining of coal).

The rates are used in calculating the water supply operation and maintenance bond amounts for replacement water supplies affected by activities at mining operations including: surface mines, coal refuse disposal sites, coal refuse reprocessing sites, coal processing facilities, underground coal mining operations and industrial mineral surface mines. The procedures for calculating water supply operation and maintenance bonds are described in technical guidance 562-4000-102, "Increased Operation and Maintenance Costs of Replacement Water Supplies," which is available on the Department's web site www.depweb.state.pa.gov, at the Public Participation Center page.

The Department may review the adequacy of bonds on existing permits at any time. The Department will conduct these reviews before issuing permit renewals. The Department may conduct similar reviews at the mid-term of a permit and before approving a permit revision.

Rates

The Department calculated the rate of inflation and rate of return using 5-year averages. For the rate of inflation, the Consumer Price Index (Northeast Urban) was averaged for the calendar years 2004—2008, resulting in a rate of 3.46%. For the rate of return, the interest rate for the 20-year Treasury bill as reported by the Federal Reserve was averaged for the calendar years 2004—2008 resulting in a rate of 4.79%.

For background information and supporting documentation regarding the rates, contact the Bureau of Mining and Reclamation, Division of Monitoring and Compliance, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103.

Effective Date

The rates in this notice become effective on April 1, 2009. They will remain in effect until new rates are published. It is anticipated that these new rates will be published in the *Pennsylvania Bulletin* in February 2010 to be effective April 1, 2010.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-270. Filed for public inspection February 13, 2009, 9:00 a.m.]

Solar Workgroup Meeting

The Solar Workgroup (Workgroup) will hold a meeting on February 26, 2009, at 10 a.m. in the Second Floor Training Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101.

The agenda and materials for the February 26, 2009, meeting will be available at the meeting. Questions

concerning this meeting should be directed to Libby Dodson, Office of Energy and Technology Deployment, Division of Energy Promotion, 400 Market Street, Harrisburg, PA 17101, (717) 772-8907, ldodson@state.pa.us.

Persons with a disability who require accommodations to attend the February 26, 2009, meeting of the Workgroup should contact Angela Rothrock at (717) 772-8911 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-271. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Prevailing Wage Appeals Board Meeting

The Prevailing Wage Appeals Board will hold a public meeting on Tuesday, February 17, 2009, at 10 a.m. in the Capitol Associates Building, 901 North Seventh Street, 3rd Floor Conference Room, Harrisburg, PA.

The Americans With Disability Act contact is Gina Meckley at (717) 783-9276.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 09-272. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$100,000 Wild Number Bingo Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$100,000 Wild Number Bingo.

2. *Price:* The price of a Pennsylvania \$100,000 Wild Number Bingo instant lottery game ticket is \$5.

3. *Play Symbols:*

(a) Each Pennsylvania \$100,000 Wild Number Bingo instant lottery game ticket will contain 10 play areas designated as "Card 1," "Card 2," "Card 3," "Card 4," "Card 5," "Card 6," "Card 7," "Card 8," "Card 9" and "Card 10." The 77 play symbols located in the ten play areas are: The numbers 1 through 75, "FREE" symbol and a "5X" symbol. The "FREE" symbol is a free space. The "5X" symbol is a free space, and when it appears in a winning pattern, the prize quintuples.

(b) Each ticket will also contain a "Caller's Card" area and a separate "Wild Number" area. The "Caller's Card"

area will consist of 30 spaces on a 5 by 6 grid. The play symbols that may be located in each space on the grid are: The letter B with a number 1 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75. The "Wild Number" area will contain a play symbol of 0 (ZERO), 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) or 9 (NINE). When the "Wild Number" play symbol appears as the last digit of any of the play symbols located in the 10 "Card" play areas, that play symbol is a free space.

4. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$15, \$25, \$50, \$100, \$250, \$500, \$1,000, \$10,000 and \$100,000. The player can win up to seven times on each ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania \$100,000 Wild Number Bingo instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, to twelve of the thirteen spaces appearing in the highlighted "W" pattern, which includes the spaces appearing in the top horizontal row in the "B" and "O" columns; the spaces appearing in the second horizontal row from the top in the "B" and "O" columns; the spaces appearing in the third horizontal row from the top in the "B" and "O" columns and the "FREE" space in the "N" column; the spaces appearing in the fourth horizontal row from the top in the "B," "I," "G" and "O" columns; and the spaces appearing in the fifth horizontal row from the top in the "B" and "O" columns on "Card 1" or "Card 2" or "Card 3" or "Card 4" or "Card 5" or "Card 6" or "Card 7" or "Card 8" or "Card 9" or "Card 10," shall be entitled to a prize of \$100,000.

(b) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in an "X" pattern extending through the "FREE" space and through to each of the four corner spaces, on "Card 10," shall be entitled to a prize of \$10,000.

(c) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in an "X" pattern extending through the "FREE" space and through to each of the four corner spaces, on "Card 8" or "Card 9," shall be entitled to a prize of \$1,000.

(d) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 10," shall be entitled to a prize of \$1,000.

(e) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number"

play symbol, in an "X" pattern extending through the "FREE" space and through to each of the four corner spaces, on "Card 4," or "Card 5," or "Card 6" or "Card 7," shall be entitled to a prize of \$500.

(f) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 8" or "Card 9," shall be entitled to a prize of \$500.

(g) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in the four corners on "Card 10," shall be entitled to a prize of \$500.

(h) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in four of the five spaces in a horizontal, vertical or diagonal line, and a "5X" play symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 10," shall be entitled to a prize of \$500.

(i) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 6" or "Card 7," shall be entitled to a prize of \$250.

(j) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in the four corners on "Card 9," shall be entitled to a prize of \$250.

(k) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol in four of the five spaces in a horizontal, vertical or diagonal line, and a "5X" play symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 9," shall be entitled to a prize of \$250.

(l) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in an "X" pattern extending through the "FREE" space and through to each of the four corner spaces, on "Card 2" or "Card 3," shall be entitled to a prize of \$100.

(m) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 × 2 grid) in any of the four corners on "Card 4" or "Card 5," shall be entitled to a prize of \$100.

(n) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in the four corners on "Card 7" or "Card 8," shall be entitled to a prize of \$100.

(o) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a five-space horizontal, vertical or diagonal line on "Card 10," shall be entitled to a prize of \$100.

(p) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in an "X" pattern, extending through the "FREE" space and through to each of the four corner spaces, on "Card 1," shall be entitled to a prize of \$50.

(q) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 3," shall be entitled to a prize of \$50.

(r) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in the four corners on "Card 4" or "Card 5" or "Card 6," shall be entitled to a prize of \$50.

(s) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a five-space horizontal, vertical or diagonal line on "Card 9," shall be entitled to a prize of \$50.

(t) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in four of the five spaces in a horizontal, vertical or diagonal line, and a "5X" play symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 6" or "Card 7" or "Card 8," shall be entitled to a prize of \$50.

(u) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10

play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 2," shall be entitled to a prize of \$25.

(v) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in the four corners on "Card 3," shall be entitled to a prize of \$25.

(w) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in four of the five spaces in a horizontal, vertical or diagonal line, and a "5X" play symbol in the remaining space of that same horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3" or "Card 4" or "Card 5," shall be entitled to a prize of \$25.

(x) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a postage stamp pattern matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 1," shall be entitled to a prize of \$15.

(y) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in the four corners on "Card 1" or "Card 2," shall be entitled to a prize of \$10.

(z) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a five-space horizontal, vertical or diagonal line on "Card 6" or "Card 7" or "Card 8," shall be entitled to a prize of \$10.

(aa) Holders of tickets matching the "Caller's Card" play symbols, or a combination of the matching "Caller's Card" play symbols and those play symbols located in the 10 play areas whose last digit matches the "Wild Number" play symbol, in a five-space horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3" or "Card 4" or "Card 5," shall be entitled to a prize of \$5.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
LINE CARD 1	\$5	40	180,000
LINE CARD 2	\$5	40	180,000
LINE CARD 3	\$5	40	180,000
LINE CARD 4	\$5	40	180,000
LINE CARD 5	\$5	60	120,000
LINE CARD 6	\$10	120	60,000
LINE CARD 7	\$10	120	60,000
LINE CARD 8	\$10	120	60,000
LINE CARDS 1 & 2	\$10	120	60,000

<i>Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
LINE CARDS 4 & 5	\$10	120	60,000
4 CORNERS CARD 1	\$10	120	60,000
4 CORNERS CARD 2	\$10	120	60,000
POSTAGE STAMP CARD 1	\$15	60	120,000
LINE CARDS 1, 2, 3 & 4	\$20	100	72,000
(LINE CARDS 2 & 5) + (4 CORNERS CARD 1)	\$20	300	24,000
4 CORNERS CARDS 1 & 2	\$20	300	24,000
LINE CARD 1 w/5X MULTIPLIER	\$25	300	24,000
LINE CARD 2 w/5X MULTIPLIER	\$25	600	12,000
LINE CARD 3 w/5X MULTIPLIER	\$25	600	12,000
LINE CARD 4 w/5X MULTIPLIER	\$25	600	12,000
LINE CARD 5 w/5X MULTIPLIER	\$25	600	12,000
LINE CARDS 1, 2, 3, 4 & 5	\$25	300	24,000
4 CORNERS CARD 3	\$25	600	12,000
POSTAGE STAMP CARD 2	\$25	600	12,000
LINE CARD 9	\$50	1,200	6,000
(LINE CARD 1 w/5X MULTIPLIER) + (LINE CARD 2 w/5X MULTIPLIER)	\$50	800	9,000
(LINE CARD 3 w/5X MULTIPLIER) + (LINE CARD 4 w/5X MULTIPLIER)	\$50	800	9,000
LINE CARD 6 w/5X MULTIPLIER	\$50	857	8,400
LINE CARD 7 w/5X MULTIPLIER	\$50	857	8,400
LINE CARD 8 w/5X MULTIPLIER	\$50	857	8,400
LINE CARDS 2, 3, 4, 5, 6, 7 & 8	\$50	857	8,400
(POSTAGE STAMP CARDS 1 & 2) + (LINE CARDS 3 & 4)	\$50	1,200	6,000
X CARD 1	\$50	1,200	6,000
4 CORNERS CARD 4	\$50	1,200	6,000
4 CORNERS CARD 5	\$50	1,200	6,000
4 CORNERS CARD 6	\$50	1,200	6,000
POSTAGE STAMP CARD 3	\$50	1,200	6,000
LINE CARD 10	\$100	2,400	3,000
4 CORNERS CARD 7	\$100	2,400	3,000
4 CORNERS CARD 8	\$100	2,400	3,000
POSTAGE STAMP CARD 4	\$100	2,400	3,000
POSTAGE STAMP CARD 5	\$100	2,400	3,000
X CARD 2	\$100	2,400	3,000
X CARD 3	\$100	2,400	3,000
(X CARD 1) + (4 CORNERS CARD 4)	\$100	2,400	3,000
LINE CARD 9 w/5X MULTIPLIER	\$250	60,000	120
POSTAGE STAMP CARD 6	\$250	60,000	120
POSTAGE STAMP CARD 7	\$250	60,000	120
4 CORNERS CARD 9	\$250	60,000	120
LINE CARD 10 w/5X MULTIPLIER	\$500	120,000	60
4 CORNERS CARD 10	\$500	120,000	60
X CARD 4	\$500	120,000	60
X CARD 5	\$500	120,000	60
X CARD 6	\$500	120,000	60
X CARD 7	\$500	120,000	60
POSTAGE STAMP CARD 8	\$500	120,000	60
POSTAGE STAMP CARD 9	\$500	120,000	60
(X CARD 4) + (POSTAGE STAMP CARD 8)	\$1,000	60,000	120
(X CARD 5) + (4 CORNERS CARD 10)	\$1,000	60,000	120
X CARD 8	\$1,000	60,000	120
X CARD 9	\$1,000	60,000	120
POSTAGE STAMP CARD 10	\$1,000	60,000	120
X CARD 10	\$10,000	360,000	20
W PATTERN ON ANY CARD	\$100,000	720,000	10

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$100,000 Wild Number Bingo instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$100,000 Wild Number Bingo, prize money from winning Pennsylvania \$100,000 Wild Number Bingo instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$100,000 Wild Number Bingo instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$100,000 Wild Number Bingo or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-273. Filed for public inspection February 13, 2009, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), District 9-0, under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)) intends to sell certain land owned by the Department.

The following property is available for sale by the Department.

Parcel No. 4, David A. and Denise A. Huber, husband and wife, and Parcel No. 5, John J. and Joan F. Kokoski, husband and wife, and Mark and Kimberly J. Kokoski, husband and wife, located in Ebensburg Borough, Cambria County. The parcel contains 0.844 acre of unimproved land adjoining the property of the Church of the Nazarene. The property has been appraised for \$43,000 and may be inspected on March 4, 2009, between 1 p.m. and 3 p.m.

Interested public entities are invited to express their interest in purchasing the sites within 30 calendar days from the date of publication of this notice to Sherry Peck, Property Manager, Department of Transportation, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 09-274. Filed for public inspection February 13, 2009, 9:00 a.m.]

FISH AND BOAT COMMISSION

Additions to List of Class A Wild Trout Waters

The Fish and Boat Commission (Commission) has approved additions to the list of Class A Wild Trout Waters as set forth at 38 Pa. B. 6824 (December 13, 2008). During recent surveys, Commission staff documented the following stream sections to have Class A Wild Trout populations (ST=Brook Trout, BT=Brown Trout). The Commission added these waters to its list of Class A Wild Trout Streams at its meeting on January 30, 2009.

County	Stream	Limits	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Length (miles)
Schuylkill	UNT to Little Schuylkill River	Headwaters at spring fed pond to mouth	35.92		0.81
Potter	Cross Fork	Confluence with Rhulo Hollow/Bear Trap Lodge downstream to confluence with Windfall Run	17.05 (2005) 18.6 (2006) 33.58 (2007)	37.67 (2005) 34.94 (2006) 64.7 (2007)	1.83
Luzerne	Phillips Creek Sec 01	Headwaters to Route 118	ST 46.01		1.80
Luzerne	Phillips Creek Sec 02	Route 118 to mouth	ST 22.59 BT 28.14		3.16
Luzerne	Kitchen Creek Sec 01	Confluence Ganoga Glen/Glen Leigh to Shedy Hill Road (T 559)	ST 47.12		4.15
Luzerne	Crooked Creek	Headwaters to mouth	ST 41.06		1.80

County	Stream	Limits	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Length (miles)
Luzerne	Maple Run Sec 01	Headwaters to pipeline crossing	ST 90.37		2.42
Luzerne	Wasp Branch	Headwaters to mouth	ST 45.98		1.74

Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource and to conserve that resource and the angling that it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. The Commission manages these stream sections for wild trout with no stocking.

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

[Pa.B. Doc. No. 09-275. Filed for public inspection February 13, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Villa Saint Martha

Villa Saint Martha has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Villa Saint Martha in Downingtown, PA. The initial filing was received on February 3, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-276. Filed for public inspection February 13, 2009, 9:00 a.m.]

Application for Approval to Merge with Windsor-Mount Joy Mutual Insurance Company

Windsor-Mount Joy Mutual Insurance Company, a Pennsylvania domiciled mutual property insurance company, has submitted a Plan of Merger, whereby it proposes to merge with Farmers' Mutual Fire Insurance Company of Dug Hill in Carroll County, a Maryland domiciled mutual property insurance company. The survivor of the merger would be Windsor-Mount Joy Mutual Insurance Company. The filing was made under the requirements set forth under 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets); the GAA Amendments Act of 1990 (15 P. S. §§ 21205—21207) and the Insurance Holding Companies Act of 1921 (40 P. S. §§ 991.1402—991.1413). Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written

statement to the Insurance Department (Department) within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the author, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-277. Filed for public inspection February 13, 2009, 9:00 a.m.]

Community Health Reinvestment Activities; Notice No. 2009-01

This notice is to inform you of your new responsibilities for the reporting of community health reinvestment activities as a result of the recent enactment of Act 62 of 2008.

Under Article XXV of The Insurance Company Law of 1921 (P. L. 682, No. 284), as added by section 9 of Act 62 of 2008 (Article XXV), the Insurance Department (Department) has the duty to approve or disapprove expenditures related to community health reinvestment activities. Community health reinvestment activities are community health services and projects that improve health care or make health care more accessible. The term includes funding, subsidization, or provision of health care coverage for persons who are unable to pay for coverage, of health care services for persons who are uninsured and unable to pay for services, and for programs for the prevention and treatment of disease or injury, including mental retardation, mental disorders, mental health counseling or the promotion of health or wellness. The term does not include expenditures for advertising, public relations, sponsorships, bad debt, administrative costs associated with State health care programs, programs provided as an employee benefit, use of facilities for meetings held by community groups or expenses for in-service training, continuing education, orientation or mentoring of employees.

In accordance with Article XXV, each hospital plan corporation and professional health service plan corporation is required to submit to the Department on or before

March 30 of each calendar year its proposal for the manner in which the plan will provide anticipated community health reinvestment activities during the next fiscal year. Specifically, each plan must provide an itemization of the individual community health reinvestment activities and the cost of each activity. A form for submittal of the proposals is appended to this notice as Exhibit "A." The first submittal will be for the 2009-2010 fiscal year (July 1, 2009—June 30, 2010) and is due on or before March 30, 2009. Once submitted, the proposals are public records and will be posted on the Department's web site.

Questions concerning this notice and proper reporting of community health reinvestment activities should be directed to: Stephen J. Johnson, CPA, Deputy Insurance Commissioner, Office of Corporate and Financial Regulation, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 783-2142, fax (717) 787-8557, stjohanson@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-278. Filed for public inspection February 13, 2009, 9:00 a.m.]

**PLAN PROPOSAL FOR
COMMUNITY HEALTH REINVESTMENT ACTIVITIES**

Proposal for Fiscal Year 20_____.

FEIN:

NAIC:

I. HOSPITAL PLAN CORPORATION OR PROFESSIONAL HEALTH SERVICE PLAN CORPORATION NAME AND ADDRESS:

II. PLANNED EXPENDITURES:

	Projected Expenditures
1. Proposed annual community health reinvestment activities for health care coverage for persons unable to pay for coverage (list and describe proposed endeavors below):	
a.	
b.	
c.	
d.	
2. Proposed annual community health reinvestment activities for health care services for persons uninsured and unable to pay for services (list and describe proposed endeavors below):	
a.	
b.	
c.	
d.	
3. Proposed annual community health reinvestment activities for programs for prevention and treatment of disease or injury or the promotion of health or wellness (list and describe proposed endeavors below):	
a.	
b.	
c.	
d.	
4. Community health reinvestment activities proposed in your application under paragraph 3 of the Agreement dated February 5, 2005 and published at 35.Pa.B. 4155 or any successor or other agreements (list and describe proposed endeavors below):	
a.	
b.	
c.	
d.	
5. Other proposed annual community health reinvestment activities (list and describe proposed endeavors below):	
a.	
b.	
c.	
d.	
TOTALS	

*NOTE: IF A PROPOSED ACTIVITY APPLIES TO MORE THAN ONE CATEGORY, IT MAY BE REPORTED IN EACH APPLICABLE CATEGORY; HOWEVER, THE PROJECTED EXPENDITURE MAY ONLY BE COUNTED ONCE.

Mikes Bustleton Auto Repair; Prehearing

Appeal of Mikes Bustleton Auto Repair under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2007-0179(S); Doc. No. UT09-01-018

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on April 1, 2009, at 10 a.m. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator, at the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102, on or before March 18, 2009. Answers to petitions to intervene, if any, shall be filed on or before March 31, 2009.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-279. Filed for public inspection February 13, 2009, 9:00 a.m.]

Nettles Auto Service; Prehearing

Appeal of Nettles Auto Service under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2006-0170(S); Doc. No. UT09-01-015

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on March 26, 2009, at 9:30 a.m. A hearing shall occur on Thursday, April 9, 2009, at 9:30 a.m., in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before March 11, 2009. Answers to petitions to intervene, if any, shall be filed on or before March 25, 2009.

On or before March 11, 2009, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness

designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-280. Filed for public inspection February 13, 2009, 9:00 a.m.]

Property and Casualty Insurance Companies and Producers Issuing Certificates of Insurance in Pennsylvania; Notice No. 2009-02

"Certificates of Insurance" regarding Property and Casualty coverage are typically used to provide proof of liability insurance to and summarize the terms of a policy for a third party in lieu of providing the third party with a complete copy of the policy. This notice clarifies the acceptable use of certificates of insurance with respect to Property and Casualty insurance policies in Pennsylvania.

Certificates of insurance that clearly and accurately state the insurance coverage provided to an insured or third party are not forms subject to filing with the Insurance Department (Department) because these certificates do not in any context amend, extend or alter coverage of the insurance policy. They simply summarize the coverages provided by that policy.

Where an insurer or insurance producer uses a certificate of insurance or other evidence of coverage that goes beyond or does not accurately summarize the policy, the insurer or producer may be misrepresenting the policy language, terms, conditions or coverage limits as issued by the insurer. Similarly, language included in a certificate that amends or extends coverage of the underlying policy or states that coverage is actually in force when it is not constitutes a misrepresentation of the coverage provided by the policy; as such, any insurer or producer issuing such a certificate would be in violation of Pennsylvania insurance statutes and regulations. Additionally, when a certificate of insurance is used in such a manner that it attempts to modify the terms and conditions of coverage this may subject the certificate to the filing requirements of 31 Pa. Code Chapter 89b (relating to approval for life insurance, accident and health insurance and property and casualty insurance filing and form). Violations of Pennsylvania statutes and regulations may be subject the person issuing or providing the certificate to administrative penalties including possible license suspension or revocation and civil monetary penalty.

Questions regarding this notice may be directed to Jack Yanosky, Director of Licensing and Enforcement for the Department at (717) 783-2627.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-281. Filed for public inspection February 13, 2009, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional office in Pittsburgh, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Frances and John Ciamacco; file no. 08-302-62149; Nationwide Mutual Insurance Company; Doc. No. PI09-01-016; April 21, 2009, 9 a.m.

Appeal of Deborah L. Matlick; file no. 08-302-60189; Allstate Fire and Casualty Insurance Company; Doc. No. PI08-10-040; April 21, 2009, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-282. Filed for public inspection February 13, 2009, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices

Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of William M. and S. Gretok; file no. 08-302-61328; State Farm Fire and Casualty Insurance Company; Doc. No. PI08-11-012; April 21, 2009, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-283. Filed for public inspection February 13, 2009, 9:00 a.m.]

Surplus Lines Agents and Interested Parties; Export List of Insurance Coverages

In May 2008, the Insurance Commissioner (Commissioner) determined that certain insurance coverages were generally unavailable in the authorized market and declared those coverages as exportable. A list of exportable coverages was published at 38 Pa.B. 2426 (May 24, 2008). Accordingly, for those insurance coverages that are included on the export list, a diligent search among insurers admitted to do business in this Commonwealth is not required before placement of the coverages in the surplus lines market.

The Commissioner declared that the export list would remain in effect until revised or superseded by a subsequent list.

At this time, the Commissioner is soliciting comments regarding the current export list. Persons may request in writing that a coverage be added or removed from the list.

Persons wishing to comment on the Commissioner's current export list are invited to submit a written statement within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Corporate and Financial Regulation, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, fax (717) 787-8557, cbybee@state.pa.us. After consideration of all comments received, the Commissioner will publish a notice in the *Pennsylvania Bulletin* providing a 15-day opportunity to comment on any proposed changes before formal publication of the revised list.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-284. Filed for public inspection February 13, 2009, 9:00 a.m.]

Teachers Protective Mutual Insurance Company; 25% Rate Increase Filing for Several LTC Policy Forms; Rate Filing

Teachers Protective is requesting approval to increase the premium 25% on 2,718 Long-Term Care policy forms issued in Pennsylvania. The company is requesting a 25% increase on the following forms: H880-EC, H881-HC, QH-9606-LTC-APC, QH-9610-HCP, SH-9606-LTC-APC, SH-9610-HCP, TNQ-LTC-2000(PA), TNQ-LTC-2000(PA)-R, TNQ-NHO-2004(PA), TQ-LTC-2000(PA), TQ-LTC-2000(PA)-R and TQ-NHO-2004(PA).

Unless formal administrative action is taken prior to April 29, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.ins.state.pa.us. Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-285. Filed for public inspection February 13, 2009, 9:00 a.m.]

Title Insurance Rating Bureau of Pennsylvania, Inc.; Rate Simplification, Rate Increase and Manual Revisions Filing; Rate Filing

On February 2, 2009, the Insurance Department (Department) received from Title Insurance Rating Bureau of Pennsylvania, Inc. (the Rating Bureau) a filing for rate level changes for title insurance.

The Rating Bureau requests an overall 3.2% increase which includes the effects of increasing the Closing Service Letter charge from \$35 to \$75 and extending the existing rate schedule for limits of liability greater than \$30 million, to be effective May 1, 2009.

