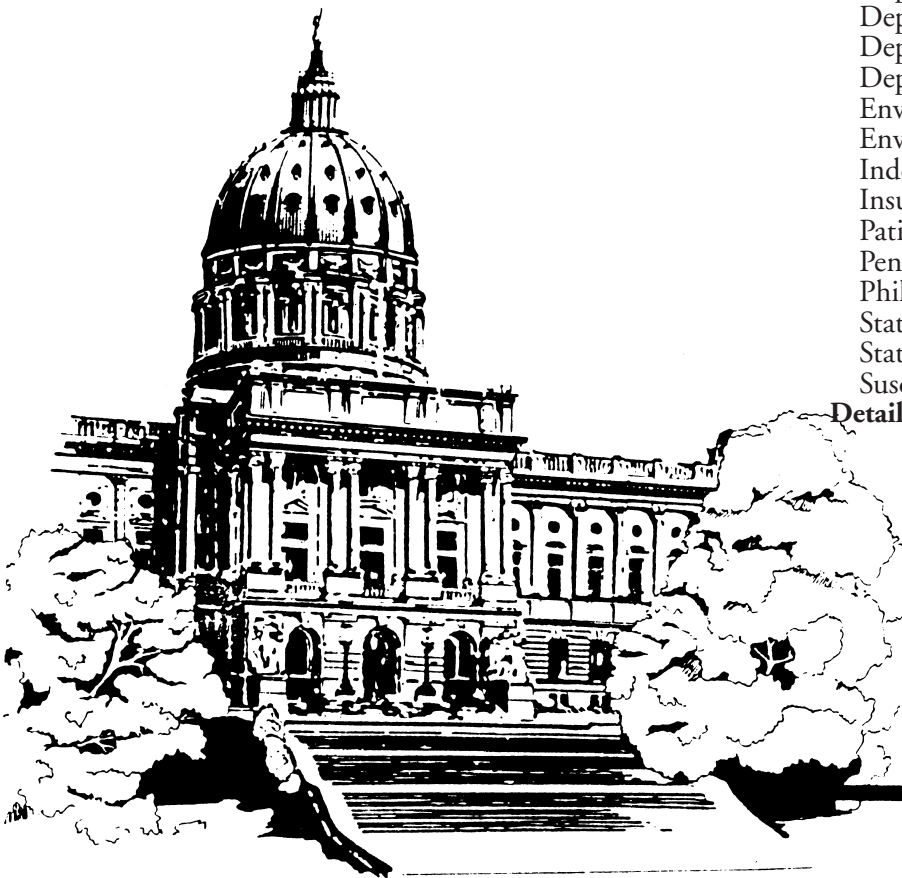


# PENNSYLVANIA BULLETIN

Volume 40  
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**Latest Pennsylvania Code Reporters  
(Master Transmittal Sheets):**

**No. 429, August 2010**

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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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 2010.

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# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 6 ]

[ EXECUTIVE ORDER NO. 2008-08, AS AMENDED ]

### Early Learning Investment Commission

July 27, 2010

*Whereas*, the early learning, development, and education of young children is of critical importance to Pennsylvania's families, education system, and employers; and

*Whereas*, in the last six years, the Commonwealth of Pennsylvania has increased its investment in early learning, development, and education programs, and has made steady progress to assure that more children receive quality early learning and development services; and

*Whereas*, the development of an effective system of early care and education is critical to Pennsylvania's future economic and workforce development; and

*Whereas*, the input and perspective of business leaders is essential to the development of a successful early childhood system.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by the virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the commonwealth do hereby establish the Pennsylvania Early Learning Investment Commission (hereafter referred to as the "Commission") and order and direct as follows:



Governor

**Fiscal Note:** 2010-5. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

#### Subchapter DD. EARLY LEARNING INVESTMENT COMMISSION

#### § 6.372. Powers and duties.

The Early Learning Investment Commission will meet at least twice a year and will have the following powers and duties:

(1) Recommend strategies for the Commonwealth to engage business and civic leaders and organizations in early learning planning and advocacy at the State and local level.

(2) Increase business, civic and public awareness of the importance of early childhood education.

(3) Make recommendations as to the planning, implementing, and hosting of an Annual Economic Summit on Early Childhood Investment. The Annual Economic Summit will include outreach to business, civic, educational and governmental leaders.

(4) Make recommendation as to the planning and implementing of