Unless formal administrative action is taken prior to April 3, 2009, the subject filing may be deemed effective by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Chuck Romberger, Insurance Department, Office of Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, cromberger@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-286. Filed for public inspection February 13, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Commercial Mobile Radio Service

A-2009-2088083. Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, and Nextel West Corp., Nextel Communications of the Mid-Atlantic, Inc. Joint petition of Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, and Nextel West Corp., Nextel Communications of the Mid-Atlantic, Inc. for approval of an interconnection and traffic interchange agreement for commercial mobile radio service under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, and Nextel West Corp., Nextel Communications of the Mid-Atlantic, Inc., by its counsel, filed on January 29, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a local interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Frontier Communications of Oswayo River, LLC, Frontier Communications of Pennsylvania, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC, and Nextel West Corp., Nextel Communications of the Mid-Atlantic, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-287. Filed for public inspection February 13, 2009, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by March 4, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2008-2067116. Kirk Eric Ashe, t/a Hanover Cab and Sedan Service (2196 Smith Station Road, Hanover, York County, PA 17331)—persons, in paratransit service from points in the Boroughs of McSherrystown and New

Oxford and Townships of Conewago and Berwick located in Adams County; and the Boroughs of Hanover and Spring Grove and the Townships of Heidelberg and Penn located in York County, to points in Pennsylvania, and return.

A-2009-2082600. Linda M. Weber-Davis and Claude M. Davis, d/b/a Charlie's Yellow Cab (1397 East Evergreen Drive, No. 3, Palatine, IL 60074)—persons upon call or demand in the Counties of Carbon and Schuylkill. *Attorney:* Jennifer M. Sultzaberger, Esquire, Thomas, Thomas, Armstrong & Niesen, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.*

A-2009-2087837. Suzanne M. Pelton (701 East Pleasant Valley Boulevard, Altoona, Blair County, PA 16602)—for the right to transport, as a common carrier, by motor vehicle, persons upon call or demand in the City of Altoona, and in the Townships of Allegheny and Logan, all in Blair County; which is to be a transfer of all of the operating rights under the certificate issued at A-00112699, to Linda L. Pelton, t/a A-1 Altoona Taxi.

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-00119025. Scott F. Lengyel, t/a Scott's Limousine Service (601 Bascom Avenue, Pittsburgh, Allegheny County, PA 15212)—discontinuance of service—persons, in limousine service between points in the County of Allegheny.

A-00123055. Edgar K. Malick (217 Honeysuckle Lane, Lehighton, Carbon County, PA 18235)—discontinuance of service—persons, in paratransit service, from points in the Counties of Carbon, Lehigh and Northampton, to points in Pennsylvania and return.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-288. Filed for public inspection February 13, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 56]

[L-00060182/57-265]

Standards and Billing Practices for Residential Utility Services

The Pennsylvania Public Utility Commission (Commission) on September 25, 2008, adopted a proposed rulemaking order which amends Chapter 56 to comply with 66 Pa.C.S. Chapter 14 (relating to responsible utility customers protection).

Executive Summary

The purpose of this Proposed Rulemaking order is to promulgate regulations to implement Chapter 14. In particular, section 6 of Act 201 of 2004 requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.

To facilitate the completion of our responsibility under that Act, we issued an Advanced Notice of Proposed Rulemaking Order on December 4, 2006. This Advance Notice enabled us to gather input from the industry, consumer groups, and advocates before drafting the proposed revisions and provides us the opportunity to conduct a general review of this chapter to identify, modify, or rescind certain provisions of Chapter 56. We have offered all parties the opportunity to address other issues as well. The Advanced Notice was published at 36 Pa.B. 7614 (December 16, 2006). The Commission sought comments on the most controversial and complex provisions of Chapter 14. Comments were received by 22 parties.

Public Meeting held
September 25, 2008

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzigrilli; Wayne E. Gardner

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S. Chapter 14; General Review of Regulations;
Doc. No. L-00060182

Proposed Rulemaking Order

By the Commission:

On November 30, 2004, the Governor signed into law SB 677, or Act 201. This law went into effect on December 14, 2004. Act 201 amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418), *Responsible Utility Customer Protection*. Act 201 is intended to protect responsible bill paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills, but choose not to pay. The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of \$6,000,000).¹ Steam, wastewater utilities and victims under a protection from abuse (PFA) order are not covered by Chapter 14.

¹ Small natural gas companies may voluntarily "opt in" to Chapter 14. 66 Pa.C.S. § 1403.

The purpose of this proposed rulemaking order is to promulgate regulations to implement Chapter 14. In particular, section 6 of the act requires the Commission to amend Chapter 56 to comply with the provisions of Chapter 14 and, if necessary, promulgate other regulations to administer and enforce Chapter 14.² Complying with this obligation imposed by the Act is the main purpose of this rulemaking. In addition, we shall take this opportunity to review the entire Chapter 56 and make revisions when necessary given our experience and the technological advances in the industries.

Background

This legislation seeks to eliminate opportunities for customers capable of paying to avoid paying their utility bills, and to provide utilities with the means to reduce their uncollectible accounts by modifying the procedures for delinquent account collections. The goal of these changes is to increase timely collections while ensuring that service is available to all customers based on equitable terms and conditions. 66 Pa.C.S. § 1402.

Chapter 14 supersedes certain Chapter 56 regulations, all ordinances of the City of Philadelphia and any other regulations that impose inconsistent requirements on the utilities. Chapter 14 expires on December 31, 2014, unless re-enacted. Two years after the effective date and every 2 years thereafter, the Commission must report to the General Assembly regarding the implementation and effectiveness of the Act.³

On January 28, 2005, the Commission issued a Secretarial Letter identifying general subject areas for discussion and encouraged interested parties to file written comments. In addition, on February 3, 2005, the Commission held a "Roundtable Forum" to address the implementation and application of Chapter 14.

Written comments were filed by the following interested parties: Energy Association of Pennsylvania (EAP), PECO Energy Company (PECO Energy), PPL Electric Utilities Corporation and PPL Gas Utilities Corporation (PPL), Philadelphia Gas Works (PGW), Aqua Pennsylvania, Inc. (Aqua), Pennsylvania-American Water Company (PAWC), Office of Consumer Advocate (OCA), Community Legal Services (CLS), Pennsylvania Utility Law Project (PULP), Pennsylvania Coalition Against Domestic Violence (PCADV), Pennsylvania Apartment Association, Housing Alliance of Pennsylvania and American Association of Retired Persons (AARP).

Based upon our review of the comments filed by interested parties pursuant to our January 28, 2005 Secretarial Letter and the oral comments expressed at the Roundtable Forum, we issued an *Implementation Order* on March 4, 2005 that addressed seven threshold issues. Although we considered these issues to be the most fundamental, we understood that this is an ongoing process and that other implementation issues will need to be resolved in the future.

Therefore, by Secretarial Letter issued June 27, 2005, we informed interested parties of the next Chapter 14 Roundtable, July 1, 2005, and established agenda items for this meeting. At this second Chapter 14 Roundtable, we again sought to engage in a discussion that promoted

² Section 6 further provides that "promulgation of any such regulation shall not act to delay the implementation or effectiveness of this chapter."

³ On December 14, 2006, the Commission issued the *First Biennial Report to the General Assembly and the Governor pursuant to Section 1415*.

an exchange of ideas and views so that all interested parties would better understand differing positions and the rationales underlying them. It was intended that the parties would benefit from this discussion of the issues and assist in the effective development of procedures, interim guidelines and subsequent regulations necessary to implement the new requirements of Chapter 14.

Written comments were again submitted by the EAP, PECO Energy, PGW, OCA, CLS and PULP. The comments were also intended to supplement oral representations at the July 1, 2005, Roundtable. Another Roundtable discussion was held on July 21, 2005, to discuss PGW-Specific Chapter 14 issues, and written comments were filed by PGW, the OCA, CLS, and PULP. On September 12, 2005, we issued the *Second Implementation Order* addressing unresolved issues identified for review and disposition as follows:

- Section I—Termination/Reconnection
- Section II—Payment Arrangements (PARS)
- Section III—Applications—Deposits
- Section IV—Protection from Abuse (PFA)/Consumer Education
- Section V—PGW-Specific Issues

Thereafter, we continued to address issues at this docket number. On August 24, 2005, we issued a *Section 703(g) Order Seeking Comments* on one of these threshold issues—the interpretation of the payment agreement restrictions in Section 1405(d). On October 31, 2005, we issued the *Reconsideration of Implementation Order* (page 23) amending the *Implementation Order* by concluding “that § 1405(d) permits the Commission (in addition to instances where there has been a change of income) to establish one payment agreement that meets the terms of Chapter 14 before the prohibition against a second payment agreement in § 1405(d) applies.” Finally, on November 21, 2005, we issued a *Declaratory Order* pursuant to 66 Pa.C.S. § 331(f) that Chapter 14 does not authorize public utilities to require upfront payments greater than those amounts specified in § 1407(c)(2).

At this point in our implementation process, we have addressed and resolved numerous issues involving the application of Chapter 14 provisions. However, as indicated previously, we are required by the legislation to open a rulemaking proceeding. To facilitate the completion of our responsibility under the Act, we issued an *Advance Notice of Proposed Rulemaking Order* on December 4, 2006. This *Advance Notice* enabled us to gather input from the industry, consumer groups, and advocates before drafting the proposed revisions and provides us the opportunity to conduct a general review of this Chapter to identify, modify, and/or rescind certain provisions of Chapter 56. *See, e.g., General Review of Regulations; Advance Notice of Proposed Rulemaking*, Docket No. L-00950103, adopted April 27, 1995, 25 Pa.B. 2188 (June 3, 1995). We have offered all parties the opportunity to address other issues as well.

For example, we explained in the *Advance Notice* that since the most recent revision of Chapter 56, there have been technological advances including electronic billing and payment, e-mail, the internet, and the like. Parties were invited to comment as to how these technological advances should be addressed in the regulations, especially the billing and payment sections. Furthermore, we asserted that the rulemaking proceeding will also review all of our outstanding ad hoc reporting requirements for the same purpose.

In the *Advance Notice*, we recognized that Chapter 14 will necessitate significant changes to the winter termina-

tion rules at § 56.100; this is an area of crucial importance and is central to the Commission's obligation to protect the health and safety of all citizens of the Commonwealth.

Chapter 14 also changes the procedures utilities may use when screening applicants for service and credit worthiness. Related to these are provisions in Chapter 14 that expand a utility's ability to assign liability for account balances that may have accrued under the name of someone other than the customer or applicant. The Commission requested comments on these procedures of winter terminations and screening and asked for the assistance of all parties in formulating regulations to address these important areas.

The Commission sought comments on the most controversial and complex provisions of Chapter 14 identified in questions set forth in Appendix A to the *Advance Notice*. Comments were received from the following 22 parties: EAP, PECO Energy, Allegheny Power, PPL, Duquesne Light Company (DLC), the FirstEnergy Companies (FirstEnergy), PGW, Columbia Gas of Pennsylvania, Inc. (Columbia), TW Phillips Gas Company (TWP), NFG, Equitable Gas Company Division of Equitable Resources, Inc. (Equitable), The National Association of Water Companies (NAWC), PAWC, Aqua, OCA, PULP, Action Alliance of Senior Citizens, Tenant Union Representative Network and ACORN (Action Alliance), AARP, PCADV, Women's Law Project (WLP), Women Against Abuse (WAA), and Consumer Advisory Council (CAC). As indicated previously, we encouraged the commentators to raise any matters or issues that they feel we have overlooked or missed, including the need to revise Chapter 56 sections unrelated to Chapter 14. A summary of the comments along with discussion of such are attached to this order as Attachment One.

Conclusion

Upon consideration of the new requirements of Chapter 14 and all of the comments received to date, we propose adoption of the amendments set forth in Annex A. This action here today continues the process of revising our Chapter 56 regulations. As provided for under law, the Commission now seeks comments on the proposed amendments. Persons submitting comments are requested to provide supporting justification for requested revisions, and to propose suggested regulatory language for incorporation into the final-form regulations.

Accordingly, under sections 501, 504 and 1401—1418 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504 and 1401—1418; sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder in 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed amendments set forth in Annex A, attached hereto; *Therefore,*

It Is Ordered that:

1. A proposed rulemaking be opened to consider the proposed amendments set forth in Annex A.
2. The Secretary shall submit this order, Attachment One and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review for fiscal impact.

3. The Secretary shall submit this Order, Attachment One and Annex A for review and comment to the Independent Regulatory Review Commission and Legislative Standing Committees.

4. The Secretary shall certify this Order and Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. Interested parties may submit written comments, original and 15 copies, by April 20, 2009, to James McNulty, Secretary of the Commission, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. The comments should reference the docket number of the proposed rulemaking. In addition, one copy in electronic format (Microsoft Word® 2002 or readable equivalent) on diskette shall be provided to the Secretary and copies shall be e-mailed to Terrence J. Buda (tbuda@state.pa.us), Patti Wiedt (pwiedt@state.pa.us), Cyndi Page (cypage@state.pa.us), and Daniel Mumford (dmumfordstate.pa.us). Comments shall be posted on the Commission web site.

6. That copies of this order shall be served upon all jurisdictional electric utilities, gas, water and wastewater utilities, the Office of Consumer Advocate, the Office of Small Business Advocate and those parties who already submitted comments at this Docket. Attachment One and Annex A shall be posted on the Commission's web site.

7. The contact persons for this matter are Daniel Mumford in the Bureau of Consumer Services (717) 783-1957, and Terrence J. Buda in the Law Bureau (717) 783-3459.

By the Commission

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-265. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 56. STANDARDS AND BILLING PRACTICES FOR RESIDENTIAL UTILITY SERVICE

Subchapter A. PRELIMINARY PROVISIONS FOR UTILITIES AND CUSTOMERS SUBJECT TO CHAPTER 14 OF THE PUBLIC UTILITY CODE

§ 56.1. Statement of purpose and policy.

(a) This chapter establishes and enforces uniform, fair and equitable residential **public** utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential **public** utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service, **while eliminating opportunities for customers capable of paying to avoid the timely payment of public utility bills and protecting against rate increases for timely paying customers resulting from other customers' delinquencies. Public utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages.** Every privilege conferred or duty required by this chapter imposes an obligation of good faith,

honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

(b) This subchapter and Subchapters B—K apply to electric distribution utilities, natural gas distribution utilities and water distribution utilities. Subchapters L—V apply to wastewater utilities, steam heat utilities, small natural gas utilities and to all customers who have been granted a Protection From Abuse (PFA) order from a court of competent jurisdiction.

§ 56.2. Definitions.

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

AMR (Automatic meter reading)—

(i) Metering using technologies that automatically read and collect data from metering devices and transfer that data to a central database for billing and other purposes.

(ii) The term does not include remote meter reading devices as defined by this section.

Applicant—[A person who applies for residential utility service.] (i) A natural person not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested.

(ii) The term does not include a person who [, within 60 days after termination or discontinuance of service,] seeks to transfer service within the service territory of the same public utility or to reinstate service at the same address provided that the final bill for service is not due and payable.

Basic services—Services necessary for the physical delivery of residential public utility service.

Billing month—A period of not less than 26 and not more than 35 days except in the following circumstances:

(i) An initial bill for a new [ratepayer] customer may be less than 26 days or greater than 35 days. However, if an initial bill exceeds 60 days, the [ratepayer] customer shall be given the opportunity to amortize the amount over a period equal to the period covered by the initial bill without penalty.

* * * * *

(iii) [In addition, bills] Bills for less than 26 days or more than 35 days shall be permitted if they result from a rebilling initiated by the company or customer dispute to correct a billing problem.

Billing period—In the case of public utilities supplying gas, electric and steam heating service, the billing period [shall] must conform to the definition of a billing month; in the case of water and wastewater service, a billing period may be monthly, bimonthly or quarterly as provided in the tariff of the public utility. [Ratepayers] Customers shall be permitted to receive bills monthly and shall be notified of their rights thereto.

Class A water utility—A water utility with annual revenues greater than \$ 1 million.

Customer—A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or an adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential public utility service is requested. A natural person remains a customer after discontinuance or termination until the final bill for service is past due.

Customer assistance program—A plan or program sponsored by a public utility for the purpose of providing universal service and energy conservation, as defined in 66 Pa.C.S. § 2202 or 2803 (relating to definitions), in which customers make monthly payments based on household income and household size and under which customers shall comply with certain responsibilities and restrictions to remain eligible for the program.

Cycle billing—A system of billing employed by a public utility which results in the normal rendition of bills for public utility service to a group or portion of [ratepayers] customers on different or specified days of one billing period.

Delinquent account—Charges for public utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment [or settlement] agreement with the public utility has been entered into by the [ratepayer] customer, a timely filed notice of dispute is pending before the public utility, or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

Discontinuance of service—The cessation of service with the consent of the [ratepayer] customer and otherwise in accordance with § 56.72 (relating to discontinuance of service).

Dispute—A grievance of an applicant, [ratepayer] customer or occupant about a public utility's application of a provision covered by this chapter, including subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, [ratepayer] customer or occupant indicates satisfaction with the resulting resolution or explanation, the contact will not be considered a dispute.

Electric distribution utility—An entity providing facilities for the jurisdictional transmission and distribution of electricity to retail customers, except building or facility owners or operators that manage the internal distribution system serving the building or facility and that supply electric power and other related electric power services to occupants of the building or facility.

Electronic billing—

(i) The electronic delivery and presentation of bills and related information sent by a public utility to its customers.

(ii) The term also includes any process that permits customers to pay their bills electronically.

Electronic notification of payment—A notification generated by the electronic payment system upon receipt of a payment. The notification will inform

the customer of successful receipt and amount of payment and the date and time the payment was received.

* * * * *

Formal complaint—A complaint filed before the Commission requesting a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Household income—

(i) The combined gross income of all adults in a residential household who benefit from the public utility service.

(ii) The term does not include income intended for the use of a minor. Examples of a minor's income include Social Security, child support, SSI, earnings and grants from the Department of Public Welfare.

Informal complaint—A complaint filed with the Commission by a customer that does not involve a legal proceeding before a Commission administrative law judge or a mediation under the management of a Commission administrative law judge.

Informal dispute settlement agreements—A mutually agreeable statement of a claim or dispute by a customer or applicant including a proposed resolution of the claim or dispute. An informal dispute settlement agreement is a written document that is provided to the parties or their representatives. An informal dispute settlement agreement offered by a utility must contain the following statement: "If you are not satisfied with this agreement, immediately notify the utility that you are not satisfied. You may file either an informal complaint or a formal complaint before the Public Utility Commission without making yourself subject to retaliation by the Utility." The informal dispute settlement agreement must also contain the information necessary to contact the Commission either in writing or by telephone.

Initial inquiry—A concern or question of an applicant, [ratepayer] customer or occupant about a public utility's application of a provision covered by this chapter, including subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a public utility, with the consent of the applicant, [ratepayer] customer or occupant, offers to review pertinent records and call back the applicant, [ratepayer] customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, [ratepayer] customer or occupant with the company's response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

LIHEAP—Low Income Heating Energy Assistance Program—A Federally funded program that provides financial assistance in the form of cash and crisis grants to low-income households for home energy bills and is administered by the Department of Public Welfare.

Natural gas distribution service—The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution utility.

Natural gas distribution utility—

(i) A city natural gas distribution operation or entity that provides natural gas distribution services and may provide natural gas supply services and other services.

(ii) The term does not include the following:

(A) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that has annual gas operating revenues of less than \$6,000,000 per year, except when the public utility voluntarily petitions the Commission to be included within this definition or when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.

(B) A public utility providing natural gas distribution services subject to the jurisdiction of the Commission that is not connected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

Natural gas supply services—

(i) The sale or arrangement of the sale of natural gas to retail gas customers and services that may be unbundled by the Commission under section 66 Pa.C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include natural gas distribution service.

Nonbasic services—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of public utility service.

[**Notice or termination notice**—A written statement which, in conspicuous print, clearly and fully includes the following information when applicable:

(i) The reason for the proposed termination.

(ii) An itemized statement of accounts currently due, including any required deposit.

(iii) A statement that a specific reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission.

(iv) The date on or after which service will be terminated unless: payment in full is received, the grounds for termination are otherwise eliminated, a settlement or payment agreement is entered or a dispute is filed with the utility or the Commission.

(v) A statement that the ratepayer should immediately contact the utility to attempt to resolve the matter, including the address and telephone number where questions may be filed and payment and settlement agreements entered into with the utility.

(vi) The following statement: "If, AFTER discussing your problem with the Utility you remain dissatisfied, you may file an informal complaint with

the Public Utility Commission. TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE. You may file an informal complaint by telephoning the Public Utility Commission at 1 (800) 692-7380 or by writing to the following address Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17120."

(vii) A serious illness notice substantially in compliance with the form as set forth in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to post-termination notice), the notice shall substantially comply with the form as set forth in Appendix B (relating to medical emergency notice).]

Nurse practitioner—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

Occupant—A person who resides in the premises to which public utility service is provided.

Payment agreement—[A mutually satisfactory written agreement whereby a ratepayer or applicant who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments over a reasonable period of time.] An agreement in which a customer who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.

* * * * *

Physician—An individual licensed [under the laws of the Commonwealth] to engage in the practice of medicine and surgery in all of its branches [within the scope of the Medical Practice Act of 1974 (63 P. S. §§ 421.1—421.18) relating to medicine and surgery as amended], or in the practice of osteopathy or osteopathic surgery [within the scope of the Osteopathic Medical Practice Act (63 P. S. §§ 271.1—271.18)] by a jurisdiction within the United States of America.

* * * * *

Public utility—An electric distribution utility, natural gas distribution utility or water distribution utility in this Commonwealth that is within the jurisdiction of the Commission.

[**Ratepayer**—A person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service. For the purposes of establishing credit, this term includes a transfer of service from a residence or dwelling within the service area of the utility or a reinstatement of service at the same location within 60 days following termination or discontinuance of service.]

Residential service—

(i) [Utility] Public utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) [Utility] The term does not include public utility service provided to a hotel or motel [is not considered residential service].

[Settlement agreements—A mutually satisfactory settlement of a claim or dispute, reduced to writing and signed by the parties or their representatives. The settlement agreement offered by a utility shall state, immediately preceding the space provided for the name of the ratepayer and in boldface print at least two point sizes larger than any other used thereon: “If you are not satisfied with this agreement, do not sign it. You may file an informal complaint before the Public Utility Commission without making yourself subject to retaliation by the Utility. If you do sign this agreement, you may give up your right to a hearing before the Commission on any matter involved in this dispute except the utility’s failure to follow the terms of this agreement.”]

*Termination of service—*Cessation of service, whether temporary or permanent, without the consent of the [ratepayer] customer.

* * * * *

*User without contract—*Taking or acceptance of public utility service without the knowledge or approval of the public utility, other than unauthorized use of service as defined in this section.

[Utility—A public utility or a municipality, subject to Commission jurisdiction, which provides electric, gas, steam heat, wastewater or water service.]

*Water distribution utility—*An entity owning or operating equipment or facilities for diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

Subchapter B. BILLING AND PAYMENT STANDARDS

BILLING

§ 56.11. Billing frequency.

(a) A public utility shall render a bill once every billing period to every residential [ratepayer] customer in accordance with approved rate schedules.

(b) A public utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following requirements:

(1) The electronic billing option is voluntary and the customer retains the option of continuing to receive a paper bill if desired. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the public utility with a 1 month notice of a request to revert to paper billing.

(2) A customer shall receive a visual presentation of an electronic bill in the same format as the paper bill issued by the public utility.

(3) The electronic bill must include the same disclosures and required educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted.

(4) The electronic bill must include required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the public utility’s hardship fund.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The public utility shall maintain a system to ensure delivery of electronic bills if the bill is emailed to a customer.

(8) The public utility shall maintain sufficient system security to assure customer privacy.

§ 56.12. Meter reading; estimated billing; [ratepayer] customer readings.

Except as provided in this section, a public utility shall render bills based on actual meter readings by public utility company personnel.

(1) *Inapplicability to seasonally billed [ratepayers] customers.* This section does not apply to [ratepayers] customers billed on a seasonal basis under terms included in the tariff of the public utility.

(2) *Estimates for bills rendered on a monthly basis.* If a public utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the public utility provides a [ratepayer] customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills shall be based on the information provided, except for an account where it is apparent that the information is erroneous.

(i) Upon the request of the [ratepayer] customer, the public utility shall, at least annually, provide preaddressed postcards on which the [ratepayer] customer may [note] report the reading. The public utility shall provide additional preaddressed postcards on request. The public utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The public utility may establish due dates by which the postcards shall be received for a bill to be based upon the meter reading of the [ratepayer] customer or occupant. If the reading of a [ratepayer] customer or occupant is not received by that due date, the public utility may estimate the quantity of usage. The public utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A public utility may estimate the bill of a [ratepayer] customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when public utility personnel are unable to gain access.* A public utility may estimate the bill of a [ratepayer] customer if public utility personnel are

unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The **public** utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the **[ratepayer] customer** may **[note]** report the reading or the telephone reporting of the reading.

(ii) The **public** utility, at least every 6 months, or every four billing periods for **public** utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or **[ratepayer] customer** supplied reading to verify the accuracy of the estimated readings.

(iii) The **public** utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or **[ratepayer] customer** read.

(5) *Remote reading devices for water, gas and electric utilities.* All readings by an AMR device shall be deemed actual readings for the purposes of this subsection. A **public** utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water **public** utility uses readings from a remote reading device to render bills, the **public** utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the **[ratepayer] customer** of record at the dwelling changes during the 5-year period between actual meter readings, the **public** utility shall make a bona fide attempt to schedule an appointment with the departing **[ratepayer] customer** and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the **public** utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the **billing period during which the bill is issued** by at least 50% **[and]** or at least \$50, the **public** utility shall comply with § 56.14 (relating to previously unbilled **public** utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the **public** utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.181(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; **public** utility's duty to pay interest whenever overpayment found).

* * * * *

(6) *Limitation of liability.* If a water company has estimated bills and if the **[ratepayer] customer** or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the **[ratepayer] customer** is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water **public** utility was unable to gain access and has complied with paragraph (4).

(7) **[Equal monthly] Budget billing.** A gas, electric and steam heating utility shall provide its residential

[ratepayers] customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated **public** utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The **public** utility shall review accounts at least three times during the optional billing period. **A resulting reconciliation amount exceeding \$25 shall be amortized over a 3–12 month period. Payment agreements for heating customers shall be based upon equal monthly billing.**

(8) *Notice.* The **public** utility shall inform existing **[ratepayers] customers** of their rights under this section and under 66 Pa.C.S. § 1509 (relating to billing procedures).

§ 56.13. **[Separate billings] Billings** for merchandise, appliances and nonrecurring **and recurring** services.

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges, and other nonrecurring charges, except as provided in this chapter—shall appear **[on a separate bill] after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs.**

§ 56.14. Previously unbilled **public** utility service.

When a **public** utility renders a make-up bill for previously unbilled **public** utility service **which accrued within the past 4 years** resulting from **public** utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the **billing period during which the make up bill is issued** by at least 50% **[and]** or at least \$50, **whichever is greater:**

(1) The **public** utility shall review the bill with the **[ratepayer] customer** and make a reasonable attempt to enter into a payment agreement.

(2) The period of the payment agreement may, at the option of the **[ratepayer] customer,** extend at least as long as:

* * * * *

§ 56.15. **Billing information.**

A bill rendered by a **public** utility for metered residential **public** utility service **[shall] must** state clearly the following information:

* * * * *

(8) The amount of late payment charges, designated as such, which have accrued to the account of the **[ratepayer] customer** for failure to pay bills by the due date of the bill and which are authorized under § 56.22 (relating to accrual of late payment charges).

* * * * *

(11) A statement directing the **[ratepayer] customer** to “register any question or complaint about the bill prior to the due date,” with the address and telephone number where the **[ratepayer] customer** may initiate the inquiry or complaint with the **public** utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation of the various charges, if applicable, is available for inspection in the local business office of the **public utility**.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the **public utility**.

(14) Electric distribution utilities and natural gas distribution utilities shall incorporate the requirements of §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

(15) The Plain Language Policy Guidelines in § 69.251 (relating to plain language—statement of policy) shall be incorporated to the extent practical.

§ 56.16. Transfer of accounts.

(a) A **[ratepayer] customer** who is about to vacate premises supplied with **public utility service** or who wishes to have service discontinued shall give at least 7 days notice to the **public utility** and a **[nonratepayer] noncustomer** occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the **[ratepayer] customer** shall be responsible for services rendered. **If the public utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the public utility has obtained an actual meter reading and can determine the actual consumption used by the customer.**

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a **public utility** may transfer an unpaid balance to a new residential service account of the same **[ratepayer] customer**.

(c) If a termination notice has been issued in accordance with § 56.91 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of a notice, a **[ratepayer] customer** requests a transfer of service to a new location, the termination process as set forth in §§ 56.91—56.99 may continue at the new location.

(1) In the event that notifications set forth under § 56.91 and § 56.95 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the **public utility** may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a **[ratepayer] customer** to dispute a bill within the meaning of §§ 56.141—56.143 (relating to dispute procedures; time for filing a termination dispute or informal complaints; and effect of failure to timely file an informal complaint).

(d) In the event of a termination of service to a residential **[ratepayer] customer**, a **public utility** may transfer to the account of a third-party guarantor any portion of the unpaid balance which is equivalent to the cash deposit requirement of the **[ratepayer] customer**.

§ 56.17. Advance payments.

Payments may be required in advance of furnishing any of the following services:

* * * * *

(3) Gas and electric rendered through prepayment meters provided:

(i) The **[ratepayer] customer** is nonlow income; for purposes of this section, nonlow income is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines, and has a delinquency for which the individual is requesting a payment agreement but offering terms that the **public utility**, after consideration of the factors at § 56.97(b) (relating to procedures upon **[ratepayer] customer** or occupant contact prior to termination), finds unacceptable.

(ii) The service is being rendered to an individually-metered residential dwelling, and the **[ratepayer] customer** and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) The **[ratepayer] customer** and **public utility** enter into **[a settlement] an informal dispute settlement agreement or payment agreement** which includes, but is not limited to, the following terms:

(A) The **[ratepayer] customer** voluntarily agrees to the installation of a prepayment meter.

(B) The **[ratepayer] customer** agrees to purchase prepayment cards to maintain service until the total balance is retired and the **public utility** agrees to make new cards available to the **[ratepayer] customer** within 5 days of receipt of prepayment.

(C) The **public utility** agrees to furnish the **[ratepayer] customer** an emergency backup card for additional usage of at least 5 days.

(D) The **[ratepayer] customer** agrees that failure to renew the card by making prepayment for additional service constitutes a request for discontinuance under § 56.72(1) (relating to discontinuation of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup card runs out.

(iv) **[During the first 2 years of use of prepayment meters, the utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:**

(A) **Content.** The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) **Time frame.** The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.]

The public utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) [The utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.]

During the first 2 years of use of prepayment meters, the public utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

* * * * *

PAYMENTS

§ 56.21. Payment.

The due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing or [physical] delivery of the bill by the public utility to the [ratepayer] customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

* * * * *

(ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

* * * * *

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a public utility is the date of actual receipt of the electronic notification of payment.

(5) *Fees.* Fees or charges assessed and collected by the public utility for utilizing a payment option shall be included in the public utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a public utility advises a [ratepayer] customer of a balance owed by multiple notices or contacts, which contain different due dates, the date on or before which payment is due shall be the last date contained in any of the notices.

§ 56.22. Accrual of late payment charges.

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the [full unpaid and] overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive a late payment charge on any customer accounts. The Commission may direct the waiver of late payment charges for customers with a gross income less than or equal to 150% of the Federal poverty level. See 66 Pa.C.S. § 1409 (relating to late payment charge waiver).

(e) Additional late payment charges may not be assessed on account balances once the account is no longer actively billed by the public utility.

§ 56.23. Application of partial payments between public utility and other service.

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.

§ 56.24. Application of partial payments among several bills for public utility service.

In the absence of written instructions, a disputed bill or [an amortization] payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

§ 56.25. Electronic bill payment.

A public utility may offer electronic payment options. Electronic payment programs must include the following requirements:

(1) Electronic bill payment shall be voluntary and may not be required in conjunction with electronic billing.

(2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's checking account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.

(3) The terms of the payment procedures shall be fully disclosed to the customer in writing before the customer enters the program. Program changes shall be conveyed to the customer in writing and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.

(4) The public utility shall provide a receipt, either electronically or on paper, to the customer upon payment through the electronic method.

(5) The public utility shall maintain sufficient system security to protect customer information and access to customer accounts.

Subchapter C. CREDIT AND DEPOSITS STANDARDS POLICY

PROCEDURES FOR NEW APPLICANTS

§ 56.31. Policy statement.

An essential ingredient of the credit and deposit policies of each public utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual [ratepayers] customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies [shall] must be based upon the credit risk of the individual applicant or [ratepayer] customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which [he] the applicant or customer lives and without regard to race, sex, age over 18, national origin or marital status.

§ 56.32. [Credit standards] Security and cash deposits.

[A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for such service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting his place of residence under a lease of one year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as an utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that he is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including but not limited to: the name of the employer of the applicant, place and length of employment, residences during the previous 5 years, letters of reference, credit cards and any significant source of income other than from employment.]

(a) A public utility may require a cash deposit in an amount that is equal to 1/6 of an applicant's estimated annual bill at the time the public utility determines a deposit is required, based upon the following:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

(i) Nonpayment of an undisputed delinquent account.

(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.

(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(iv) Unauthorized use of the public utility service delivered on or about the affected dwelling.

(v) Failure to comply with the material terms of an informal dispute settlement agreement or payment agreement.

(vi) Fraud or material misrepresentation of identity for the purpose of obtaining public utility service.

(vii) Tampering with meters, including bypassing a meter or removal of an automatic meter reading device or other public utility equipment.

(viii) Violating tariff provisions on file with the Commission which endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice. The credit scoring methodology utilized for this purpose must specifically assess the risk of utility bill payment.

(b) Except for applicants who are subject to a deposit under subsection (a), a city natural gas distribution operation may require a deposit from the applicant as follows:

(1) When an applicant has household income above 300% of the Federal poverty level, a deposit of 1/6 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required.

(2) When an applicant has household income no greater than 300% of the Federal poverty level, 1/12 of the applicant's estimated annual bill shall be paid in full at the time the city natural gas distribution operation determines a deposit is required. Applicants who enroll into the customer assistance

program made available by the city natural gas distribution operation are not subject to this paragraph.

(3) The Commission will permit a city natural gas distribution operation to refuse to provide service to an applicant when the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

(c) Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the individual's Social Security Number. Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.

§ 56.33. [Cash deposits; third] Third-party guarantors.

If an applicant does not establish [his] credit under § 56.32 (relating to [credit standards] security and cash deposits), the public utility shall provide residential service when one of the following requirements is satisfied:

* * * * *

(2) *Third-party guarantor.* [The applicant furnishes a written guarantee from a responsible ratepayer which, for the purposes of this section, shall mean a ratepayer who has or can establish credit, under § 56.32, to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee shall be in writing and shall state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.52—56.57.]

This section does not preclude an applicant from furnishing a third-party guarantor in lieu of a cash deposit. The guaranty must be in writing and state the terms of the guaranty. The guarantor shall be responsible for all missed payments owed to the public utility.

§ 56.35. Payment of outstanding balance.

(a) A public utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the public utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly. [However, any such]

(b) A public utility may not require, as a condition of the furnishing of residential service, pay-

ment for residential service previously furnished under an account in the name of a person other than the applicant.

(1) A public utility may require the payment of an outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years.

(2) A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission.

(3) Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine the applicant's liability for any outstanding balance. Any outstanding residential account with the public utility may be amortized [over a reasonable period of time. Factors to be taken into account include but are not limited to the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant, and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant] in accordance with § 56.191 (relating to the general rule).

(c) This section does not affect the creditor rights and remedies of a public utility otherwise permitted by law.

§ 56.36. Written procedures.

(a) Public utilities shall include in their tariffs filed with the Commission their credit and application procedures along with their credit scoring methodology and standards.

(b) A public utility shall establish written procedures for determining the credit status of an applicant and for determining responsibility for unpaid balances in accordance with § 56.35 (relating to payment of outstanding balance). The written procedures must specify that there are separate procedures and standards for victims with a protection from abuse order. A public utility [employe] employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the public utility. A copy of these procedures shall be maintained on file in each of the business offices of the public utility and made available, upon request, for inspection by members of the public and the Commission and be included on the public utility's web site.

(1) *Reasons for denial of credit.* If credit is denied, the public utility shall inform the [ratepayer] customer or applicant orally and in writing of the reasons for the denial within 3 business days of the denial. The written denial statement must include the applicant or customer's credit score, the provider of the credit score, information on the customer or appli-

cant's ability to challenge the accuracy of the credit score, and how to contact the credit score provider. If the public utility is requiring payment of an unpaid balance in accordance with § 56.35, the public utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third party guarantor in accordance with § 56.33 (relating to third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a Protection from Abuse Order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* [Utility] Public utility personnel shall fully explain the credit and deposit procedures of the public utility to each [ratepayer] customer or applicant for service.

(3) *Third-party requests for service.* Requests from third parties to establish public utility service, on behalf of an applicant, will not be honored until the public utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third party is authorized to act on the applicant's behalf.

§ 56.37. General rule.

Once an applicant's application for service is accepted by the public utility, the public utility shall provide service within 3 days, provided that the applicant has met all requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the public utility shall provide service pending completion of the investigation.

§ 56.38. Payment period for deposits by applicants.

An applicant may elect to pay any required deposits in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination, and 25% payable 60 days after the determination. A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.

PROCEDURES FOR EXISTING [RATEPAYERS] CUSTOMERS

§ 56.41. General rule.

A public utility may require an existing [ratepayer] customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a [ratepayer] customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the public utility shall give the [ratepayer] customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification [shall] must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the [ratepayer] customer together with a bill for public utility service.

(C) Notification [shall] must set forth the address and phone number of the public utility office where complaints or questions may be registered.

(D) A subsequent request for deposit [shall] must clearly indicate that a [ratepayer] customer should register any question or complaint about that matter prior to the date the deposit is due [in order] to avoid having service terminated pending resolution of a dispute. The request [shall] must also include the address and telephone number of the public utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to equal monthly billing plans, a public utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled public utility services), under the following conditions:

(A) The public utility has complied with [the requirements of] § 56.14. Compliance with a payment agreement or [settlement agreement] informal dispute settlement agreement by the [ratepayer] customer discharges the delinquency, and a notification or request for deposit [shall] may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the [ratepayer] customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the [ratepayer] customer, such a notification or request for deposit [shall] may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A public utility may require a deposit as a condition to reconnection of service following a termination in accordance with § 56.191 (relating to the general rule).

(3) *Failure to comply with [settlement] informal dispute settlement agreement or payment agreement.* A public utility may require a deposit, whether or not service has been terminated, when a [ratepayer] customer fails to comply with a material term or condition of a [settlement] informal dispute settlement agreement or payment agreement.

§ 56.42. Payment period for deposits.

The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.41[(b)] (2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the [ratepayer] customer of notification of the amount due. A [ratepayer] customer may elect to pay a required deposit in three installments: 50% payable upon the determination by the public utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A customer paying a deposit based on the

grounds in § 56.41(2) may be required to pay 50% as part of the conditions for restoration, with 25% payable 60 days later and 25% payable 90 days later.

§ 56.43. [Deposit method; cash deposit or composite group] (Reserved).

[Whenever a ratepayer is required to make a deposit, the requirement may be satisfied either by posting a cash deposit or becoming a member in good standing of a composite group.]

CASH DEPOSITS

§ 56.51. Amount of cash deposit.

(a) *Applicants.* A public utility may [not] require a cash deposit [from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and sewage utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of \$5] equal to 1/6 of the applicant's estimated annual bill under the following circumstances:

(1) An applicant who previously received utility distribution services and was a customer of the public utility and whose service was terminated for any of the following reasons:

(i) Nonpayment of an undisputed delinquent account.

(ii) Failure to complete payment of a deposit, provide a guarantee or establish credit.

(iii) Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.

(iv) Unauthorized use of the utility service delivered on or about the affected dwelling.

(v) Failure to comply with the material terms of a settlement or payment agreement.

(vi) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.

(vii) Tampering with meters, including, but not limited to, bypassing a meter or removal of an automatic meter reading device or other public utility equipment.

(viii) Violating tariff provisions on file with the Commission to endanger the safety of a person or the integrity of the delivery system of the public utility.

(2) An applicant or customer who is unable to establish creditworthiness to the satisfaction of the public utility through the use of a generally accepted credit scoring methodology which employs standards for using the methodology that fall within the range of general industry practice.

(3) A customer who fails to comply with a material term or condition of a settlement or payment agreement.

(b) *City natural gas operation.* A city natural gas distribution operation may require a cash deposit from an applicant with a household income no greater than 300% of the Federal poverty level in an amount not in excess of 1/12 of the applicant's

estimated annual bill. A city natural gas operation may require a cash deposit from an applicant with a household income level above 300% of the Federal poverty level in the amount of 1/6 of the applicant's estimated annual bill. An estimated annual bill shall be calculated on the basis of the annual bill to the dwelling at which service is being requested for the prior 12 months, or, if unavailable, a similar dwelling in close proximity.

(c) *Existing [ratepayers] customers.* For an existing [ratepayer] customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that [ratepayer] customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of water [and sewage] utilities and 2 months in the case of gas [,] and electric [and steam heat] utilities, with a minimum of \$5.

[(c)] (d) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the [ratepayer] customer or the public utility whenever the character or degree of the usage of the [ratepayer] customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

§ 56.53. [Refund of deposit] Deposit hold period and refund.

[A cash deposit shall be refunded under the following conditions:

(1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the ratepayer, including accrued interest, to any outstanding balance for utility service and refund or apply to the ratepayer's account, the remainder to the ratepayer. A transfer of service from one location to another within a service area may not be deemed discontinuance within the meaning of this chapter.

(2) *Credit established.* When a ratepayer establishes credit under § 56.32 (relating to credit standards), the utility shall refund or apply to the ratepayer's account, any cash deposit plus accrued interest.

(3) *Third-party guarantor.* When a ratepayer substitutes a third-party guarantor in accordance with § 56.33(3) (relating to composite group; cash deposits; third-party guarantor), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

(4) *Prompt payment of bills.* After a ratepayer has paid bills for service for 12-consecutive months without having service terminated and without having paid his bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions, the utility shall refund any cash deposit, plus accrued interest, so long as the customer currently is not delinquent.

(5) *Optional refund.* At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.]

(a) A public utility may hold a deposit until a timely payment history is established or for a maximum period of 24 months.

(b) A timely payment history is established when a customer has paid in full and on time for 12 consecutive months.

(c) At the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return or credit any positive difference to the customer. At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

(d) If service is terminated before the end of the deposit holding period as established in subsection (a), the public utility shall deduct the outstanding balance from the deposit and return any positive difference to the customer within 60 days of the termination.

(e) If a customer becomes delinquent before the end of the deposit holding period as established in subsection (a), the public utility may deduct the outstanding balance from the deposit.

§ 56.54. Application of deposit to bills.

The [ratepayer] customer may elect to have a deposit applied to reduce bills for public utility service or to receive a cash refund.

§ 56.55. [Periodic review] (Reserved).

[If a ratepayer is not entitled to refund under § 56.53 (relating to refund of deposit), the utility shall review the account of the ratepayer each succeeding billing period and shall make appropriate disposition of the deposit in accordance with § 56.53 and § 56.54 (relating to application of deposit to bills).]

§ 56.56. Refund statement.

If a cash deposit is applied or refunded, the public utility shall mail or deliver to the [ratepayer] customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

§ 56.57. Interest rate.

[Interest at the rate of the average of 1-year Treasury Bills for September, October and November of the previous year is payable on deposits without deductions for taxes thereon unless otherwise required by law.] The public utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), referred to as the Loan Interest and Protection Law, and return the interest with the deposit.

§ 56.58. Application of interest.

Interest shall be paid annually to the [ratepayer] customer, or, at the option of either the public utility or the [ratepayer] customer, shall be applied to service bills.

Subchapter D. INTERRUPTION AND DISCONTINUANCE OF SERVICE

§ 56.71. Interruption of service.

A public utility may temporarily interrupt service where necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or [national] National emergency.

(1) *Interruption with prior notice.* [Where] When the public utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to [ratepayers] customers and occupants who may be affected.

(2) *Interruption without prior notice.* [Where] When service is interrupted due to unforeseen circumstances, notice of the cause and expected duration of the interruption shall be given as soon as possible to [ratepayers] customers and occupants who may be affected.

(3) *Notification procedures.* [Where ratepayers] When customers and occupants are to be notified under this section, the public utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected [ratepayers] customers and occupants of the cause and expected duration of the interruption.

* * * * *

§ 56.72. Discontinuation of service.

A public utility may discontinue service without prior written notice under the following circumstances:

(1) *[Ratepayer's] Customer's residence.* When a [ratepayer] customer requests a discontinuance at his residence, when the [ratepayer] customer and members of his household are the only occupants. If the account is listed in multiple customer names and the public utility receives a request for discontinuance from just one or more of the customers listed, but not all the customers listed, the customer requesting discontinuance shall state that all the occupants meeting the definition of customer consent to the cessation of service. If consent is not provided, the public utility, at least 3 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(2) *Other premises or dwellings.* Other premises or dwellings [shall be] as follows:

(i) When a [ratepayer] customer requests discontinuance at a dwelling other than his residence or at a single meter multifamily residence, whether or not his residence but, in either case, only under either of the following conditions:

(A) The [ratepayer] customer states in writing that the premises are unoccupied. The statement [shall] must be on a form conspicuously bearing notice that information provided by the [ratepayer] customer will be relied upon by the Commission in administering a system of uniform service standards for public utilities and that any false statements are punishable criminally. When the [ratepayer] customer fails to provide a notice, or when the [ratepayer] customer has falsely stated the premises are unoccupied, the [ratepayer]

customer shall be responsible for payment of utility bills until the **public utility [terminates] discontinues service.**

(B) The occupants affected by the proposed cessation inform the **public utility** orally or in writing of their consent to the discontinuation.

(ii) **[Where] When** the conditions set forth in subparagraph (i) have not been met, the **public utility**, at least **[10] 3** days prior to the proposed **[termination] discontinuance**, shall conspicuously post notice of termination at the affected premises.

* * * * *

(B) Notices **[shall] must**, at a minimum, state: the date on or after which **[termination] discontinuance** will occur; the name and address of the **public utility**; and the requirements necessary for the occupant to obtain **public utility service** in the occupant's name. Further termination provisions of this chapter except § 56.97 (relating to procedures upon **[ratepayer] customer** or occupant contact prior to termination) do not apply in these circumstances.

(C) This section does not apply when the **[ratepayer] customer** is a landlord **ratepayer**. See **[§§ 56.121—56.126 (Reserved).] 66 Pa.C.S. §§ 1521—1533 (relating to discontinuance of service to leased premises).**

**Subchapter E. TERMINATION OF SERVICE
 GROUNDS FOR TERMINATION**

§ 56.81. Authorized termination of service.

[Utility service to a dwelling may be terminated for one or more of the following reasons:] A public utility may notify a customer and terminate service provided to a customer after notice as provided in §§ 56.91—56.100 (relating to notice procedures prior to termination) for any of the following actions by the customer:

* * * * *

(2) **Failure to [post a deposit, provide a guarantee or establish credit]** to complete payment of a deposit, provide a guarantee of payment or establish credit.

(3) **[Unreasonable refusal to permit access to meters, service connections and other property of the utility for the purpose of maintenance, repair or meter reading] Failure to permit access to meters, service connections or other property of the public utility for the purpose of replacement, maintenance, repair or meter reading.**

(4) **[Unauthorized use of the utility service delivered on or about the affected dwelling.**

(5) **[Failure to comply with the material terms of a [settlement] informal dispute settlement agreement or payment agreement.**

[(6) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.

(7) Tampering with meters or other utility equipment.

(8) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the energy delivery system of the utility.]

§ 56.82. [Days termination of service is prohibited] Timing of termination.

[Except in emergencies—which include unauthorized use of utility service—service shall not be terminated, for nonpayment of charges or for any other reason, during the following periods:

(1) On Friday, Saturday, or Sunday.

(2) On a bank holiday or on the day preceding a bank holiday.

(3) On a holiday observed by the utility or on the day preceding such holiday. A holiday observed by a utility shall mean any day on which the business office of the utility is closed to observe a legal holiday, to attend utility meetings or functions, or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding such holiday.]

A public utility may terminate service for the reasons in § 56.81 (relating to authorized termination of service) from Monday through Friday as long as the public utility has offices open on the following day during regular business hours and personnel on duty who can negotiate conditions to restore service, accept emergency medical certificates, accept payment to restore service and can restore service, consistent with § 56.191 (relating to the general rule).

§ 56.83. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. **This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.**

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the **public utility**, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part: of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; of meter testing fees; of special construction charges; and of other nonrecurring **or recurring** charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior **[ratepayer] customer** at the same address **unless the public utility has, under § 56.35 (relating to payment of outstanding balance), established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued.**

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.14 (relating to previously unbilled **public** utility service) and the [**ratepayer**] **customer** has complied with [**the requirements of**] § 56.41(1)(ii)(A) or (B) (relating to general rule).

* * * * *

(7) Nonpayment of charges for **public** utility service furnished more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the [**ratepayer**] **customer** unless a court, district justice or administrative agency has determined that the [**ratepayer**] **customer** is legally obligated to pay for the service previously furnished or unless the **public utility has, under § 56.35, established that the applicant or customer was an occupant at the same address during the time period the delinquent amount accrued.** This paragraph does not affect the creditor rights and remedies of a **public** utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because **public** utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the [**ratepayer**] **customer** or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

* * * * *

(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the **public** utility is within \$25 of account balance.

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.91. General notice provisions and contents of termination notice.

(a) Prior to [**a termination of service, the utility shall mail or deliver written notice to the ratepayer at least 10 days prior to the date of the proposed termination**] terminating service for grounds authorized by § 56.81 (relating to authorized termination of service), a **public** utility shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice must remain effective for 60 days. In the event of [**any taking or acceptance of utility service without the knowledge or approval of the utility, other than unauthorized use of service**] user without contract as defined in § 56.2 (relating to definitions), the **public** utility shall comply with §§ 56.93–56.97, but need not otherwise provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

- (1) The reason for the proposed termination.
- (2) An itemized statement of accounts currently due, including any required deposit.
- (3) A statement that a specific reconnection fee will be required to have service restored after it

has been terminated if a reconnection fee is a part of the tariff of the **public** utility on file with the Commission.

(4) The date on or after which service will be terminated unless:

- (i) Payment in full is received.
- (ii) The grounds for termination are otherwise eliminated.
- (iii) A payment agreement or informal dispute settlement agreement is entered.
- (iv) Enrollment is made in a universal service program.
- (v) A dispute is filed with the **public** utility or the Commission.

(5) A statement that specifies that the notice is valid for 60 days.

(6) A statement that the customer shall immediately contact the **public** utility to attempt to resolve the matter, including the address and telephone number where questions may be filed, payment agreements entered into with the **public** utility, and questions and applications can be found for the **public** utility's universal service programs, if these programs are offered by the **public** utility.

(7) The following statement: "If, AFTER discussing your problem with the utility you remain dissatisfied, you may file an informal complaint with the Public Utility Commission. TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE, THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE. You may file an informal complaint by telephoning the Public Utility Commission at 1 (800) 692-7380 or by writing to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(8) A serious illness notice in compliance with the form in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.96 (relating to posttermination notice), the notice must comply with the form in Appendix B (relating to medical emergency notice).

(9) When the **public** utility has universal service programs, information indicating that special assistance programs are available and how to contact the **public** utility for information and enrollment, and that enrollment in the program is a method of avoiding the termination of service.

(10) Notices sent by electric and gas utilities threatening termination in the months of December, January, February and March must include information on the Federal poverty guidelines by household size, the protections available to customers at or below 250% of the Federal poverty line, and the required documentation or information the customer shall supply to avoid termination.

(11) Information indicating that special protections are available for victims under a Protection From Abuse Order and how to contact the **public** utility to obtain more information on these protections.

(12) Information indicating that special protections are available for tenants if the landlord is

responsible for paying the public utility bill and how to contact the public utility to obtain more information on these protections.

(13) Information indicating that all adult occupants of the premise whose names appear on the mortgage, deed or lease are considered 'customers' and are responsible for payment of the bill.

(14) Information indicating that if service is shut off, any adult occupant who has been living at the premise may have to pay all or portions of the bill to have service restored.

(15) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(16) Information indicating that if service is shut off, the customer shall contact the public utility after payment has been made to arrange reconnection of the service and that it may take up to 7 days to have the service restored.

(17) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates a significant population using that language resides in the public utility's service territory.

(18) Contact information for customers with disabilities that need assistance.

(19) Notices must reflect to the extent practical the Plain Language Guidelines found in § 69.251 (relating to plain language—statement of policy).

§ 56.92. Notice when dispute pending.

A public utility may not mail or deliver a notice of termination if a notice of dispute has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

§ 56.93. Personal contact.

(a) Except when authorized by §§ 56.71, 56.72 or 56.98 (relating to interruption of service; discontinuation of service; and [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations), a public utility may not interrupt, discontinue or terminate service without [personally contacting the ratepayer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required by this chapter or other Commission directive. For purposes of this section, "personal contact" means:

(1) Contacting the ratepayer or responsible adult occupant in person or by telephone.

(2) Contacting another person whom the ratepayer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(3) If the ratepayer has not made the designation noted in paragraph (2), contacting a community interest group or other entity, including a local police department, which previously shall have

agreed to receive a copy of the notice of termination and to attempt to contact the ratepayer.

(4) If the ratepayer has not made the designation noted in paragraph (2) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing [attempting to contact the customer or responsible adult occupant, either in person or by telephone, to provide notice of the proposed termination at least 3 days prior to the scheduled termination. If personal contact by one method is not possible, the public utility is obligated to attempt the other method.

(b) Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between the hours of 7 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart.

(c) If contact is attempted in person by a home visit, only one attempt is required, but the public utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant.

(d) The content of the 3-day personal contact notice must comply with § 56.91 (relating to general notice provisions and contents of termination notice).

§ 56.94. Procedures immediately prior to termination.

Immediately preceding the termination of service, a public utility [employee] employee, who may be the public utility [employee] employee designated to perform the termination, shall attempt to make personal contact with a responsible [person] adult occupant at the residence of the [ratepayer and shall attempt to make personal contact with a responsible person at the affected dwelling] customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the [employee] employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination [shall] may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the [ratepayer] customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

(3) *Dishonorable tender of payment after receiving termination notice.* After a public utility has provided a written termination notice under § 56.91 (relating to general notice provisions and contents of termination notice) and attempted telephone contact as provided in § 56.93 (relating to personal contact), termination of service may proceed without additional notice when:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor).

(ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.

§ 56.95. Deferred termination when no prior contact.

[If a prior contact has not been made with a responsible adult either at the residence of the ratepayer, as required by § 56.94 (relating to procedures immediately prior to termination) or at the affected dwelling, the employe may not terminate service but shall conspicuously post a termination notice at the residence of the ratepayer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting] During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, a public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location.

§ 56.96. [Post-termination] notice.

When service is actually terminated, notice [or a written statement which contains the address and telephone number of the utility where the ratepayer or occupant may arrange to have service restored] that substantially reflects the requirements of § 56.91 (relating to the general notice provisions and contents of a termination notice) as well as a medical emergency notice substantially in the form which [is attached to this chapter as] appears in Appendix B (relating to medical emergency notice) shall be conspicuously posted or delivered to a responsible person at the residence of the [ratepayer] customer and at the affected premises.

§ 56.97. Procedures upon [ratepayer] customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a [ratepayer] customer or occupant contacts the public utility concerning a proposed termination, an authorized public utility [employe] employee shall fully explain:

* * * * *

(2) All available methods for avoiding a termination, including the following:

* * * * *

(ii) Entering a [settlement] informal dispute settlement agreement or payment agreement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.

(iv) Enrolling in the public utility's customer assistance program or universal service program, if the public utility has these programs.

* * * * *

(b) The public utility, through its [employes] employees, shall exercise good faith and fair judgment in

attempting to enter a reasonable [settlement] informal dispute settlement agreement or payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable [settlement] informal dispute settlement agreement or payment agreement include the size of the unpaid balance, the ability of the [ratepayer] customer to pay, the payment history of the [ratepayer] customer and the length of time over which the bill accumulated. If [a settlement] an informal dispute settlement agreement or payment agreement is not established, the company shall further explain the following:

(1) The right of the [ratepayer] customer to file a dispute with the public utility and, thereafter, an informal complaint with the Commission.

* * * * *

(3) The duty of the [ratepayer] customer to pay any portion of a bill which the [ratepayer] customer does not honestly dispute.

§ 56.98. [Exception for terminations based on occurrences harmful to person or property] Immediate termination for unauthorized use, fraud, tampering or tariff violations.

[Notwithstanding any other provision of this chapter, when a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility honestly and reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide attempt to deliver a notice of termination to a responsible person at the affected premises and, in the case of a single meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas when permissible.]

(a) A public utility may immediately terminate service for any of the following actions by the customer:

(1) Unauthorized use of the service delivered on or about the affected dwelling.

(2) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service.

(3) Tampering with meters or other public utility equipment.

(4) Violating tariff provisions on file with the Commission which endanger the safety of a person or the integrity of the public utility's delivery system.

(b) Upon termination, the public utility shall make a good faith attempt to provide a post-termination notice to the customer or a responsible person at the affected premises, and, in the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

§ 56.99. Use of termination notice solely as collection device prohibited.

A public utility may not threaten to terminate service when it has no present intent to terminate service or

when actual termination is prohibited under this chapter [; notice] of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures [set forth by] in under this chapter, unless the [ratepayer] customer or occupant remedies the situation which gave rise to the enforcement efforts of the public utility.

§ 56.100. Winter termination procedures.

(a) *Water distribution utilities.* Notwithstanding another provision of this chapter, during the period of December 1 through March 31, water distribution utilities subject to this chapter [shall conform to the provisions of this section. The covered utilities may] are not [be] permitted to terminate heat related service between December 1 and March 31 except as provided in this section or in § 56.98 (relating to [exception for terminations based on occurrences harmful to person or property] immediate termination for unauthorized use, fraud, tampering or tariff violations).

(b) *Electric distribution and natural gas distribution utilities.* Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate heat related service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating heat related service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

(c) *City natural gas distribution utility.* In addition to the winter termination authority in subsection (b), a city natural gas distribution operation may terminate service after January 1 and before April 1 to a customer whose household income exceeds 150% of the Federal poverty level but does not exceed 250% of the Federal poverty level, and starting January 1, has not paid at least 50% of charges for each of the prior 2 months unless the customer has done one of the following:

(1) Proven in accordance with Commission rules, that the household contains one or more persons who are 65 years of age or over.

(2) Proven in accordance with Commission rules, that the household contains one or more persons 12 years of age or younger.

(3) Obtained a medical certification, in accordance with Commission rules.

(4) Paid to the city natural gas distribution operation an amount representing at least 15% of the customer's monthly household income for each of the last 2 months.

(d) *Notice to the Commission.* At the time that the notice of termination required by § 56.91 (relating to general notice provisions and contents of termination notice) is provided to the customer, the city natural gas distribution operation shall provide notice to the Commission. The Commission will not stay the termination of service unless the Commission finds that the customer meets the criteria in subsection (c)(1), (2), (3) or (4).

(e) *Identification of accounts protected during the winter.* Public utilities shall determine the eligibility of an account for termination during the period of December 1 through March 31 under the criteria in subsections (b) and (c) before terminating service. Public utilities are to use household income and size information they have on record provided by customers to identify accounts that are not to be terminated during the period of December 1 through March 31. Public utilities are expected to solicit from customers, who contact the utility in response to notices of termination, household size and income information and to use this information to determine eligibility for termination.

(f) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a public utility may not terminate service to a premise when the account is in the name of a landlord ratepayer as defined in 66 Pa.C.S. § 1521 (relating to definitions) except for the grounds in § 56.98.

(g) *Right of public utility to petition the Commission for permission to terminate service to a customer protected by the prohibitions in this section.*

(1) The public utility shall comply with §§ 56.91—56.95 including personal contact, as defined in § 56.93 [(1)] (relating to personal contact), at the premises if occupied.

(2) If at the conclusion of the notification process defined in §§ 56.91—56.95, a reasonable agreement cannot be reached between the public utility and the [ratepayer] customer, the public utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.152 (relating to contents of the utility company report).

(3) If the [ratepayer] customer has filed an informal complaint or if the Commission has acted upon the public utility's written request, the matter shall proceed under §§ 56.161—56.165. Nothing in this section may be construed to limit the right of a public utility or [ratepayer] customer to appeal a decision by the [mediation unit] Bureau of Consumer Services (BCS) under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.171—56.173 and 56.211.

[(4)] (h) *Survey of terminated heat-related accounts.* For premises where heat related service has been terminated within the past year for any of the grounds in § 56.81 (relating to authorized termination of services) or § 56.98 prior to December 1 of each year, [covered] electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall, within 90 days prior to December 1, survey and attempt to make [post-termination] posttermination personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

[(5) Companies] (i) *Reporting of survey results.* Electric distribution utilities, natural gas distribution utilities and Class A water distribution utilities shall file a brief report outlining their pre-December 1 survey and personal contact results with the Bureau of Consumer Services on or before December 15 of each year. The filing must categorize the accounts by the first three digits of the customer's postal code. Each

utility shall update the survey and report the results to the Bureau of Consumer Services on January 15 and February 15 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. The utility shall attempt to contact by telephone, if available, a responsible occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(j) *Reporting of deaths at locations where public utility service was previously terminated.* Throughout the year, public utilities shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning that resulted in a death and that the utility service was off at the time of the incident. Within 1 business day of becoming aware of an incident, the public utility shall submit a telephone or electronic report to the Director of the Bureau of Consumer Services including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved, and, if applicable, the initial findings as to the cause of the incident and the source of that information. The Bureau or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this subsection will be treated in accordance with 66 Pa.C.S. § 1508 (relating to the reports of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

[NOTICE PROCEDURES AFTER DISPUTE FILED]

§ 56.101. [Limited notice upon noncompliance with report or order] (Reserved).

[(a) Except during the winter period identified in § 56.100 (relating to winter termination procedures), the original grounds for terminations may be revived provided a 10-day termination notice was previously issued to the ratepayer. The original grounds for termination shall be revived and utilities may proceed with termination as provided in subsection (b) upon the failure to timely appeal from or comply with any of the following:

(1) A utility company report required by § 56.151 (relating to the general rule).

(2) An informal complaint report required by § 56.161 (relating to general rule; time for filing).

(3) An order from a formal complaint, under § 56.173 or § 56.174 (relating to formal complaint procedures other than appeals from mediation decisions of the Bureau of Consumer Services; and formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services).

(4) A company negotiated payment or settlement agreement where a customer fails, at any time, during the first 120 days to maintain the agreement and this failure reflects payments of less than 50% of the overdue balance during this same time period.

(b) The utility may not be required to give further written notice so long as within 10 business days of the failure to appeal or comply with subsection (a):

(1) The ratepayer is personally contacted as described in § 56.93(1), (2) or (3) (relating to personal contact), at least 3 days prior to termination. If the utility is unable to make personal contact as described in § 56.93(1), (2) or (3), it shall proceed with the posting procedure described in § 56.95 (relating to deferred termination when no prior contact).

(2) At the time of termination, the utility serves personally on the ratepayer or posts conspicuously at the residence of the ratepayer and at the affected premises, including common areas where permissible, a post-termination notice complying with § 56.96 (relating to post-termination notice).]

EMERGENCY PROVISIONS

§ 56.111. General provision.

[A utility may not terminate, or refuse to restore, service to a premise when an occupant therein is certified by a physician to be seriously ill or affected with a medical condition which will be aggravated by a cessation of service or failure to restore service.] A public utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.191 (relating to the general rule) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician or nurse practitioner verifying the condition and promptly forward it to the public utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the public utility. A public utility may not impose any qualification standards for medical certificates other than those specified in this section.

§ 56.112. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the public utility [employe] employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. [Service may be terminated if] If no certification is produced within that 3-day period, the public utility may resume the termination process at the point where it was suspended.

§ 56.113. Medical certifications.

Certifications initially may be written or oral, subject to the right of the public utility to verify the certification by calling the physician or nurse practitioner or to require written confirmation within 7 days. Certifications, whether written or oral, [shall] must include [all of] the following:

(1) The name and address of the [ratepayer] customer or applicant in whose name the account is registered.

(2) The name and address of the afflicted person and [his] relationship to the [ratepayer] customer or applicant.

* * * * *

(5) The name, office address and telephone number of the certifying physician or nurse practitioner.

§ 56.114. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification; the maximum length of the certification shall be 30 days.

* * * * *

(2) Renewals. Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.112 and 56.113 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the [ratepayer] customer has met the obligation under § 56.116 (relating to duty of [ratepayer] customer to pay bills). In instances [where] when a [ratepayer] customer has not met the obligation in § 56.116 to equitably make payments on all bills, the number of renewals for the customer's household is limited to two 30-day certifications that concern medical certificates filed for the same set of arrearages and same termination action. When the customer eliminates these arrearages, the customer is eligible to file new medical certificates. [If a utility wishes to contest the renewal, it shall follow § 56.118(3) (relating to the right of utility to petition the Commission).] In these instances the public utility is not required to honor a third medical certificate and is not required to follow § 56.118(3) (relating to the right of public utility to petition the Commission). The public utility shall apply the dispute procedures in §§ 56.151 and 56.152 (relating to public utility company dispute procedures).

§ 56.115. Restoration of service.

When service is required to be restored under this section and §§ 56.111, 56.114 and 56.116—56.118, the public utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be [restored before the end of the next working day] reconnected within 24 hours. Each public utility shall have [employees] employees available or on call to restore service in emergencies.

§ 56.116. Duty of [ratepayer] customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the [ratepayer] customer shall retain a duty [to equitably arrange] to make payment on all [bills] current undisputed bills or equal monthly billing amount as determined by § 56.12(7) (relating to meter reading; estimated billing; ratepayer readings).

§ 56.117. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the public utility may terminate service without additional written notice, if notice previously has been mailed or delivered under § 56.91 (relating to general

notice provisions and contents of termination notice). The public utility shall comply with §§ 56.93—56.96.

§ 56.118. Right of public utility to petition the Commission.

(a) A public utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) Contest the validity of a certification. To request an investigation and hearing by the Commission or its designee when the public utility wishes to contest the validity of the certification.

(2) Terminate service prior to expiration of certification. To request permission to terminate service for the failure of the [ratepayer] customer to [equitably arrange to] make payments on current undisputed bills.

(3) Contest the renewal of a certification. To request permission to terminate service, under this section and §§ 56.81—56.83 and 56.91—56.99 when the [ratepayer] customer has not met [his] the duty under § 56.116 (relating to duty of [ratepayer] customer to pay bills), provided that the public utility has informed the [ratepayer] customer of that duty under § 56.116.

(b) A public utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.152 (relating to contents of the utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

* * * * *

THIRD-PARTY NOTIFICATION

§ 56.131. Third-party notification.

Each public utility shall permit its [ratepayers] customers to designate a consenting individual or agency which is to be sent, by the public utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that public utility. When contact with a third party is made, the public utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A public utility shall institute and maintain a program:

(1) To allow [ratepayers] customers to designate third parties to receive copies of a [ratepayer's] customer's or group of [ratepayers'] customers' notices of termination of service.

(2) To advise [ratepayers] customers at least annually of the availability of a third-party notification program and to encourage their use thereof. The public utility shall emphasize that the third party is not responsible for the payment of the customer's bills.

* * * * *

(4) Making available a standard enrollment form substantially in compliance with the form as set forth in Appendix E (relating to third party notification).

Subchapter F. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

GENERAL PROVISIONS

§ 56.140. Follow-up response to inquiry.

When a customer is waiting for a follow-up response to an inquiry under § 56.2 (relating to the definition of initial inquiry), termination or threatening termination of service for the subject matter in question shall be prohibited until the follow-up response, and when applicable, subsequent dispute resolution is completed by the **public utility**.

§ 56.141. Dispute procedures.

A notice of dispute, including termination disputes, **[shall] must** proceed in the first instance, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a **[ratepayer] customer** advises the **public utility** that he disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of **public utility** metering or billing or the proper party to be charged, the **public utility** shall attempt to resolve the dispute in accordance with § 56.151 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, **[where] when** a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint; however, the disputing party shall pay undisputed portions of the bill.

§ 56.142. Time for filing [a termination dispute or] informal complaints.

To be timely filed, **[a termination dispute] an informal complaint**—which may not include disputes under §§ 56.35 and 56.191 (relating to payment of outstanding balance; and general rule)—and informal complaints shall be filed prior to the day on which the **public utility** arrives to terminate service. If the **public utility** arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing **[a termination dispute or] an informal complaint** shall be extended until the end of the business day prior to the **public utility** again arriving to terminate service.

§ 56.143. Effect of failure to timely file [a termination dispute] an informal complaint.

Failure to timely file **[a notice of dispute] an informal complaint**, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the **public utility** **[and may constitute a waiver of rights to file an informal complaint in accordance with this chapter]**.

PUBLIC UTILITY COMPANY DISPUTE PROCEDURES

§ 56.151. General rule.

Upon initiation of a dispute covered by this section, the **public utility** shall:

* * * * *

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the **[ratepayer] customer** or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the **[ratepayer] customer** or occupant claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement **[shall]** include, but **are not** be limited to:

* * * * *

(ii) The ability of the **[ratepayer] customer** to pay.

(iii) The payment history of the **[ratepayer] customer**.

* * * * *

(4) Provide the **[ratepayer] customer** or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The **public utility** shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report **[shall] must** be in writing and conform to § 56.152 (relating to contents of the utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the **public utility** deems it necessary.

* * * * *

(iv) The information and documents required by this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving them.

§ 56.152. Contents of the utility company report.

A utility company report **[shall] must** include the following:

(1) A statement of the claim or dispute of the **[ratepayer] customer** and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the **public utility** regarding that claim.

* * * * *

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission within 10 days of the mailing date of the report to insure the preservation of all of **[his] the complaining party's** rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the **public utility**.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.162 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or deemed necessary by the **public utility**, the **public utility** shall provide the information in § 56.162(1), (2) and (5). In addition, the **public utility**

should always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(7) If the matter in dispute involves a billing dispute, the report [shall] must include the following:

(i) An itemized statement of the account of the complaining [ratepayer] customer specifying the amount of credit, if any, and the proper amount due.

(ii) The date on or after which the account will become delinquent unless a [settlement] informal dispute settlement agreement or payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the report [shall] must also state the following:

* * * * *

(ii) The date on or after which [service will be terminated] the utility will commence termination action in accordance with the applicable requirements unless the report is complied with, [settlement] informal dispute settlement agreement or payment agreement entered or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility report, whichever is later. **If the utility report is in writing, the information in this paragraph must be presented in a bold font that is at least two font sizes larger than the font used in other sections of the utility report.**

INFORMAL COMPLAINT PROCEDURES

§ 56.161. [General rule; time for filing] (Reserved).

[Within 10 days of notification or mailing of a utility company report and not thereafter except for failure to receive notice or other good cause, an informal complaint may be filed with the Commission.]

§ 56.162. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and [shall] must include the following information:

(1) The name and address of the [ratepayer] complainant and, if different, the address at which service is provided.

(2) The telephone number of the [ratepayer] complainant.

(3) The account number of the [ratepayer] complainant, if applicable.

(4) The name of the public utility.

* * * * *

(6) Whether the dispute formerly has been the subject of a public utility company investigation and report.

* * * * *

§ 56.163. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be [docketed] captioned as "(Complainant) v. (public

utility)," Commission staff will immediately notify the public utility; review the dispute; and, within a reasonable period of time, issue to the public utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports [shall] will be in writing and a summary [shall] will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures [shall] will be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. **Information and documents requested by Commission staff as part of the review process shall be provided by the public utility within 30 days of the request. If the complainant is without public utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the public utility within 5 days of the request.**

(2) *Settlement.* Prior to the issuance of [its report] an informal decision, Commission staff may [negotiate with] facilitate discussions between the parties in an [attempt] effort to settle the [matters in] dispute. [Upon reaching] If a settlement is reached, Commission staff will [prepare, when advisable, a settlement agreement which shall be signed by the parties and will make the provisions for the obtaining of signatures reasonable under the circumstances] that all parties understand the terms of the settlement and mark the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.171—56.174 (relating to formal complaints).

§ 56.164. Termination pending resolution of the dispute.

In any case alleging unauthorized use of public utility service, as defined in § 56.2 (relating to definitions), a public utility may terminate service after giving proper notice in accordance with §§ 56.91—56.98, whether or not a dispute is pending.

§ 56.165. Conference procedures.

Conferences held under §§ 56.161—56.164 and this section will be informal and may be held by conference telephone call, [where] when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint. The parties will be advised that false information intended to mislead a public servant in performing [his] an official function may be punishable criminally.

§ 56.166. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to

resolve customer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement this chapter.

(1) The Commission will accept complaints only from customers who affirm that they have first contacted the public utility for the purpose of resolving the problem about which the customer wishes to file a complaint. If the customer has not contacted the public utility, the Commission will direct the customer to the public utility.

(2) Only after the customer and the public utility have failed to resolve the dispute will BCS initiate an investigation.

FORMAL COMPLAINTS

§ 56.172. [Time for filing] Filing.

[Within 20 days of notification or mailing of the informal complaint report and not thereafter except for good cause, an appeal from the report of the Consumer Service Representative may be initiated by means of a written intention to appeal. Upon receipt of this written intention, the Secretary's Bureau will determine whether the appeal is from a mediation decision of the Bureau of Consumer Services—to be docketed with the prefix "Z"—or another type of appeal. Thereafter, formal complaint forms shall be filed by the party taking the appeal.

(1) Appeal from mediation decisions where the issue is solely ability to pay shall proceed in accord with § 56.174 (relating to formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services).

(2) Other appeals shall proceed in accord with § 56.173 (relating to formal complaint procedures other than appeals from mediation decisions of the Bureau of Consumer Services.)

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) must be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30 day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30 day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa.C.S. (relating to public utility code).

§ 56.173. [Formal complaint procedures other than appeals] Review from [mediation] informal complaint decisions of the Bureau of Consumer Services.

(a) Assignment. [Appeals from] Review of informal complaint [reports] decisions will be heard [de

novo by the Commission, a Commissioner or] by an [Administrative Law Judge] law judge or special agent [:].

[(1)] (b) *Filing and docketing.* [Appeals] Complaints will be filed and docketed as a formal Commission complaint, under §§ [5.22 and 5.61 (relating to contents of formal complaint; and answers to complaints, petitions and motions)] 1.31—1.38 (relating to requirements for documentary filings).

[(2)] (c) *Captions.* The parties to [an appeal] a review will be stated in the caption as they stood upon the record of the informal complaint proceeding[, with]. If the party requesting review is a public utility, the [addition of the] phrase [of] "Complaint Appellant" will be added after [the] its name [of the party taking the appeal].

[(3)] *Hearings.* Hearings conducted by a Commissioner or administrative law judge will be held within a reasonable period of time after the filing of the answer. The parties may incorporate portions of the conference report or informal complaint report that they shall agree upon.

(4) *Formal complaint report.* The Commissioner or administrative law judge assigned to the formal complaint will file his report with the Commission within a reasonable period of time after the receipt of the transcribed testimony. Included in the report will be a description of the matter, findings of fact, conclusions of law and other discussion and opinion as is appropriate.

[(5)] (d) *Commission review.* The Commission will review the [report] decision of the assigned administrative law judge or [Commissioner] special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or [Commissioner] special agent for further development of the record or issue a final order. The burden of proof remains with the party filing the formal complaint.

§ 56.174. [Formal complaint procedures for appeals from mediation decisions of the Bureau of Consumer Services] Ability to pay proceedings.

[Appeals from mediation decisions of the Bureau of Consumer Services, and any other case in which the issue is solely ability to pay, including ability to pay according to payment agreements, shall be assigned to a special agent for review. Where there are issues involved other than ability to pay, any party or the Office of Administrative Law Judge sua sponte, can remove or seek removal of the appeal to an administrative law judge.

(1) *Filing and docketing.* Appeals shall be filed as a formal complaint under this title and shall be docketed. with the prefix "Z."

(2) *Caption.* Parties will be stated in the caption as in the informal complaint proceeding, with the addition of the designation "Appellant" after the name of the party taking the appeal.]

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

[(3)] (b) *Stay of informal complaint decision.* Upon [appeal] the filing of a formal complaint in a case seeking review from the [mediation] decision of the [Bureau of Consumer Services] BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The public utility may request that the [special agent] presiding officer remove the stay and order payment of amounts set forth in the [mediation] informal complaint decision. When current bills are not at issue, the [ratepayer will] customer shall be responsible for payment of current, undisputed bills pending [review] issuance of a final Commission order.

[(4)] (c) *Hearings.* The [special agent shall] presiding officer will conduct hearings within a reasonable period after filing of the [appeal] review and answer. [The] If the presiding officer is a special agent [shall], the special agent will have all powers of an administrative law judge [or presiding officer]. Subject to any valid evidentiary objections raised by the parties, the presiding officer will enter into the record BCSs documents on the complainant's income, the utility report to the BCSs from the utility, and the BCSs decision when the formal complaint was the subject matter of a BCSs informal decision.

(i) The [special agent shall] presiding officer will attempt to hold hearings by telephone, [subject to the approval of the] unless one or more parties object. Hearings [shall] will be held [within 25 days] after [receipt of appellee's] the filing of an answer.

(ii) The [special agent shall] presiding officer will hear the [appeals] case de novo, but may request a stipulation of the parties as to undisputed facts.

(iii) Hearings [shall] will be tape recorded and [may] will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape [recording] or other circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that [sanctioned] made by the [special agent] presiding officer.

[(5)] (d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the [special agent, with supporting reasons therefor. If proposed findings and conclusions have not been submitted at or before hearing, notice] presiding officer. Notice of intent to submit [them] findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

[(6) *Formal complaint report*] (e) *Initial decision.* The [special agent shall] presiding officer will render a written decision [within 25 days] after the hearings or [25 days] after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision [shall] will be in writing and [shall] contain a brief description of the matter, findings of fact and conclusions of law. The initial decision shall be subject to the filing of exceptions

under the procedures set forth in Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings).

[(7) *Post hearing procedures.* A party to a proceeding referred to a special agent may file exceptions to the decision of the special agent within 15 days after the decision is issued, in a form and manner to be prescribed by the Commission. The special agent shall rule upon the exceptions within 30 days after filing. A party to the proceeding may appeal to the Commission from the ruling of the special agent on the exceptions within 15 days after the ruling is issued. If no exceptions are filed or if no appeal is taken from the ruling on the exceptions within 15 days after the decision or ruling is issued, the decision or ruling shall become final, without further Commission action, unless two or more commissioners within 15 days after the decision or ruling on the exceptions request that the Commission review the decision and make the other order, within 90 days of the request, as it shall determine.]

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.181. Duties of parties; disputing party's duty to pay undisputed portion of bills; public utility's duty to pay interest whenever overpayment found.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section [:].

* * * * *

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the [ratepayer] customer shall be required to pay that amount which the [Consumer Services Representative] consumer services representative determines is not reasonably disputed.

* * * * *

(4) *Effect of offer of payment.* An offer by a [ratepayer] customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a public utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the public utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter G. RESTORATION OF SERVICE

§ 56.191. General rule.

[When service to a dwelling has been terminated, the utility shall reconnect service by the end of the first full working day after receiving one of the following:

(1) Full payment of an outstanding charge plus a reasonable reconnection fee. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account shall include, but are not be limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the ratepayer to pay.
- (iii) The payment history of the ratepayer.
- (iv) The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to a settlement or payment agreement, plus a reasonable reconnection fee, which may be a part of the settlement or payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that the ratepayer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.]

(a) *Fee.* A public utility may require a reconnection fee based upon the public utility's cost as approved by the Commission prior to reconnection of service following lawful termination of the service. The amount of this fee shall be specified in the public utility's tariff on file with the Commission.

(b) *Timing.* When service to a dwelling has been terminated, provided the applicant has met all applicable conditions, the public utility shall reconnect service as follows:

(1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(2) Within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

(3) Within 3 calendar days for erroneous terminations requiring street or sidewalk digging.

(4) Within 3 calendar days from April 1 to November 30 for proper terminations.

(5) Within 7 calendar days for proper terminations requiring street or sidewalk digging.

(c) *Payment to restore service.*

(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. A public utility shall inform the applicant or customer that conditions for restoration of service may differ if someone in the household is a victim of domestic violence with a protection from abuse order.

(2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal poverty level or has defaulted on two or more payment agreements. For

purposes of this section, neither a payment agreement intended to amortize a make-up bill under § 56.14 (relating to previously unbilled utility service) or the definition of "billing month" in § 56.2 (relating to definitions), nor a payment agreement that has been paid in full by the customer, are to be considered.

(ii) If a customer or applicant with household income exceeding 300% of the Federal poverty level experiences a life event, the customer shall be permitted a period of not more than 3 months to pay the outstanding balance required for reconnection. For purposes of this paragraph, a life event is:

(A) A job loss that extends beyond 9 months.

(B) A serious illness that extends beyond 9 months.

(C) Death of the primary wage earner.

(iii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal poverty level but not greater than 300% of the Federal poverty level. The initial payment toward the outstanding balance required as a condition of restoration cannot exceed 1/12 of the outstanding balance.

(iv) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal poverty level. The initial payment toward the outstanding balance required as a condition of restoration cannot exceed 1/24 of the outstanding balance. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal poverty level shall be reinstated under this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation. This requirement may not apply if the financial benefits to the customer or applicant are greater if served outside of that assistance program.

(d) *Payment of outstanding balance at premises.* A public utility may require the payment of any outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there, not exceeding 4 years, except for instances of fraud and theft.

(e) *Approval.* A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission. Public utilities shall include in their tariffs filed with the Commission the procedures and standards used to determine liability for outstanding balances.

§ 56.192. Personnel available to restore service.

A public utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a commensurate period of 8 consecutive hours to restore service when required under this [subchapter]

chapter, specifically in §§ 56.82 and 56.191 (relating to timing of termination; and the general rule).

Subchapter H. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

§ 56.201. Public information.

In addition to the notice requirements [set forth] in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the public utility and its [ratepayers] customers affected by the change. Summaries [shall] will be mailed by the public utility to each [ratepayer] customer of the public utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the public utility and its [ratepayers] customers in accordance with this chapter, be in writing, shall be reproduced by the public utility, shall be displayed prominently, and shall be available at all public utility office locations open to the general public. This information be delivered or mailed to each new [ratepayer] customer of the public utility upon the commencement of service and be available at all times upon request. A public utility which serves a substantial number of Spanish-speaking [ratepayers] customers shall provide billing information in English and in Spanish. The written information [shall] must indicate conspicuously that it is being provided in accordance with [the regulations of the Commission] this title and [shall] contain information concerning, but not limited to, the following:

* * * * *

(8) Explanation of meter reading procedures which would enable a [ratepayer] customer or occupant to read his own meter.

(9) Procedure whereby [ratepayers] customers or occupants may avoid discontinuance of service during extended periods of absence.

* * * * *

(11) Telephone numbers and addresses of the public utility and of the nearest regional office of the Commission where further inquiries may be made.

(12) Definitions of terms or abbreviations used by the public utility on its bills.

(13) Information indicating that additional consumer protections are available for victims of domestic violence.

§ 56.202. Record maintenance.

A public utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, [shall] keep the records within this Commonwealth at an office located in the territory served by it, and [shall] make the records available for examination by the Commission or its staff. Information to be maintained [shall include] includes the following:

(1) The payment performance of each of its [ratepayers] customers.

(2) The number of [settlement] informal dispute settlement agreements and payment agreements

made by the public utility company and a synopsis of the terms, conditions and standards upon which agreements were made.

* * * * *

(4) Communications to or from individual [ratepayers] customers regarding interruptions, discontinuances, terminations and reconnections of service, including the name and address of the [ratepayer] customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

Subchapter I. INFORMAL COMPLAINTS

§ 56.211. [Informal complaints] (Reserved).

[The Bureau of Consumer Services (BCS) will have primary jurisdiction over ratepayer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement the provisions of this chapter.

(1) Absent good cause, the BCS will handle only Chapter 56 informal complaints in which the customer first attempted to resolve the matter with the utility.

(2) Only after the customer and the utility have failed to resolve the dispute will BCS initiate an investigation.]

Subchapter J. GENERAL PROVISIONS

§ 56.221. Availability of normal Commission procedures.

Nothing in this chapter [is deemed to prevent] prevents a person or a public utility from pursuing other Commission procedures in a case not described in this chapter.

§ 56.222. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a public utility results from compliance with a section in this chapter, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or public utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

Subchapter K. [MONTHLY] PUBLIC UTILITY REPORTING REQUIREMENTS

§ 56.231. Reporting requirements.

(a) Within 15 days after the end of each month, each electric[, gas] distribution utility, natural gas distribution utility, class A water distribution utility and steam heat utility shall file with the Commission a report containing the following information concerning residential accounts for that month:

(1) [Total number of accounts, categorized as follows:

(i) By classification—residential, residential multi-unit dwellings.

(ii) By usage—heating, nonheating.

(2) Number of overdue accounts, categorized as follows:

(i) By usage—heating, nonheating.

(ii) By amount overdue—\$25 or less, \$26—\$50, \$51—\$150, \$151—\$250, \$251—\$500, \$501—\$1,000 and over \$1,000.

(iii) By time overdue in days—30 days or less, 31—60 days, 61—90 days, 91—120 days, and over 120 days.

(3) Dollar amount overdue, categorized as follows:

(i) Total amount of arrearages.

(ii) By usage—heating, nonheating.

(iii) By time overdue in days—30 days or less, 31—60 days, 61—90 days, 91—120 days, and over 120 days.

(4) Total number of ten-day termination notices sent out by company.

(5) Total number of dwellings which receive notices sent to ratepayers other than occupants.

(6) Number of completed personal contacts categorized as follows:

(i) In person.

(ii) By telephone.

(iii) By third-party notification to a person designated by the customer.

(iv) By third-party notification to a community interest group.

(v) By third-party notification to the Commission or its designee.

(7) Total number of 48-hour notices posted.

(8) Number of terminations completed by the company, categorized as follows:

(i) Number of nonpayment of undisputed delinquent accounts, failure to satisfy credit requirements, noncompliance in the settlement of amortization agreement.

(ii) Others.

(9) Number of terminations completed, categorized as follows:

(i) By usage—heating, nonheating.

(ii) By amount overdue—\$25 or less, \$26—\$50, \$51—\$150, \$151—\$250, \$251—\$500, \$501—\$1,000 and over \$1,000.

(iii) By length of time overdue—30 days or less, 31—60 days, 61—90 days, 91—120 days, and over 120 days.

(iv) By first three digits of each account's zip code.

(10) Reconnections, categorized as follows:

(i) By usage—heating, nonheating.

(ii) By whether amortization settlement agreement was achieved:

(A) With involvement of the Commission.

(B) Between the customer and utility.

(iii) By total number of the reconnections due to medical certification.

(iv) By total number of reconnections due to full payment of arrearage.]

The total number of residential heating customers.

(2) The total number of residential nonheating customers.

(3) The total number of active residential accounts in arrears not on a payment agreement.

(4) The total dollar amount in arrears for active residential accounts in arrears and not on a payment agreement.

(5) The total number of active residential accounts in arrears and on a payment agreement.

(6) The total dollar amount in arrears for active residential accounts in arrears and on a payment agreement.

(7) The total number of inactive residential accounts in arrears.

(8) The total dollar amount of inactive residential accounts in arrears.

(9) The total number of 10-day termination notices sent out by company.

(10) The total number of dwellings receiving termination notices sent to occupants other than the customer.

(11) The total number of 3-day termination notices completed by personal contact in person.

(12) The total number of 3-day termination notices completed by telephone.

(13) The total number of 48-hour termination notices posted.

(14) The total number of terminations for nonpayment.

(15) The total number of terminations for reasons other than nonpayment.

(16) The total number of terminations for nonpayment and reasons other than nonpayment categorized by the first three digits of each account's postal code.

(17) The total number of reconnections for full customer payment. Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:

(i) Less than 150% of the Federal poverty guideline.

(ii) Between 151—250% of the Federal poverty guideline.

(iii) Between 251—300% of the Federal poverty guideline.

(iv) Greater than 300% of the Federal poverty guideline.

(v) Not available.

(18) The total number of reconnections for partial customer payment or payment agreement. Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:

- (i) Less than 150% of the Federal poverty guideline.
- (ii) Between 151—250% of the Federal poverty guideline.
- (iii) Between 251—300% of the Federal poverty guideline.
- (iv) Greater than 300% of the Federal poverty guideline.
- (v) Not available.

(19) The total number of reconnections for customer submission of medical certification. Categorize into one of five groups based upon the customer's relation to the Federal poverty guidelines:

- (i) Less than 150% of the Federal poverty guideline.
- (ii) Between 151—250% of the Federal poverty guideline.
- (iii) Between 251—300% of the Federal poverty guideline.
- (iv) Greater than 300% of the Federal poverty guideline.
- (v) Not available.

(20) The total number of reconnections for reasons other than customer payment or medical certification. Categorize into five groups based upon the customer's relation to the Federal poverty guidelines:

- (i) Less than 150% of the Federal poverty guideline.
- (ii) Between 151—250% of the Federal poverty guideline.
- (iii) Between 251—300% of the Federal poverty guideline.
- (iv) Greater than 300% of the Federal poverty guideline.
- (v) Not available.

(21) The total number of applicants that are requested or billed a security deposit.

(22) The total dollar amount in security deposits that are requested or billed to applicants.

(23) The total number of customers that are requested or billed a security deposit.

(24) The total dollar amount in security deposits that are requested or billed to customers.

(b) Within 90 days after the end of each year, each electric distribution utility, natural gas distribution utility, class A water distribution utility and steam heat utility shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

- (1) The total number of security deposits on hand.
- (2) The total dollar amount in security deposits on hand.

(3) The total dollar amount of annual collection operating expenses.

(4) The total dollar amount of annual residential billings.

(5) The total dollar amount of annual gross residential write-offs.

(6) The total dollar amount of annual net residential write-offs.

(7) The average monthly bill for the previous year for a heating customer.

(8) The average monthly bill for the previous year for a nonheating customer.

(9) The average monthly usage for a heating customer.

(10) The average monthly usage for a nonheating customer.

(c) Public utilities shall refer to the data dictionary in Appendix C (relating to definitions (§ 56.231)) for additional guidance as to the terms used in this section.

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

Subchapter L. PRELIMINARY PROVISIONS FOR WASTEWATER, STEAM HEAT AND SMALL NATURAL GAS DISTRIBUTION UTILITIES AND VICTIMS OF DOMESTIC VIOLENCE WITH A PROTECTION FROM ABUSE ORDER

Sec.

- 56.251. Statement of purpose and policy.
- 56.252. Definitions.

§ 56.251. Statement of purpose and policy.

Subchapters L—V apply to victims under a Protection From Abuse Order as provided by 23 Pa.C.S. Chapter 61 (relating to protection from abuse) and 66 Pa.C.S. § 1417 (relating to nonapplicability). These subchapters also apply to wastewater, steam heating and natural gas distribution utilities with annual gas operating revenues of less than \$6,000,000 per year, except when the utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided by 66 Pa.C.S. § 1403 (relating to definitions). These subchapters establish and enforce uniform, fair and equitable residential utility service standards governing eligibility criteria, credit and deposit practices, and account billing, termination and customer complaint procedures. This chapter assures adequate provision of residential utility service, to restrict unreasonable termination of or refusal to provide that service and to provide functional alternatives to termination or refusal to provide that service. Every privilege conferred or duty required by this chapter imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement. This chapter will be liberally construed to fulfill its purpose and policy and to insure justice for all concerned.

§ 56.252. Definitions.

In addition to the definitions in § 56.2 (relating to definitions), the following words and terms, when used in Subchapters L—V, have the following meanings, unless the context clearly indicates otherwise:

Applicant—

(i) A person who applies for residential utility service.

(ii) The term does not include a person who, within 60 days after termination or discontinuance of service, seeks to transfer service within the service territory of the same utility or to reinstate service at the same address.

*Basic services—*Services necessary for the physical delivery of residential utility service.

*Customer—*A person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service.

*Cycle billing—*A system of billing employed by a utility which results in the normal rendition of bills for utility service to a group or portion of customers on different or specified days of one billing period.

*Delinquent account—*Charges for utility service which have not been paid in full by the due date stated on the bill or otherwise agreed upon; provided that an account may not be deemed delinquent if: prior to the due date, a payment agreement or informal dispute settlement agreement with the utility has been entered into by the customer, a timely filed notice of dispute is pending before the utility, or, under time limits provided in this chapter, an informal or formal complaint is timely filed with and is pending before the Commission.

*Discontinuation of service—*The cessation of service with the consent of the customer and otherwise in accordance with § 56.312 (relating to discontinuation of service).

*Dispute—*A grievance of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If, at the conclusion of an initial contact or, when applicable, a follow-up response, the applicant, customer or occupant indicates satisfaction with the resulting resolution or explanation, the contact will not be considered a dispute.

*Initial inquiry—*A concern or question of an applicant, customer or occupant about a utility's application of a provision covered by this chapter, including subjects such as credit determinations, deposit requirements, the accuracy of meter readings or bill amounts or the proper party to be charged. If a utility, with the consent of the applicant, customer or occupant, offers to review pertinent records and call back the applicant, customer or occupant within 3 business days with a response, the contact will be considered an initial inquiry pending a determination of satisfaction by the applicant, customer or occupant with the company's response. If the company cannot reach the customer to convey the information obtained through a review of company records, a letter shall be sent which summarizes the information and informs the customer to contact the company within 5 business days if the customer disagrees with the company position, or has additional questions or concerns about the matter.

*Nonbasic services—*Optional recurring services which are distinctly separate and clearly not required for the physical delivery of utility service.

*Occupant—*A person who resides in the premises to which utility service is provided.

*Payment agreement—*A mutually satisfactory written agreement whereby a customer or applicant who admits

liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments over a reasonable period of time.

*Physician—*An individual licensed to engage in the practice of medicine and surgery in all of its branches, or in the practice of osteopathy or osteopathic surgery.

*Remote reading device—*A device which by electrical impulse or otherwise transmits readings from a meter, excluding devices that permit direct interrogation of the meter, usually located within a residence, to a more accessible location outside of a residence.

Residential service—

(i) Utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto.

(ii) The term does not include utility service provided to a hotel or motel.

*User without contract—*Taking or acceptance of utility service without the knowledge or approval of the utility, other than unauthorized use of service as defined in this section.

Utility—

(i) A public utility or a municipality, subject to Commission jurisdiction, which provides wastewater services or steam heating services.

(ii) The term also includes natural gas distribution utilities with annual gas operating revenues of less than \$6,000,000 per year, except when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory as provided under 66 Pa.C.S. § 1403 (relating to definitions).

Subchapter M. BILLING AND PAYMENT STANDARDS

GENERAL

Sec.	
56.261.	Billing frequency.
56.262.	Meter reading; estimated billing; customer readings.
56.263.	Billings for merchandise, appliances and nonrecurring and recurring services.
56.264.	Previously unbilled utility service.
56.265.	Billing information.
56.266.	Transfer of accounts.
56.267.	Advance payments.

PAYMENTS

56.271.	Payment.
56.272.	Accrual of late payment charges.
56.273.	Application of partial payments between utility and other service.
56.274.	Application of partial payments among several bills for utility service.
56.275.	Electronic bill payment.

GENERAL

§ 56.261. Billing frequency.

(a) A utility shall render a bill once every billing period to every residential customer in accordance with approved rate schedules.

(b) A utility may utilize electronic billing in lieu of mailed paper bills. Electronic billing programs must include the following:

(1) The electronic billing option is voluntary and the customer retains the option of continuing to receive a paper bill if desired. The customer retains the right to revert to conventional paper billings upon request. The customer shall provide the utility with a 1 month notice of a request to revert to paper billing.

(2) A customer shall receive a visual presentation of an electronic bill in the same format as the paper bill issued by the utility.

(3) The electronic bill must include the same disclosures and required educational messages that are required for paper bills. The electronic transmission of termination notices may not be permitted.

(4) The electronic bill must include all required bill inserts in an easily accessed and easily readable format.

(5) The electronic bill must include the option for the customer to contribute to the utility's hardship fund.

(6) A customer may not be required to pay an additional fee to receive an electronic bill.

(7) The utility shall maintain a system to ensure delivery of electronic bills if the bill is emailed to a customer.

(8) The utility shall maintain sufficient system security to assure customer privacy.

§ 56.262. Meter reading; estimated billing; customer readings.

Except as provided in this section, a utility shall render bills based on actual meter readings by utility company personnel.

(1) *Inapplicability to seasonally billed customers.* This section does not apply to customers billed on a seasonal basis under terms included in the tariff of the utility.

(2) *Estimates for bills rendered on a monthly basis.* If a utility bills on a monthly basis, it may estimate usage of service every other billing month, so long as the utility provides a customer with the opportunity to read the meter and report the quantity of usage in lieu of the estimated bill. The resulting bills shall be based on the information provided, except for an account where it is apparent that the information is erroneous.

(i) Upon the request of the customer, the utility shall, at least annually, provide preaddressed postcards on which the customer may report the reading. The utility shall provide additional preaddressed postcards on request. The utility may choose to make available electronic and telephonic methods for customers to report meter reading information.

(ii) The utility may establish due dates by which the postcards shall be received for a bill to be based upon the meter reading of the customer or occupant. If the reading of a customer is not received by that due date, the utility may estimate the quantity of usage. The utility may establish due dates for submitting a meter reading when the customer or occupant utilizes an electronic method for reporting meter readings.

(3) *Estimates permitted under exigent circumstances.* A utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

(4) *Estimates when utility personnel are unable to gain access.* A utility may estimate the bill of a customer if utility personnel are unable to gain access to obtain an actual meter reading, as long as the following apply:

(i) The utility has undertaken reasonable alternative measures to obtain a meter reading, including, but not limited to, the provision of preaddressed postcards upon which the customer may note the reading or the telephone reporting of the reading.

(ii) The utility, at least every 6 months, or every four billing periods for utilities permitted to bill for periods in excess of 1 month, obtains an actual meter reading or customer supplied reading to verify the accuracy of the estimated readings.

(iii) The utility, at least once every 12 months, obtains an actual meter reading to verify the accuracy of the readings, either estimated or customer read.

(5) *Remote reading devices for water, gas and electric utilities.* A utility may render a bill on the basis of readings from a remote reading device under the following conditions:

(i) When a gas, electric or water utility uses readings from a remote reading device to render bills, the utility shall obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device. If the customer of record at the dwelling changes during the 5-year period between actual meter readings, the utility shall make a bona fide attempt to schedule an appointment with the departing customer and, if necessary, the new occupant, to secure an actual meter reading.

(ii) When the actual meter reading establishes that the customer was underbilled due to an error in the registration of the remote reading device, the utility may render a bill for the uncollected amount. If the rebilling exceeds the otherwise normal estimated bill for the billing period during which the bill is issued by at least 50% or at least \$50, whichever is greater, the utility shall comply with § 56.264 (relating to previously unbilled utility service).

(iii) When the actual meter reading establishes that the customer was overbilled due to an error in the readings of the remote reading device, the utility shall credit or refund to the customer the amount overbilled plus interest calculated under § 56.411(3) (relating to duties of parties; disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found).

(iv) Nothing in this section may be construed to limit the authority of electric, gas or water utilities to gain access to a residence for the purpose of checking or reading a meter.

(6) *Limitation of liability.* If a water company has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This section does not apply when the water utility was unable to gain access and has complied with paragraph (4).

(7) *Budget billing.* A gas, electric and steam heating utility shall provide its residential customers, on a year-round rolling enrollment basis, with an optional billing procedure which averages estimated utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills. The utility shall review accounts at least three times during the optional billing period. Any resulting reconciliation amount exceeding \$25 shall be amortized over a 3—12 month period. Payment agreements for heating customers are to be based upon equal monthly billing.

(8) *Notice.* The utility shall inform existing customers of their rights under this section and under 66 Pa.C.S. § 1509 (relating to billing procedures).

§ 56.263. Billings for merchandise, appliances and nonrecurring and recurring services.

Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges, and other nonrecurring charges, except as provided in this chapter—must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs.

§ 56.264. Previously unbilled utility service.

When a utility renders a make-up bill for previously unbilled utility service which accrued within the past 4 years resulting from utility billing error, meter failure, leakage that could not reasonably have been detected or loss of service, or four or more consecutive estimated bills and the make-up bill exceeds the otherwise normal estimated bill for the billing period during which the make up bill is issued by at least 50% or at least \$50, whichever is greater:

(1) The utility shall review the bill with the customer and make a reasonable attempt to enter into a payment agreement.

(2) The period of the payment agreement may, at the option of the customer, extend at least as long as:

- (i) The period during which the excess amount accrued.
- (ii) Necessary so that the quantity of service billed in any one billing period is not greater than the normal estimated quantity for that period plus 50%.

§ 56.265. Billing information.

A bill rendered by a utility for metered residential utility service must state clearly the following information:

(1) The beginning and ending dates of the billing period.

(2) If applicable, the beginning and ending meter readings for the billing period. If a bill is estimated, it must contain a clear and conspicuous marking of the word "Estimated."

(3) The due date on or before which payment shall be made or the account will be delinquent.

(4) The amount due for service rendered during the current billing period, specifying the charge for basic service, the energy or fuel adjustment charge, State tax adjustment surcharge if other than zero, State Sales Tax if applicable and other similar charges. The bills should also indicate that a State Gross Receipts Tax is being charged and a reasonable estimate of the charge. A Class A utility shall include a statement of the dollar amount of total State taxes included in the current billing period charge. For the purpose of this paragraph, a Class A utility shall also include a Class A telephone utility as defined under § 63.31 (relating to classification of public utilities).

- (5) Amounts due for reconnection charges.
- (6) Amounts due for security deposits.
- (7) The total amount of payments and other credits made to the account during the current billing period.
- (8) The amount of late payment charges, designated as such, which have accrued to the account of the customer

for failure to pay bills by the due date of the bill and which are authorized under § 56.272 (relating to accrual of late payment charges).

(9) The total amount due.

(10) A clear and conspicuous marking of estimates.

(11) A statement directing the customer to "register any question or complaint about the bill prior to the due date," with the address and telephone number where the customer may initiate the inquiry or complaint with the utility.

(12) A statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation of the various charges, if applicable, is available for inspection in the local business office of the utility.

(13) A designation of the applicable rate schedule as denoted in the officially filed tariff of the utility.

(14) Utilities shall incorporate the requirements of §§ 54.4 and 62.74 (relating to bill format for residential and small business customers).

(15) The Plain Language Policy Guidelines in § 69.251 (relating to plain language—statement of policy) shall be incorporated to the extent practical.

§ 56.266. Transfer of accounts.

(a) A customer who is about to vacate premises supplied with utility service or who wishes to have service discontinued shall give at least 7 days notice to the utility and a noncustomer occupant, specifying the date on which it is desired that service be discontinued. In the absence of a notice, the customer shall be responsible for services rendered. If the utility is not able to access the meter for discontinuance, service shall be discontinued with an estimated meter reading upon which the final bill will be based. The resulting final bill is subject to adjustment once the utility has obtained an actual meter reading and can determine the actual consumption used by the customer.

(b) In the event of discontinuance or termination of service at a residence or dwelling in accordance with this chapter, a utility may transfer an unpaid balance to a new residential service account of the same customer.

(c) If a termination notice has been issued in accordance with § 56.331 (relating to general notice provisions and contents of termination notice) and subsequent to the mailing or delivery of a notice, a customer requests a transfer of service to a new location, the termination process as set forth in §§ 56.331—56.339 may continue at the new location.

(1) When notifications set forth under § 56.331 and § 56.335 (relating to deferred termination when no prior contact) have been rendered and service has not been terminated due to a denial of access to the premises, the utility may deny service at a new location when a service transfer is requested.

(2) Nothing in this section shall be construed to limit the right of a customer to dispute a bill within the meaning of §§ 56.372—56.374 (relating to dispute procedures; time for filing an informal complaint; and effect of failure to timely file an informal complaint).

(d) In the event of a termination of service to a residential customer, a utility may transfer to the account of a third-party guarantor any portion of the unpaid balance which is equivalent to the cash deposit requirement of the customer.

§ 56.267. Advance payments.

Payments may be required in advance of furnishing any of the following services:

- (1) Seasonal service.
- (2) The construction of facilities and furnishing of special equipment.

(3) Gas and electric rendered through prepayment meters provided:

(i) The customer is nonlow income; for purposes of this section, nonlow income is defined as an individual who has an annual household gross income greater than 150% of the Federal poverty income guidelines, and has a delinquency for which the individual is requesting a payment agreement but offering terms that the utility, after consideration of the factors in § 56.337(b) (relating to procedures upon customer or occupant contact prior to termination), finds unacceptable.

(ii) The service is being rendered to an individually-metered residential dwelling, and the customer and occupants are the only individuals affected by the installation of a prepayment meter.

(iii) The customer and utility enter into an informal dispute settlement agreement or payment agreement which includes, but is not limited to, the following terms:

(A) The customer voluntarily agrees to the installation of a prepayment meter.

(B) The customer agrees to purchase prepayment cards to maintain service until the total balance is retired and the utility agrees to make new cards available to the customer within 5 days of receipt of prepayment.

(C) The utility agrees to furnish the customer an emergency backup card for additional usage of at least 5 days.

(D) The customer agrees that failure to renew the card by making prepayment for additional service constitutes a request for discontinuance under § 56.312(1) (relating to discontinuation of service), except during a medical emergency, and that discontinuance will occur when the additional usage on the emergency backup card runs out.

(iv) The utility develops a written plan for a prepayment meter program, consistent with the criteria established in this section, and submits the plan to the Commission at least 30 days in advance of the effective date of the program.

(v) During the first 2 years of use of prepayment meters, the utility thoroughly and objectively evaluates the use of prepayment meters in accordance with the following:

(A) *Content.* The evaluation should include both process and impact components. Process evaluation should focus on whether the use of prepayment meters conforms to the program design and should assess the degree to which the program operates efficiently. The impact evaluation should focus on the degree to which the program achieves the continuation of utility service to participants at reasonable cost levels. The evaluation should include an analysis of the costs and benefits of traditional collections or alternative collections versus the costs and benefits of handling nonlow income positive ability to pay customers through prepayment metering. This analysis should include comparisons of customer payment behavior, energy consumption, administrative costs and actual collection costs.

(B) *Time frame.* The process evaluation should be undertaken during the middle of the first year; the impact evaluation at least by the end of the second year.

(4) Temporary service for short-term use, including installation and removal, with credit for reasonable salvage.

PAYMENTS**§ 56.271. Payment.**

The due date for payment of a bill may be no less than 20 days from the date of transmittal; that is, the date of mailing or delivery of the bill by the utility to the customer.

(1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

(2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies:

(i) Payment shall be deemed to have been made on the date of the postmark.

(ii) The utility may not impose a late payment charge unless payment is received more than 5 days after the due date.

(3) *Branch offices or authorized payment agents.* The effective date of payment to a branch office or authorized payment agent, unless payment is made by mail under paragraph (2), is the date of actual receipt of payment at that location.

(4) *Electronic transmission.* The effective date of a payment electronically transmitted to a utility is the date of actual receipt of the electronic notification of payment.

(5) *Fees.* Fees or charges assessed and collected by the public utility for utilizing a payment option shall be included in the utility's tariff on file at the Commission.

(6) *Multiple notifications.* When a utility advises a customer of a balance owed by multiple notices or contacts, which contain different due dates, the date on or before which payment is due shall be the last date contained in any of the notices.

§ 56.272. Accrual of late payment charges.

(a) Every utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue utility bill, as defined in § 56.271 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive late payment charges on any customer accounts.

(e) Additional late payment charges may not be assessed on account balances once the account is no longer actively billed by the utility.

§ 56.273. Application of partial payments between utility and other service.

Payments received by a utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential utility service.

§ 56.274. Application of partial payments among several bills for utility service.

In the absence of written instructions, a disputed bill or a informal dispute settlement agreement or payment agreement, payments received by a utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

§ 56.275. Electronic bill payment.

A utility may offer electronic payment options. Electronic payment programs must include the following requirements:

- (1) Electronic bill payment shall be voluntary and may not be required in conjunction with electronic billing.
- (2) For electronic bill payment through a charge to a customer's credit card or automatic withdrawal from a customer's checking account, the program must set forth the date (or number of days after issuance of the bill) when the automatic payment shall be made.
- (3) The terms of the payment procedures shall be fully disclosed to the customer in writing before the customer enters the program. Program changes shall be conveyed to the customer in writing and the customer shall be given an opportunity to withdraw from the program if the customer does not wish to continue under the new terms.
- (4) The utility shall provide a receipt, either electronically or on paper, to the customer upon payment through the electronic method.
- (5) The utility shall maintain sufficient system security to protect all customer information and all access to customer accounts.

Subchapter N. CREDIT AND DEPOSITS STANDARDS POLICY

PROCEDURES FOR NEW APPLICANTS

Sec.	
56.281.	Policy statement.
56.282.	Credit standards.
56.283.	Cash deposits; third-party guarantors.
56.284.	Deposits for temporary service.
56.285.	Payment of outstanding balance.
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PROCEDURES FOR EXISTING CUSTOMERS

56.291.	General rule.
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CASH DEPOSITS

56.301.	Amount of cash deposit.
56.302.	Deposit hold period and refund.
56.303.	Application of deposit to bills.
56.304.	Periodic review.
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56.306.	Interest rate.
56.307.	Application of interest.

PROCEDURES FOR NEW APPLICANTS

§ 56.281. Policy statement.

An essential ingredient of the credit and deposit policies of each utility shall be the equitable and nondiscriminatory application of those precepts to potential and actual customers throughout the service area without regard to the economic character of the area or any part thereof. Deposit policies must be based upon the credit risk of the individual applicant or customer rather than the credit history of the affected premises or the collective credit reputation or experience in the area in which the applicant or customer lives and without regard to race, sex, age over 18, National origin or marital status.

§ 56.282. Credit standards.

(a) A utility shall provide residential service without requiring a deposit when the applicant satisfies one of the following requirements:

(1) *Prior utility payment history.* The applicant has been a recipient of utility service of a similar type within a period of 24 consecutive months preceding the date of the application and was primarily responsible for payment for the service, so long as:

(i) The average periodic bill for the service was equal to at least 50% of that estimated for new service.

(ii) The service of the applicant was not terminated for nonpayment during the last 12 consecutive months of that prior service.

(iii) The applicant does not have an unpaid balance from that prior service.

(2) *Ownership of real property.* The applicant owns or has entered into an agreement to purchase real property located in the area served by the utility or is renting the applicant's place of residence under a lease of 1 year or longer in duration, unless the applicant has an otherwise unsatisfactory credit history as a utility customer within 2 years prior to the application for service.

(3) *Credit information.* The applicant provides information demonstrating that he is not an unsatisfactory credit risk.

(i) The absence of prior credit history does not, of itself, indicate an unsatisfactory risk.

(ii) The utility may request and consider information including:

(A) The name of the employer of the applicant.

(B) The place and length of employment.

(C) Residences during the previous 5 years.

(D) Letters of reference.

(E) Credit cards.

(F) Significant source of income other than from employment.

§ 56.283. Cash deposits; third-party guarantors.

If an applicant does not establish credit under § 56.282 (relating to credit standards), the utility shall provide residential service when one of the following requirements is satisfied:

(1) *Cash deposit.* The applicant posts a cash deposit.

(2) *Third-party guarantor.* The applicant furnishes a written guarantee from a responsible customer which, for the purposes of this section, means a customer who has

or can establish credit, under § 56.282 (relating to credit standards), to secure payment in an amount equal to that required for cash deposits.

(i) A guarantee must be in writing and state the terms of the guarantee.

(ii) The guarantor shall be discharged when the applicant has met the terms and conditions which apply under §§ 56.302 and 56.303 (relating to deposit hold period and refund; and application of deposit to bills).

§ 56.284. Deposits for temporary service.

Deposits for applicants for temporary service may be required in accordance with § 53.82(1) (relating to deposits).

§ 56.285. Payment of outstanding balance.

A utility may require, as a condition of the furnishing of residential service to an applicant, the payment of any outstanding residential account with the utility which accrued within the past 4 years for which the applicant is legally responsible and for which the applicant was billed properly. However, an outstanding residential account with the utility may be amortized over a reasonable period of time. Factors to be taken into account include the size of the unpaid balance, the ability of the applicant to pay, the payment history of the applicant and the length of time over which the bill accumulated. A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished. Examples of situations include a separated spouse or a cotenant. This section does not affect the creditor rights and remedies of a utility otherwise permitted by law.

§ 56.286. Written procedures.

A utility shall establish written procedures for determining the credit status of an applicant. A utility employee processing applications or determining the credit status of applicants shall be supplied with or have ready access to a copy of the written procedures of the utility. A copy of these procedures shall be maintained on file in each of the business offices of the utility and made available, upon request, for inspection by members of the public and the Commission and be included on the utility's web site.

(1) *Reasons for denial of credit.* If credit is denied, the utility shall inform the customer or applicant in writing of the reasons for the denial. If the utility is requiring payment of an unpaid balance in accordance with § 56.285 (relating to payment of outstanding balance), the utility shall specify in writing the amount of the unpaid balance, the dates during which the balance accrued, and the location and customer name at which the balance accrued. The statement must inform the applicant of the right to furnish a third party guarantor in accordance with § 56.283 (relating to cash deposits; third-party guarantors) and the right to contact the Commission. The statement must include information informing victims of domestic violence with a Protection from Abuse Order that more lenient credit and liability standards may be available.

(2) *Informing applicants of procedures.* Utility personnel shall fully explain the credit and deposit procedures of the utility to each customer or applicant for service.

(3) *Third party requests for service.* Requests from third parties to establish public utility service, on behalf of an applicant, will not be honored until the public utility has verified the legitimacy of the request. Verification may be accomplished by any means appropriate to confirm that the applicant consents to service being established or that the third-party is authorized to act on the applicant's behalf.

§ 56.287. General rule.

Once an applicant's application for service is accepted by the utility, the utility shall provide service within 3 days, provided that the applicant has met all requirements. A longer time frame is permissible with the consent of the applicant. If the investigation and determination of credit status is expected to take or in fact takes longer than 3 business days commencing the date after the application is made, the utility shall provide service pending completion of the investigation.

§ 56.288. Payment period for deposits by applicants.

An applicant may elect to pay any required deposits in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination.

PROCEDURES FOR EXISTING CUSTOMERS

§ 56.291. General rule.

A utility may require an existing customer to post a deposit to reestablish credit under the following circumstances:

(1) *Delinquent accounts.* Whenever a customer has been delinquent in the payment of any two consecutive bills or three or more bills within the preceding 12 months.

(i) Prior to requesting a deposit under this section, the utility shall give the customer written notification of its intent to request a cash deposit if current and future bills continue to be paid after the due date.

(A) Notification must clearly indicate that a deposit is not required at this time but that if bills continue to be paid after the due date a deposit will be required.

(B) Notification may be mailed or delivered to the customer together with a bill for utility service.

(C) Notification must set forth the address and phone number of the utility office where complaints or questions may be registered.

(D) A subsequent request for deposit must clearly indicate that a customer should register any question or complaint about that matter prior to the date the deposit is due to avoid having service terminated pending resolution of a dispute. The request must also include the address and telephone number of the utility office where questions or complaints may be registered.

(ii) Except in the case of adjustments to equal monthly billing plans, a utility may issue a notification or subsequent request for a deposit based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility services), under the following conditions:

(A) The utility has complied with § 56.264. Compliance with a payment agreement or informal dispute settlement agreement by the customer discharges the delinquency, and a notification or request for deposit may not thereafter be issued based on the make-up bill.

(B) If a make-up bill exceeds the otherwise normal estimated bill by at least 50% and if the customer makes payment in full after the bill is delinquent but before a notification of intent to request a deposit is given to the customer, a notification or request for deposit may not thereafter be issued based on the make-up bill.

(2) *Condition to the reconnection of service.* A utility may require a deposit as a condition to reconnection of service following a termination.

(3) *Failure to comply with informal dispute settlement agreement or payment agreement.* A utility may require a deposit, whether or not service has been terminated, when a customer fails to comply with a material term or condition of a informal dispute settlement agreement or payment agreement.

§ 56.292. Payment period for deposits.

The due date for payment of a deposit other than a deposit required as a condition for the reconnection of service under § 56.291(2) (relating to general rule) may not be less than 21 days from the date of mailing or service on the customer of notification of the amount due. A customer may elect to pay a required deposit in three installments: 50% payable upon the determination by the utility that the deposit is required, 25% payable 30 days after the determination and 25% payable 60 days after the determination. A public utility shall advise an applicant of the option to pay the requested security deposit in installments at the time the deposit is requested.

CASH DEPOSITS

§ 56.301. Amount of cash deposit.

(a) *Applicants.* A utility may not require a cash deposit from an applicant in excess of the average estimated bill of the applicant for a period equal to one billing period plus 1 additional month's service, not to exceed 4 months in the case of water and wastewater utilities and 2 months in the case of gas, electric and steam heat utilities, with a minimum deposit of \$5.

(b) *Existing customer.* For an existing customer, the cash deposit may not exceed the estimated charges for service based on the prior consumption of that customer for the class of service involved for a period equal to one average billing period plus 1 average month, not to exceed 4 months in the case of wastewater utilities and 2 months in the case of gas and steam heat utilities, with a minimum of \$5.

(c) *Adjustment of deposits.* The amount of a cash deposit may be adjusted at the request of the customer or the utility whenever the character or degree of the usage of the customer has materially changed or when it is clearly established that the character or degree of service will materially change in the immediate future.

§ 56.302. Deposit hold period and refund.

A cash deposit shall be refunded under the following conditions:

(1) *Termination or discontinuance of service.* Upon termination or discontinuance of service, the utility shall promptly apply the deposit of the customer, including accrued interest, to any outstanding balance for utility service and refund or apply the remainder to the customer's account. A transfer of service from one location to another within a service area may not be deemed discontinuance within the meaning of this chapter.

(2) *Credit established.* When a customer establishes credit under § 56.282 (relating to credit standards), the

utility shall refund or apply to the customer's account, any cash deposit plus accrued interest.

(3) *Third-party guarantor.* When a customer substitutes a third-party guarantor in accordance with § 56.283(2) (relating to cash deposits; third-party guarantors), the utility shall refund any cash deposit, plus accrued interest, up to the limits of the guarantee.

(4) *Prompt payment of bills.* After a customer has paid bills for service for 12-consecutive months without having service terminated and without having paid a bill subsequent to the due date or other permissible period as stated in this chapter on more than two occasions or for a maximum period of 24 months, the utility shall refund any cash deposit, plus accrued interest.

(5) *Optional refund.* At the option of the utility, a cash deposit, including accrued interest, may be refunded in whole or in part, at any time earlier than the time stated in this section.

§ 56.303. Application of deposit to bills.

The customer may elect to have a deposit applied to reduce bills for utility service or to receive a cash refund.

§ 56.304. Periodic review.

If a customer is not entitled to refund under § 56.302 (relating to deposit hold period and refund), the utility shall review the account of the customer each succeeding billing period and make appropriate disposition of the deposit in accordance with §§ 56.302 and 56.303 (relating to application of deposit to bills).

§ 56.305. Refund statement.

If a cash deposit is applied or refunded, the utility shall mail or deliver to the customer a written statement showing the amount of the original deposit plus accrued interest, the application of the deposit to a bill which had previously accrued, the amount of unpaid bills liquidated by the deposit and the remaining balance.

§ 56.306. Interest rate.

The utility shall accrue interest on the deposit until it is returned or credited the legal rate of interest under section 202 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 202), known as the Loan Interest and Protection Law, and return the interest with the deposit.

§ 56.307. Application of interest.

Interest shall be paid annually to the customer, or, at the option of either the utility or the customer, shall be applied to service bills.

Subchapter O. INTERRUPTION AND DISCONTINUANCE OF SERVICE

Sec.
56.311. Interruption of service.
56.312. Discontinuance of service.

§ 56.311. Interruption of service.

A utility may temporarily interrupt service where necessary to effect repairs or maintenance; to eliminate an imminent threat to life, health, safety or substantial property damage; or for reasons of local, State or National emergency.

(1) *Interruption with prior notice.* When the utility knows in advance of the circumstances requiring the service interruption, prior notice of the cause and expected duration of the interruption shall be given to customers and occupants who may be affected.

(2) *Interruption without prior notice.* When service is interrupted due to unforeseen circumstances, notice of the

cause and expected duration of the interruption shall be given as soon as possible to customers and occupants who may be affected.

(3) *Notification procedures.* When customers and occupants are to be notified under this section, the utility shall take reasonable steps, such as personal contact, phone contact and use of the mass media, to notify affected customers and occupants of the cause and expected duration of the interruption.

(4) *Permissible duration.* Service may be interrupted for only the periods of time necessary to protect the health and safety of the public, to protect property or to remedy the situation which necessitated the interruption; and service shall be resumed as soon as possible thereafter.

§ 56.312. Discontinuance of service.

A utility may discontinue service without prior written notice under the following circumstances:

(1) *Customer's residence.* When a customer requests a discontinuance at his residence, when the customer and members of the household are the only occupants, if the account is listed in multiple customer names and the utility receives a request for discontinuance from just one or more of the customers listed, but not all the customers listed, the customer requesting discontinuance shall state that all the occupants meeting the definition of "customer" consent to the cessation of service. If consent is not provided, the utility, at least 3 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(2) *Other premises or dwellings.* Other premises or dwellings shall be as follows:

(i) When a customer requests discontinuance at a dwelling other than his residence or at a single meter multifamily residence, whether or not his residence but, in either case, only under either of the following conditions:

(A) The customer states in writing that the premises are unoccupied. The statement must be on a form conspicuously bearing notice that information provided by the customer will be relied upon by the Commission in administering a system of uniform service standards for public utilities and that any false statements are punishable criminally. When the customer fails to provide a notice, or when the customer has falsely stated the premises are unoccupied, the customer shall be responsible for payment of utility bills until the utility discontinues service.

(B) The occupants affected by the proposed cessation inform the utility orally or in writing of their consent to the discontinuation.

(ii) When the conditions in subparagraph (i) have not been met, the utility, at least 10 days prior to the proposed discontinuance, shall conspicuously post notice of termination at the affected premises.

(A) When the premises is a multifamily residence, notice shall also be posted in common areas.

(B) Notices must, at a minimum, state: the date on or after which discontinuance will occur; the name and address of the utility; and the requirements necessary for the occupant to obtain utility service in the occupant's name. Further termination provisions of this chapter except § 56.337 (relating to procedures upon customer or occupant contact prior to termination) do not apply in these circumstances.

(C) This section does not apply when the customer is a landlord ratepayer. See 66 Pa.C.S. §§ 1521—1533 (relating to discontinuance of service to leased premises).

Subchapter P. TERMINATION OF SERVICE

GROUND FOR TERMINATION

- Sec.
- 56.321. Authorized termination of service.
- 56.322. Days termination of service is prohibited.
- 56.323. Unauthorized termination of service.

NOTICE PROCEDURES PRIOR TO TERMINATION

- 56.331. General notice provisions and contents of termination notice.
- 56.332. Notice when dispute pending.
- 56.333. Personal contact.
- 56.334. Procedures immediately prior to termination.
- 56.335. Deferred termination when no prior contact.
- 56.336. Post termination notice.
- 56.337. Procedures upon customer or occupant contact prior to termination.
- 56.338. Exception for terminations based on occurrences harmful to person or property.
- 56.339. Use of termination notice solely as collection device prohibited.
- 56.340. Winter termination procedures.

EMERGENCY PROVISIONS

- 56.351. General provision.
- 56.352. Postponement of termination pending receipt of certificate.
- 56.353. Medical certifications.
- 56.354. Length of postponement; renewals.
- 56.355. Restoration of service.
- 56.356. Duty of customer to pay bills.
- 56.357. Termination upon expiration of medical certification.
- 56.358. Right of utility to petition the Commission.

THIRD-PARTY NOTIFICATION

- 56.361. Third-party notification.

GROUND FOR TERMINATION

§ 56.321. Authorized termination of service.

Utility service to a dwelling may be terminated for one or more of the following reasons:

- (1) Nonpayment of an undisputed delinquent account.
- (2) Failure to post a deposit, provide a guarantee or establish credit.
- (3) Unreasonable refusal to permit access to meters, service connections and other property of the utility for the purpose of maintenance, repair or meter reading.
- (4) Unauthorized use of the utility service delivered on or about the affected dwelling.
- (5) Failure to comply with the material terms of a informal dispute settlement agreement or payment agreement.
- (6) Fraud or material misrepresentation of identity for the purpose of obtaining utility service.
- (7) Tampering with meters or other utility equipment.
- (8) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the energy delivery system of the utility.

§ 56.322. Days termination of service is prohibited.

Except in emergencies—which include unauthorized use of utility service—service may not be terminated, for nonpayment of charges or for any other reason, during the following periods:

- (1) On Friday, Saturday or Sunday.
- (2) On a bank holiday or on the day preceding a bank holiday.
- (3) On a holiday observed by the utility or on the day preceding the holiday. A holiday observed by a utility means any day on which the business office of the utility

is closed to observe a legal holiday, to attend utility meetings or functions or for any other reason.

(4) On a holiday observed by the Commission or on the day preceding the holiday.

§ 56.323. Unauthorized termination of service.

Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:

(1) Nonpayment for concurrent service of the same class received at a separate dwelling. This does not include concurrent service periods of 90 days or less accrued during the transfer of service from one location to another.

(2) Nonpayment for a different class of service received at the same or a different location. Service may be terminated, however, when, under the tariff of the utility, a change in classification is necessitated upon the completion of construction work previously billed at a different rate applicable during construction.

(3) Nonpayment, in whole or in part of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to, merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring charges that are not essential to delivery or metering of service, except as provided in this chapter.

(4) Nonpayment of bills for delinquent accounts of the prior customer at the same address.

(5) Nonpayment of a deposit which is based, in whole or in part, on a delinquent account arising out of a make-up bill as defined in § 56.264 (relating to previously unbilled utility service) and the customer has complied with § 56.291(1)(ii)(A) or (B) (relating to general rule).

(6) Noncompliance with a payment agreement prior to the due date of the bill which forms the basis of the agreement.

(7) Nonpayment of charges for utility service furnished more than 4 years prior to the date the bill is rendered.

(8) Nonpayment for residential service already furnished in the names of persons other than the customer unless a court, district justice or administrative agency has determined that the customer is legally obligated to pay for the service previously furnished. This paragraph does not affect the creditor rights and remedies of a utility otherwise permitted by law.

(9) Nonpayment of charges calculated on the basis of estimated billings, unless the estimated bill was required because utility personnel were unable to gain access to the affected premises to obtain an actual meter reading on two occasions and have made a reasonable effort to schedule a meter reading at a time convenient to the customer or occupant, or a subsequent actual reading has been obtained as a verification of the estimate prior to the initiation of termination procedures.

(10) Nonpayment of delinquent accounts which accrued over two billing periods or more, which remain unpaid in whole or in part for 6 months or less, and which amount to a total delinquency of less than \$25.

(11) Nonpayment of delinquent accounts when the amount of the deposit presently held by the utility is within \$25 of account balance.

NOTICE PROCEDURES PRIOR TO TERMINATION

§ 56.331. General notice provisions and contents of termination notice.

(a) Prior to a termination of service, the utility shall mail or deliver written notice to the customer at least 10 days prior to the date of the proposed termination. In the event of user without contract as defined in § 56.252 (relating to definitions), the utility shall comply with §§ 56.333—56.337, but need not otherwise provide notice 10 days prior to termination.

(b) A notice of termination must include, in conspicuous print, clearly and fully the following information when applicable:

(1) The reason for the proposed termination.

(2) An itemized statement of accounts currently due, including any required deposit.

(3) A statement that a specific reconnection fee will be required to have service restored after it has been terminated if a reconnection fee is a part of the tariff of the utility on file with the Commission.

(4) The date on or after which service will be terminated unless:

(i) Payment in full is received.

(ii) The grounds for termination are otherwise eliminated.

(iii) A payment agreement or informal dispute settlement agreement is entered.

(iv) Enrollment is made in a universal service program.

(v) A dispute is filed with the utility or the Commission.

(5) A statement that the customer shall immediately contact the utility to attempt to resolve the matter, including the address and telephone number where questions may be filed, payment agreements entered into with the utility, and questions and applications can be found for the utility's universal service programs, if these programs are offered by the utility.

(6) The following statement: "If, AFTER discussing your problem with the utility you remain dissatisfied, you may file an informal complaint with the Public Utility Commission. TO AVOID TERMINATION OF SERVICE PENDING RESOLUTION OF A DISPUTE, THIS INFORMAL COMPLAINT MUST BE FILED BEFORE THE PROPOSED DATE FOR TERMINATION OF YOUR SERVICE. You may file an informal complaint by telephoning the Public Utility Commission at (800) 692-7380 or by writing to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, Pennsylvania 17105-3265."

(7) A serious illness notice in compliance with the form as set forth in Appendix A (relating to medical emergency notice) except that, for the purpose of § 56.336 (relating to posttermination notice), the notice must substantially comply with the form as set forth in Appendix B (relating to medical emergency notice).

(8) When the utility has universal service programs, information indicating that special assistance programs are available and how to contact the utility for information and enrollment, and that enrollment in the program is a method of avoiding the termination of service.

(9) Information indicating that special protections are available for victims under a Protection From Abuse Order and how to contact the utility to obtain more information on these protections.

(10) Information indicating that special protections are available for tenants if the landlord is responsible for paying the utility bill and how to contact the utility to obtain more information on these protections.

(11) Information indicating that if service is shut off, the customer may be required to pay more than the amount listed on the notice to have service turned back on.

(12) Information indicating that if service is shut off, the customer shall contact the utility after payment has been made to arrange reconnection of the service.

(13) Information in Spanish, directing Spanish-speaking customers to the numbers to call for information and translation assistance. Similar information shall be included in other languages when census data indicates a significant population using that language resides in the utility's service territory.

(14) Contact information for customers with disabilities that need assistance.

(15) Notices should reflect to the extent practical the plain language guidelines found in § 69.251 (relating to plain language—statement of policy).

§ 56.332. Notice when dispute pending.

A utility may not mail or deliver a notice of termination if a notice of dispute has been filed and is unresolved and if the subject matter of the dispute forms the grounds for the proposed termination. A notice mailed or delivered in contravention of this section is void.

§ 56.333. Personal contact.

(a) Except when authorized under §§ 56.311, 56.312 or 56.338 (relating to interruption of service; discontinuation of service; and exception for terminations based on occurrences harmful to person or property), a utility may not interrupt, discontinue or terminate service without personally contacting the customer or a responsible adult occupant at least 3 days prior to the interruption, discontinuance or termination, in addition to providing other notice as specified by the properly filed tariff of the utility or as required by this chapter or other Commission directive.

(b) For purposes of this section, "personal contact" means:

(1) Contacting the customer or responsible adult occupant in person or by telephone. Phone contact shall be deemed complete upon attempted calls on 2 separate days to the residence between 7 a.m. and 9 p.m. if the calls were made at various times each day, with the various times of the day being daytime before 5 p.m. and evening after 5 p.m. and at least 2 hours apart.

(2) If contact is attempted in person by a home visit, only one attempt is required, but the utility shall conspicuously post a written termination notice at the residence if it is unsuccessful in attempting to personally contact a responsible adult occupant.

(3) Contacting another person whom the customer has designated to receive a copy of a notice of termination, other than a member or employee of the Commission.

(4) If the customer has not made the designation noted in paragraph (3), contacting a community interest group or other entity, including a local police department, which previously shall have agreed to receive a copy of the notice of termination and to attempt to contact the customer.

(5) If the utility is not successful in establishing personal contact as noted in paragraphs (1) and (2) and the customer has not made the designation noted in paragraph (3) and if there is no community interest group or other entity which previously has agreed to receive a copy of the notice of termination, contacting the Commission in writing.

(c) The content of the 3-day personal contact notice must comply with § 56.331 (relating to general notice provisions and contents of termination notice).

§ 56.334. Procedures immediately prior to termination.

Immediately preceding the termination of service, a utility employee, who may be the utility employee designated to perform the termination, shall attempt to make personal contact with a responsible adult occupant at the residence of the customer.

(1) *Termination prohibited in certain cases.* If evidence is presented which indicates that payment has been made, a serious illness or medical condition exists, or a dispute or complaint is properly pending or if the employee is authorized to receive payment and payment in full is tendered in any reasonable manner, then termination may not occur. However, if the disputing party does not pay all undisputed portions of the bill, termination may occur.

(2) *Methods of payment.* Payment in any reasonable manner includes payment by personal check unless the customer within the past year has tendered a check which has been returned for insufficient funds or for which payment has been stopped.

§ 56.335. Deferred termination when no prior contact.

If a prior contact has not been made with a responsible adult either at the residence of the customer, as required by § 56.334 (relating to procedures immediately prior to termination) or at the affected dwelling, the employee may not terminate service but shall conspicuously post a termination notice at the residence of the customer and the affected dwelling, advising that service will be disconnected not less than 48 hours from the time and date of posting.

§ 56.336. Posttermination notice.

When service is actually terminated, notice that substantially reflects the requirements of § 56.331 (relating to general notice provisions and contents of termination notice) as well as a medical emergency notice substantially in the form which appears in Appendix B (relating to medical emergency notice) shall be conspicuously posted or delivered to a responsible person at the residence of the customer and at the affected premises.

§ 56.337. Procedures upon customer or occupant contact prior to termination.

(a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the utility concerning a proposed termination, an authorized utility employee shall fully explain the following:

(1) The reasons for the proposed termination.

(2) The available methods for avoiding a termination, including the following:

(i) Tendering payment in full or otherwise eliminating the grounds for termination.

(ii) Entering a informal dispute settlement agreement or payment agreement.

(iii) Paying what is past-due on the most recent previous company negotiated or Commission payment agreement.

(iv) Enrolling in the utility's customer assistance program or universal service program, if the utility has such programs.

(3) The medical emergency procedures.

(b) The utility, through its employees, shall exercise good faith and fair judgment in attempting to enter a reasonable informal dispute settlement agreement or payment agreement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable informal dispute settlement agreement or payment agreement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. If an informal dispute settlement agreement or payment agreement is not established, the company shall further explain the following:

(1) The right of the customer to file a dispute with the utility and, thereafter, an informal complaint with the Commission.

(2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.

(3) The duty of the customer to pay any portion of a bill which the customer does not honestly dispute.

§ 56.338. Exception for terminations based on occurrences harmful to person or property.

Notwithstanding any other provision of this chapter, when a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility honestly and reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide attempt to deliver a notice of termination to a responsible person at the affected premises and, in the case of a single meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas when permissible.

§ 56.339. Use of termination notice solely as collection device prohibited.

A utility may not threaten to terminate service when it has no present intent to terminate service or when actual termination is prohibited under this chapter. Notice of the intent to terminate shall be used only as a warning that service will in fact be terminated in accordance with the procedures under this chapter, unless the customer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.

§ 56.340. Winter termination procedures.

Notwithstanding another provision of this chapter, during the period of December 1 through March 31, utilities subject to this chapter shall conform to the provisions of this section. The covered utilities may not be permitted to terminate heat related service between December 1 and March 31 except as provided in this section or in § 56.338 (relating to exception for terminations based on occurrences harmful to person or property).

(1) *Termination notices.* The utility shall comply with §§ 56.331—56.335 including personal contact, as defined in § 56.333 (relating to personal contact), at the premises if occupied.

(2) *Request for permission to terminate service.* If at the conclusion of the notification process defined in §§ 56.331—56.335, a reasonable agreement cannot be reached between the utility and the customer, the utility shall register with the Commission, in writing, a request for permission to terminate service, accompanied by a utility report as defined in § 56.382 (relating to contents of the utility company report).

(3) *Informal complaints.* If the customer has filed an informal complaint or if the Commission has acted upon the utility's written request, the matter shall proceed under §§ 56.391—56.394 (relating to informal complaint procedures). Nothing in this section may be construed to limit the right of a utility or customer to appeal a decision by the Bureau of Consumer Services (BCS) under 66 Pa.C.S. § 701 (relating to complaints) and §§ 56.401—56.403 and 56.441.

(4) *Survey of premises previously terminated.* For premises where heat related service has been terminated prior to December 1 of each year, covered utilities shall, within 90 days prior to December 1, survey and attempt to make posttermination personal contact with the occupant or a responsible adult at the premises and in good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(5) *Reporting of survey results.* Utilities subject to this chapter shall file a brief report outlining their pre-December 1 survey and personal contact results with the BCS on or before December 15 of each year. The filing must categorize the accounts by the first three digits of the customer's postal code. Each utility shall update the survey and report the results to the BCS on January 15 and February 15 of each year to reflect any change in the status of the accounts subsequent to the December 15 filing. The utility shall attempt to contact by telephone, if available, a responsible occupant at each residence in a good faith attempt to reach an agreement regarding payment of any arrearages and restoration of service.

(6) *Landlord ratepayer accounts.* During the period of December 1 through March 31, a utility subject to this chapter may not terminate service to a premise when the account is in the name of a landlord ratepayer as defined at 66 Pa.C.S. § 1521 (related to definitions) except for the grounds in § 56.338.

(7) *Reporting of deaths at locations where utility service was previously terminated.* Throughout the year, utilities subject to this chapter shall report to the Commission when, in the normal course of business, they become aware of a household fire, incident of hypothermia or carbon monoxide poisoning that resulted in a death and that the utility service was off at the time of the incident. Within 1 working day of becoming aware of an incident, the utility shall submit a telephone or electronic report to the Director of the BCS including, if available, the name, address and account number of the last customer of record, the date of the incident, a brief statement of the circumstances involved, and, if applicable, the initial findings as to the cause of the incident and the source of that information. The BCS or Commission may request additional information on the incident and the customer's account. Information submitted to the Commission in accordance with this paragraph shall be treated in accordance with 66 Pa.C.S. § 1508 (relating to the reports

of accidents) and may not be open for public inspection except by order of the Commission, and may not be admitted into evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in the report.

EMERGENCY PROVISIONS

§ 56.351. General provision.

A utility may not terminate service, or refuse to restore service, to a premises when a licensed physician or nurse practitioner has certified that the customer or an applicant seeking restoration of service under § 56.421 (relating to general rule) or a member of the customer's or applicant's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician or nurse practitioner verifying the condition and shall promptly forward it to the utility. The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician or nurse practitioner and not with the utility. A utility may not impose any qualification standards for medical certificates other than those listed in this section.

§ 56.352. Postponement of termination pending receipt of certificate.

If, prior to termination of service, the utility employee is informed that an occupant is seriously ill or is affected with a medical condition which will be aggravated by a cessation of service and that a medical certification will be procured, termination may not occur for at least 3 days. If no certification is produced within that 3-day period the utility may resume the termination process at the point when it was suspended.

§ 56.353. Medical certifications.

Certifications initially may be written or oral, subject to the right of the utility to verify the certification by calling the physician or nurse practitioner or to require written confirmation within 7 days. Certifications, whether written or oral, must include the following:

- (1) The name and address of the customer or applicant in whose name the account is registered.
- (2) The name and address of the afflicted person and their relationship to the customer or applicant.
- (3) The nature and anticipated length of the affliction.
- (4) The specific reason for which the service is required.
- (5) The name, office address and telephone number of the certifying physician or nurse practitioner.

§ 56.354. Length of postponement; renewals.

Service may not be terminated for the time period specified in a medical certification. The maximum length of the certification shall be 30 days.

(1) *Time period not specified.* If no length of time is specified or if the time period is not readily ascertainable, service may not be terminated for at least 30 days.

(2) *Renewals.* Certifications may be renewed in the same manner and for the same time period as provided in §§ 56.352 and 56.353 (relating to postponement of termination pending receipt of certificate; and medical certifications) and this section if the customer has met the obligation under § 56.356 (relating to duty of customer to pay bills). In instances when a customer has not met the obligation in § 56.356 to equitably make payments on all bills, the number of renewals for the customer's house-

hold is limited to two 30-day certifications that concern medical certificates filed for the same set of arrearages and the same termination action. When the customer eliminates these arrearages, the customer is eligible to file new medical certificates. In these instances, the utility is not required to honor a third medical certificate and is not required to follow § 56.358(3) (relating to right of utility to petition the Commission). The utility shall apply the dispute procedures in §§ 56.381 and 56.382 (relating to utility company dispute procedures).

§ 56.355. Restoration of service.

When service is required to be restored under this section and §§ 56.351, 56.354 and 56.356—56.358, the utility shall make a diligent effort to have service restored on the day of receipt of the medical certification. In any case, service shall be reconnected within 24 hours. Each utility shall have employees available or on call to restore service in emergencies.

§ 56.356. Duty of customer to pay bills.

Whenever service is restored or termination postponed under the medical emergency procedures, the customer shall retain a duty to make payment on all current undisputed bills or equal monthly billing amount as determined when § 56.262(7) (relating to meter reading; estimated billing; customer readings).

§ 56.357. Termination upon expiration of medical certification.

When the initial and renewal certifications have expired, the original ground for termination shall be revived and the utility may terminate service without additional written notice, if notice previously has been mailed or delivered under § 56.331 (relating to general notice provisions and contents of termination notice). The utility shall comply with §§ 56.333—56.336.

§ 56.358. Right of utility to petition the Commission.

(a) A utility may petition the Commission for waiver from the medical certification procedures for the following purposes:

(1) *Contest the validity of a certification.* To request an investigation and hearing by the Commission or its designee when the utility wishes to contest the validity of the certification.

(2) *Terminate service prior to expiration of certification.* To request permission to terminate service for the failure of the customer to make payments on current undisputed bills.

(3) *Contest the renewal of a certification.* To request permission to terminate service, under this section and §§ 56.321—56.323 and 56.331—56.339 when customer has not met the duty under § 56.356 (relating to duty of customer to pay bills), provided that the utility has informed the customer of that duty under § 56.356 (relating to duty of customer to pay bills).

(b) A utility shall continue to provide service while a final Commission adjudication on the petition is pending. A petition under this section shall be accompanied by a utility report described in § 56.382 (relating to contents of the utility company report) and shall be filed with the Secretary of the Commission with a copy served to the customer.

(c) Upon the filing of a petition for waiver of medical certification, Commission staff will review the facts and issue an informal written decision.

(d) A party to the proceeding may, within 20 days of mailing of the informal decision, and not thereafter except for good cause shown, appeal by filing with the Secretary of the Commission a letter stating the basis for appeal. An appeal from the informal decision will be assigned to the Office of Administrative Law Judge for hearing and decision.

THIRD-PARTY NOTIFICATION

§ 56.361. Third-party notification.

Each utility shall permit its customers to designate a consenting individual or agency which is to be sent, by the utility, a duplicate copy of reminder notices, past due notices, delinquent account notices or termination notices of whatever kind issued by that utility. When contact with a third party is made, the utility shall advise the third party of the pending action and the efforts which shall be taken to avoid termination. A utility shall institute and maintain a program:

(1) To allow customers to designate third parties to receive copies of a customer's or group of customers' notices of termination of service.

(2) At least annually, to advise customers of the availability of a third-party notification program and to encourage its use thereof. The utility must emphasize that the third party is not responsible for the payment of the customer's bills.

(3) To solicit community groups to accept third-party notices to assist in preventing unnecessary terminations and protecting the public health and safety.

(4) To make available a standard enrollment form substantially in compliance with the form as set forth in Appendix E (relating to third party notification).

Subchapter Q. DISPUTES; TERMINATION DISPUTES; INFORMAL AND FORMAL COMPLAINTS

GENERAL PROVISIONS

Sec.	
56.371.	Follow-up response to inquiry.
56.372.	Dispute procedures.
56.373.	Time for filing an informal complaint.
56.374.	Effect of failure to timely file an informal complaint.

UTILITY COMPANY DISPUTE PROCEDURES

56.381.	General rule.
56.382.	Contents of the utility company report.

INFORMAL COMPLAINT PROCEDURES

56.391.	Informal complaint filing procedures.
56.392.	Commission informal complaint procedure.
56.393.	Termination pending resolution of the dispute.
56.394.	Conference procedures.

FORMAL COMPLAINTS

56.401.	General rule.
56.402.	Filing.
56.403.	Review from informal complaint decisions of the Bureau of Consumer Services.
56.404.	Ability to pay proceedings.

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

56.411.	Duties of parties; disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.
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GENERAL PROVISIONS

§ 56.371. Follow-up response to inquiry.

When a customer is waiting for a follow-up response to an inquiry under § 56.252 (relating to the definitions), termination or threatening termination of service for the subject matter in question shall be prohibited until the

follow-up response, and when applicable, subsequent dispute resolution is completed by the utility.

§ 56.372. Dispute procedures.

A notice of dispute, including termination disputes, must proceed in the first instance, according to this section:

(1) *Attempted resolution.* If, at any time prior to the actual termination of service, a customer advises the utility that he disputes any matter covered by this chapter, including, but not limited to, credit determinations, deposit requirements, the accuracy of utility metering or billing or the proper party to be charged, the utility shall attempt to resolve the dispute in accordance with § 56.381 (relating to general rule).

(2) *Termination stayed.* Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited until resolution of the dispute or complaint; however, the disputing party shall pay undisputed portions of the bill.

§ 56.373. Time for filing an informal complaint.

To be timely filed, an informal complaint—which may not include disputes under §§ 56.285 and 56.421 (relating to payment of outstanding balance; and general rule)—and informal complaints shall be filed prior to the day on which the utility arrives to terminate service. If the utility arrives to terminate service and posts a deferred termination notice in lieu of termination or otherwise fails to terminate service, the time for filing an informal complaint shall be extended until the end of the business day prior to the utility again arriving to terminate service.

§ 56.374. Effect of failure to timely file an informal complaint.

Failure to timely file an informal complaint, except for good cause, shall constitute a waiver of applicable rights to retain service without complying with the termination notice or conference report of the utility.

UTILITY COMPANY DISPUTE PROCEDURES

§ 56.381. General rule.

Upon initiation of a dispute covered by this section, the utility shall:

(1) Not issue a termination notice based on the disputed subject matter.

(2) Investigate the matter using methods reasonable under the circumstances, which may include telephone or personal conferences, or both, with the customer or occupant.

(3) Make a diligent attempt to negotiate a reasonable payment agreement if the customer or occupant claims a temporary inability to pay an undisputed bill. Factors which shall be considered in the negotiation of a payment agreement include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(4) Provide the customer or occupant with the information necessary for an informed judgment, including, but not limited to, relevant portions of tariffs, statements of account and results of meter tests.

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to § 56.382 (relating to contents of the utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the utility deems it necessary.

(ii) If the complaining party is satisfied with the orally conveyed dispute resolution, the written utility company report may be limited to the information in § 56.382(1), (2) and, when applicable, § 56.382(7)(ii) or (8)(ii).

(iii) If the complaining party expresses satisfaction but requests a written report, the report must conform with § 56.382, in its entirety.

(iv) The information and documents required by this subsection may be electronically provided to the complaining party as long as the complaining party has the ability to accept electronic documents and consents to receiving such.

§ 56.382. Contents of the utility company report.

A utility company report must include the following:

(1) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the utility regarding that claim.

(3) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission within 10 days of the mailing date of the report to insure the preservation of all of their rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the utility.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.391 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or deemed necessary by the utility, the utility shall provide the information in § 56.391(1), (2) and (5). In addition, the utility should always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

(7) If the matter in dispute involves a billing dispute, the report must include the following:

(i) An itemized statement of the account of the complaining customer specifying the amount of credit, if any, and the proper amount due.

(ii) The date on or after which the account will become delinquent unless a informal dispute settlement agreement or payment agreement is entered into or an informal complaint is filed with the Commission. This date may not be earlier than the due date of the bill or 15 days after the issuance of a utility company report, whichever is later.

(8) If the matter involves a dispute other than a billing dispute, the report must also state the following:

(i) The action required to be taken to avoid the termination of service.

(ii) The date on or after which the utility will commence termination action in accordance with the applicable requirements unless the report is complied with, informal dispute settlement agreement or payment agreement entered or an informal complaint filed. This date may not be earlier than the original date for compliance with the matter which gave rise to the dispute or 10 days from the date of issuance of the utility report, whichever is later. If the utility report is in writing, the information in this paragraph shall be presented in a bold font that is at least 2 font sizes larger than the font used in other sections of the utility report.

INFORMAL COMPLAINT PROCEDURES

§ 56.391. Informal complaint filing procedures.

An informal complaint may be filed orally or in writing and must include the following information:

(1) The name and address of the complainant and, if different, the address at which service is provided.

(2) The telephone number of the complainant.

(3) The account number of the complainant, if applicable.

(4) The name of the utility.

(5) A brief statement of the dispute.

(6) Whether the dispute formerly has been the subject of a utility company investigation and report.

(7) Whether the dispute formerly has been the subject of a Commission informal or formal complaint.

(8) The date, if any, of proposed termination.

(9) The relief sought.

§ 56.392. Commission informal complaint procedure.

Upon the filing of an informal complaint, which shall be captioned as "(Complainant) v. (utility)," Commission staff will immediately notify the utility; review the dispute; and, within a reasonable period of time, issue to the utility and the complaining party an informal report with findings and a decision. Parties may represent themselves or be represented by counsel or other person of their choice, and may bring witnesses to appear on their behalf. The reports will be in writing and a summary will be sent to the parties if a party requests it or if the Commission staff finds that a summary is necessary.

(1) *Review techniques.* Review will be by an appropriate means, including, but not limited to, utility company reports, telephone calls, conferences, written statements, research, inquiry and investigation. Procedures will be designed to insure a fair and reasonable opportunity to present pertinent evidence and to challenge evidence submitted by the other party to the dispute, to examine a list of witnesses who will testify and documents, records, files, account data, records of meter tests and other material that the Commission staff will determine may be relevant to the issues, and to question witnesses appearing on behalf of other parties. Information and documents requested by Commission staff as part of the review process shall be provided by the utility within 30 days of the request. If the complainant is without utility service, or in other emergency situations as identified by Commission staff, the information requested by Commission staff shall be provided by the utility within 5 days of the request.

(2) *Settlement.* Prior to the issuance of an informal decision, Commission staff may facilitate discussions between the parties in an effort to settle the dispute. If a settlement is reached, Commission staff will confirm that all parties understand the terms of the settlement and mark the informal complaint as closed.

(3) *Resolution.* Commission staff resolution of informal complaints is binding upon the parties unless formal proceedings are initiated under §§ 56.401—56.404 (relating to formal complaints).

§ 56.393. Termination pending resolution of the dispute.

In any case alleging unauthorized use of utility service, as defined in § 56.2 (relating to definitions), a utility may terminate service after giving proper notice in accordance with §§ 56.331—56.338, whether or not a dispute is pending.

§ 56.394. Conference procedures.

Conferences held under §§ 56.391—56.393 (relating to informal complaint procedures; Commission informal complaint procedure; and termination pending resolution of the dispute) and this section will be informal and may be held by conference telephone call, when appropriate. If the parties are to be present, the conferences will take place within reasonable proximity to the situs of the complaint. The parties will be advised that false information intended to mislead a public servant in performing their official function may be punishable criminally.

FORMAL COMPLAINTS

§ 56.401. General rule.

Except as otherwise provided in this chapter, formal complaint proceedings will proceed according to the rules and regulations of the Commission governing complaint proceedings.

§ 56.402. Filing.

(a) A request for review of the decision of the Bureau of Consumer Services (BCS) must be initiated in writing within 20 days of issuance.

(b) Upon receipt of a request for review of the decision of the BCS, the Secretary will mail a formal complaint form to the requesting person.

(c) Within 30 days of the mailing of the formal complaint form, the party requesting review of decision of the BCS shall file the completed complaint form with the Secretary.

(d) Upon the filing of a formal complaint within the 30-day period and not thereafter except for good cause shown, there will be an automatic stay of the informal complaint decision.

(e) The failure to request review of the BCS decision by filing a formal complaint within the 30-day period does not foreclose a party from filing a formal complaint at a later time except as otherwise may be provided in 66 Pa.C.S. Part I (relating to Public Utility Code).

§ 56.403. Review from informal complaint decisions of the Bureau of Consumer Services.

(a) *Assignment.* Review of informal complaint decisions will be heard by an administrative law judge or special agent.

(b) *Filing and docketing.* Complaints will be filed and docketed as a formal Commission complaint, under §§ 1.31—1.38 (relating to documentary filings).

(c) *Captions.* The parties to review will be stated in the caption as they stood upon the record of the informal complaint proceeding. If the party requesting review is a utility, the phrase "Complaint Appellant" will be added after its name.

(d) *Commission review.* The Commission will review the decision of the assigned administrative law judge or special agent, commit it to advisory staff for further analysis, remand it to an administrative law judge or special agent for further development of the record or issue a final order. The burden of proof remains with the party filing the formal complaint.

§ 56.404. Ability to pay proceedings.

(a) *Assignments.* Requests for review of decisions of the Bureau of Consumer Services (BCS) and any other case in which the issue is solely ability to pay may be assigned to a special agent.

(b) *Stay of informal complaint decision.* Upon the filing of a formal complaint in a case seeking review from the decision of the BCS, there shall be an automatic stay of payment arrangements ordered in that decision, other than current bills not at issue. The utility may request that the presiding officer remove the stay and order payment of amounts set forth in the informal complaint decision. When current bills are not at issue, the customer shall be responsible for payment of current, undisputed bills pending issuance of a final Commission order.

(c) *Hearings.* The presiding officer will conduct hearings within a reasonable period after filing of the appeal and answer. If the presiding officer is a special agent, the special agent will have all powers of an administrative law judge. Subject to any valid evidentiary objections raised by the parties, the presiding officer shall enter into the record BCS' documents on the complainant's income, the utility report to the BCS from the utility, and the BCS' decision when the formal complaint was the subject matter of a BCS' informal decision.

(1) The presiding officer will attempt to hold hearings by telephone, unless one or more parties object. Hearings will be held after the filing of an answer.

(2) The presiding officer will hear the case de novo, but may request a stipulation of the parties as to undisputed facts.

(3) Hearings will be tape recorded and will not be transcribed, unless the parties request the use of a stenographer or a transcription of the tape or other circumstances warranting transcription exist. Unless objected to, parties may make their own tape recording of the proceedings, but the only official record shall be that made by the presiding officer.

(d) *Proposed findings of fact and conclusions of law or briefs.* The parties shall have the opportunity of submitting proposed findings of fact and conclusions of law or briefs to the presiding officer. Notice of intent to submit findings of fact and conclusions of law or briefs shall be given at the hearing and they shall be submitted within 10 days of the hearing.

(e) *Initial decision.* The presiding officer will render a written decision after the hearings or after the receipt of proposed findings of fact and conclusions of law or briefs, if they are filed. The initial decision will be in writing and contain a brief description of the matter, findings of fact and conclusions of law. The initial decision will be subject to the filing of exceptions under the procedures in Chapters 1 and 5 (relating to rules of administrative practice and procedures; and formal proceedings).

PAYMENT OF BILLS PENDING RESOLUTION OF DISPUTES AND COMPLAINTS

§ 56.411. Duties of parties; disputing party's duty to pay undisputed portion of bills; utility's duty to pay interest whenever overpayment found.

Pending resolution of a dispute, including a termination dispute, the disputing party shall be required to pay the undisputed portion of bills, as described in this section.

(1) *Pending informal complaint.* Pending the outcome of an informal complaint, the disputing party shall be obligated to pay that portion of a bill which is not honestly disputed. An amount ultimately determined, by the parties or the Commission, to have been validly due but not paid may be paid with interest at the tariff rate filed under § 56.272 (relating to accrual of late payment charges) except when interest charges have been reduced or eliminated by the parties or the Commission to facilitate payment by the disputing party.

(2) *Pending formal complaint.* Prior to the hearing on a formal complaint or prior to the issuance of a Commission order when no hearing is to be held in a formal complaint proceeding, the customer shall be required to pay that amount which the consumer services representative determines is not reasonably disputed.

(3) *Overpayments reimbursed with interest.* An amount ultimately determined to have been overpaid by the disputing party shall be reimbursed with interest at the tariff rate filed under § 56.272.

(4) *Effect of offer of payment.* An offer by a customer to pay all or any portion of a bill may not be deemed a waiver of a right to reimbursement for amounts subsequently deemed, by the parties or the Commission, to have been overpaid.

(5) *Effect of acceptance of partial payment.* The acceptance by a utility of a partial payment for a bill pending final outcome of a dispute may not be deemed an accord and satisfaction or waiver of the right of the utility to payment in full as subsequently agreed to by the parties or decided by the Commission.

Subchapter R. RESTORATION OF SERVICE

- Sec. 56.421. General rule.
- 56.422. Personnel available to restore service.

§ 56.421. General rule.

When service to a dwelling has been terminated, the utility shall reconnect service by the end of the first full working day after receiving one of the following:

(1) Full payment of an outstanding charge plus a reasonable reconnection fee. Outstanding charges and the reconnection fee may be amortized over a reasonable period of time. Factors to be taken into account include, but are not limited to:

- (i) The size of the unpaid balance.
- (ii) The ability of the customer to pay.
- (iii) The payment history of the customer.
- (iv) The length of time over which the bill accumulated.

(2) Payment of amounts currently due according to an informal dispute settlement agreement or payment agreement, plus a reasonable reconnection fee, which may be a part of the informal dispute settlement agreement or payment agreement. The utility may apply the procedure in paragraph (1), if the payment history indicates that

the customer has defaulted on at least two payment agreements, or an informal complaint decision, or a formal complaint order.

(3) Adequate assurances that any unauthorized use or practice will cease, plus full payment of the reasonable reconnection fee of the utility, which may be subject to a payment agreement and compliance or adequate assurance of compliance with an applicable provision for the establishment of credit or the posting of deposits or guarantees.

(4) Service shall be restored within 24 hours for erroneous terminations or upon receipt by the utility of a valid medical certification. Erroneous terminations include instances when the grounds for termination were removed by the customer paying the amount needed to avoid termination prior to the termination of the service.

(5) Service shall be restored within 24 hours for terminations and reconnections occurring after November 30 and before April 1.

§ 56.422. Personnel available to restore service.

A utility shall have adequate personnel available between 9 a.m. and 5 p.m. on each working day or for a commensurate period of 8 consecutive hours to restore service when required under this chapter, specifically §§ 56.322 and 56.421 (relating to days termination of service is prohibited; and general rule).

Subchapter S. PUBLIC INFORMATION PROCEDURES; RECORD MAINTENANCE

- Sec. 56.431. Public information.
- 56.432. Record maintenance.

§ 56.431. Public information.

In addition to the notice requirements in this chapter, the Commission will, within 6 months of the effective date of a change to a regulation in this chapter, prepare a summary of the rights and responsibilities of the utility and its customers affected by the change. Summaries will be mailed by the utility to each customer of the utility affected by the change. These summaries, as well as a summary of the rights and responsibilities of the utility and its customers in accordance with this chapter, must be in writing, be reproduced by the utility, be displayed prominently, and be available at all utility office locations open to the general public. This information shall be delivered or mailed to each new customer of the utility upon the commencement of service and shall be available at all times upon request. A utility which serves a substantial number of Spanish-speaking customers shall provide billing information in English and in Spanish. The written information must indicate conspicuously that it is being provided in accordance with this title and contain information concerning, but not limited to, the following:

- (1) Billing and estimated billing procedures.
- (2) Methods for customer verification of billing accuracy.
- (3) Explanation of operation of fuel adjustment clauses and purchased gas adjustment clauses.
- (4) Payment requirements and procedures.
- (5) Security deposit and guarantee requirements.
- (6) Procedures for discontinuance and reconnection of service.
- (7) Dispute, informal complaint and formal complaint procedures.

(8) Explanation of meter reading procedures which would enable a customer or occupant to read their own meter.

(9) Procedure whereby customers or occupants may avoid discontinuance of service during extended periods of absence.

(10) Third-party notification procedures.

(11) Telephone numbers and addresses of the utility and of the nearest regional office of the Commission where further inquiries may be made.

(12) Definitions of terms or abbreviations used by the utility on its bills.

(13) Information indicating that additional consumer protections are available for victims of domestic violence.

§ 56.432. Record maintenance.

A utility shall preserve for a minimum of 4 years written or recorded disputes and complaints, keep the records within this Commonwealth at an office located in the territory served by it, and make the records available for examination by the Commission or its staff. Information to be maintained includes the following:

- (1) The payment performance of each of its customers.
- (2) The number of informal dispute settlement agreements and payment agreements made by the utility company and a synopsis of the terms, conditions and standards upon which agreements were made.
- (3) The number of service terminations and reconNECTIONS.
- (4) Communications to or from individual customers regarding interruptions, discontinuances, terminations and reconNECTIONS of service, including the name and address of the customer, the date and character of the dispute or complaint and the adjustment or disposal made of the matter.

Subchapter T. INFORMAL COMPLAINTS

Sec.
56.441. Informal complaints.

§ 56.441. Informal complaints.

The Commission delegates to the Bureau of Consumer Services (BCS) the primary authority to resolve customer, applicant or occupant complaints arising under this chapter. The BCS, through its Director and with the concurrence of the Commission, will establish appropriate internal procedures to implement the provisions of this chapter.

(1) Absent good cause, the BCS will handle only Chapter 56 informal complaints in which the customer first attempted to resolve the matter with the utility.

(2) Only after the customer and the utility have failed to resolve the dispute will BCS initiate an investigation.

Subchapter U. GENERAL PROVISIONS

Sec.
56.451. Availability of normal Commission procedures.
56.452. Applications for modification or exception.
56.453. Inconsistent tariff provisions.

§ 56.451. Availability of normal Commission procedures.

Nothing in this chapter prevents a person or a utility from pursuing other Commission procedures in a case not described in this chapter.

§ 56.452. Applications for modification or exception.

(a) If unreasonable hardship to a person or to a utility results from compliance with a section in this chapter, application may be made to the Commission for modification of the section or for temporary exemption from its requirements. The adoption of this chapter by the Commission will in no way preclude it from altering or amending it under the applicable statutory procedures, nor will the adoption of this chapter preclude the Commission from granting temporary exemptions in exceptional cases.

(b) A person or utility that files an application under this section shall provide notice to persons who may be affected by the modification or temporary exemption. Notice may be made by a bill insert or in another reasonable manner.

§ 56.453. Inconsistent tariff provisions.

A tariff provision inconsistent with this chapter is deemed nonoperative and superseded by this chapter.

Subchapter V. UTILITY REPORTING REQUIREMENTS

Sec.
56.461. Reporting requirements.

§ 56.461. Reporting requirements.

(a) Within 90 days after the end of each calendar year, each natural gas distribution utility with annual gas operating revenues of less than \$6,000,000 per year, and steam heat utility shall file with the Commission a report containing the following information concerning residential accounts for the previous year:

- (1) The total number of residential customers as of the end of each month for the calendar year.
- (2) The total number of terminations for nonpayment for each month of the calendar year.
- (3) The total number of terminations for reasons other than nonpayment for each month of the calendar year.
- (4) The total number of reconNECTIONS for customer payment for each month of the calendar year.
- (5) The total number of reconNECTIONS for customer submission of medical certification for each month of the calendar year.
- (6) The total number of reconNECTIONS for reasons other than customer payment or medical certification for each month of the calendar year.
- (7) The total dollar amount of annual residential billings.
- (8) The total dollar amount of annual gross residential write-offs.

(b) Public utilities shall refer to the data dictionary in Appendix D (relating to definitions (§ 56.461)) for additional guidance as to the terms used in this section.

APPENDIX A

MEDICAL EMERGENCY NOTICE

If you, or anyone presently and normally living in your home is **SERIOUSLY ILL OR AFFLICTED WITH A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY CESSATION OF SERVICE**, WE WILL NOT CUT OFF YOUR SERVICE during such illness provided you:

(a) Have a physician **or nurse practitioner** certify by phone or in writing that such illness exists and that it may be aggravated if your service is stopped; and

(b) Make some equitable arrangement to pay the company your past due and current bills for service.

(c) Contact us by calling the following number:

(Utility) Phone Number:

(Utility) Address:

APPENDIX B

MEDICAL EMERGENCY NOTICE

If you, or anyone presently and normally living in your home is **SERIOUSLY ILL OR AFFLICTED WITH A MEDICAL CONDITION THAT WILL BE AGGRAVATED BY CESSATION OF SERVICE**, WE WILL RESTORE YOUR [GAS OR ELECTRIC] UTILITY SERVICE during such illness provided you:

(a) Have a physician **or nurse practitioner** certify by phone or in writing that such illness exists and that it may be aggravated if your service is not restored; and

(b) Make some equitable arrangement to pay the company your past due and current bills for service.

(c) Contact us by calling the following number:

(Utility) Phone Number:

(Utility) Address:

(Editors Note: The following two appendices are new and are printed in regular text for clarity.)

(Editor's Note: The text in Appendix C is new. It has been printed in regular type to enhance readability.)

APPENDIX C

Definitions (§ 56.231)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.231 (relating to reporting requirements).

Annual collections operating expenses—Use the definition in §§ 54.72 or 62.2, “include administrative expenses associated with termination activity, field visits, negotiating payment arrangements, budget counseling, investigation and resolving informal and formal complaints associated with payment arrangements, securing and maintaining deposits, tracking delinquent accounts, collection agencies’ expenses, litigation expenses other than already included, dunning expenses and winter survey expenses.” Report the cumulative total as of the end of the reporting period/year. Exclude customer assistance program expenses.

Annual residential billings—Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes “normal tariff billings” and “miscellaneous billings.” The latter category includes billings for late payment fees.

Average monthly bill for the previous year for a heating customer—Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for heating customers. Report the average as of the end of the reporting period/year.

Average monthly bill for the previous year for a nonheating customer—Report the aggregate average monthly bill by calculating the average of the 12 monthly average bills for nonheating customers. Report the average as of the end of the reporting period/year.

Average monthly usage for a heating customer—Report the aggregate average monthly usage by calculating the average of the 12 monthly average usages for heating customers. Report the average as of the end of the reporting period/year.

Average monthly usage for a nonheating customer—Report the aggregate average monthly usage by calculating the average of the twelve monthly average usages for nonheating customers. Report the average as of the end of the reporting period/year.

Total dollar amount of active residential accounts in arrears and not on a payment agreement—Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total dollar amount of active residential accounts in arrears and on a payment agreement—Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total dollar amount of gross residential write-offs—Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

Total dollar amount of inactive residential accounts in arrears—An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total dollar amount as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

Total dollar amount of net residential write-offs—Net write-offs are calculated by subtracting recoveries from gross write-offs. Report the cumulative total dollar amount as of the end of the reporting period/year.

Total dollar amount in security deposits on-hand—Report the dollar amount as of the end of the reporting period/year. Exclude accrued interest.

Total dollar amount in security deposits that are requested or billed to applicants—Report the cumulative total dollar amount as of the end of the reporting period/month.

Total dollar amount in security deposits that are requested or billed to customers—Report the cumulative total dollar amount as of the end of the reporting period/month.

Total number of active residential accounts in arrears and not on a payment agreement—Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total number of active residential accounts in arrears and on a payment agreement—Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when account is overdue. Exclude customer assistance program recipients.

Total number of applicants that are requested or billed a security deposit—Report the cumulative number as of the end of the reporting period/month.

Total number of customers that are requested or billed a security deposit—Report the cumulative number as of the end of the reporting period/month.

Total number of dwellings receiving termination notices sent to occupants other than the customer—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Use this category when the termination notice was delivered to someone other than the customer, for example, a termination notice to a tenant because of nonpayment of a landlord-ratepayer. This does not include copies of termination notices sent in accordance with the third-party notification procedures in § 56.131. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of 48-hour termination notices posted—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The termination notice was posted at the customer's residence in accordance with § 56.95.

Total number of inactive residential accounts in arrears—An account that has been terminated or discontinued, the final bill due date has passed, and the amount owed has not yet been written off. Report the total as of the end of the reporting period/month. The due date should be considered to be day zero (0) in the determination of when an account is overdue. A terminated or final-billed account becomes inactive on the day after the final bill is due and payable.

Total number of reconnections for customer submission of medical certification—Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection. Report the cumulative number as of the end of the reporting period/month. Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available. Include customer assistance program recipients.

Total number of reconnections for full customer payment—A reconnection is any residential account that was terminated for any reason covered under §§ 56.81 or 56.98 and subsequently restored after the customer paid in full the outstanding balance of the account, regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.2. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment and/or customer payment agreement are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available. Include customer assistance program recipients.

Total number of reconnections for partial customer payment or payment agreement—A reconnection is any residential account that was terminated for any reason covered under §§ 56.81 or 56.98 and subsequently restored after meeting the utility's terms for restoration if the terms for restoration included a customer payment and/or the establishment of a payment agreement, regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.2. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment or customer payment agreement, or both, are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available. Include customer assistance program recipients.

Total number of reconnections for reasons other than customer payment or medical certification—Report the cumulative number as of the end of the reporting period/month. Categorize into five groups based upon the customer's relation to the Federal poverty guidelines: less than 150% of the Federal poverty guideline; between 151–250% of the Federal poverty guideline; between 251–300% of the Federal poverty guideline; greater than 300% of the Federal poverty guideline; and not available. Include customer assistance program recipients.

Total number of residential heating customers—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of residential nonheating customers—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of security deposits on-hand—Report the number as of the end of the reporting period/year.

Total number of 10-day termination notices issued by the utility—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment and reasons other than nonpayment categorized by the first three digits of each account's postal code—The grounds for termination are customer nonpayment of usage-based

billings or nonpayment of a security deposit, failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. Categorize by the first three digits of the postal code of the customer's service address.

Total number of terminations for reasons other than nonpayment—The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of 3-day termination notices completed by personal contact in person—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted in person in accordance with § 56.93.

Total number of 3-day termination notices completed by telephone—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients. The customer was contacted using the telephone in accordance with § 56.93.

APPENDIX D

Definitions (§ 56.461)

This data dictionary and the following definitions are to be used in relation to the reporting requirements in § 56.461 (relating to reporting requirements).

Annual residential billings—Report the cumulative total dollar amount in residential billings during the reporting period/year. This includes "normal tariff billings" and "miscellaneous billings." The latter category includes billings for late payment fees.

Total dollar amount of gross residential write-offs—Report the cumulative total dollar amount as of the end of the reporting period/year. Do not include customer assistance program credits (revenue shortfall) or customer assistance program arrearage forgiveness in this category.

Total number of reconnections for customer payment—A reconnection is any residential account that was terminated for any reason covered under §§ 56.321 or 56.338 and subsequently restored after the customer paid in full the outstanding balance of the account, or made a partial payment or entered into a payment agreement regardless of whether the customer's current status is that of applicant or customer per the definitions in § 56.252. Four criteria must be met: the reconnection is for the same customer/applicant that was terminated; the location of the reconnection is the same location as the location of the termination; the dollars in debt that are the subject of the customer payment or customer payment agreement, or both, are for the same customer/applicant while at the same location; and the time that has passed since the final bill due date does not exceed 4 years. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of reconnections for customer submission of medical certification—Includes only reconnections because the customer has supplied the company with a valid medical certificate as the condition of reconnection.

Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of residential customers—Report the number as of the end of the reporting period/month. Report each individually billed account under a unique residential account number and residential tariff rate (Count the number of residential bills that you issue). Include customer assistance program recipients.

Total number of reconnections for reasons other than customer payment or medical certification—Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for nonpayment—The grounds for termination are customer nonpayment of usage-based billings or nonpayment of a security deposit. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

Total number of terminations for reasons other than nonpayment—The reasons for termination include failure to permit access, unauthorized use of service, fraud, meter tampering, and safety. Report the cumulative number as of the end of the reporting period/month. Include customer assistance program recipients.

APPENDIX E

THIRD PARTY NOTIFICATION

Once in a while, for one reason or another, a customer fails to pay his or her <UTILITY> bill. Under the Third Party Notification program, <UTILITY> will notify you and another person you choose to receive copies of shut off notices. The Third Party can be a trusted relative, friend, clergy member, or social service agency.

The Third Party Notification program is voluntary and can help you if you are hospitalized, away from home for extended periods of time or homebound. The Third Party is not responsible for paying your bills and this program will not stop <UTILITY> from shutting off your <UTILITY> service if you do not pay your bills. When a Third Party contacts <UTILITY> about the shut off notice, we will tell them what you can do to stop the shut off. The Third Party does not have the right to make a payment agreement for you.

To sign up, both you and the Third Party must complete and sign the form below. **Do not return this with your bill, return it to:**

<UTILITY NAME>
<UTILITY ADDRESS>
<CITY, STATE, POSTAL CODE>

IMPORTANT THINGS TO REMEMBER:

- Notify us immediately if you want to change or drop your Third Party.
- Notify us if your Third Party moves.
- Notify us if you move and you want the Third Party transferred to your new address.

Please sign me up for the Third Party Notification program. By completing this form and returning it to <UTILITY>, I request that a copy of any shut off notice be given to the person or agency named below.

CUSTOMER NAME:

<UTILITY> ACCOUNT/CUSTOMER NUMBER:

CUSTOMER ADDRESS:

CUSTOMER SIGNATURE:

DATE:

Receipt of a copy of a shut off notice by the Third Party does not place any obligation on that party to pay the <UTILITY> bill for the customer named above nor will it necessarily stop shut off if payment is not made. The notice simply reminds the Third Party of a chance to help the customer solve the problem.

THIRD PARTY NAME:

THIRD PARTY ADDRESS:

THIRD PARTY SIGNATURE:

DATE:

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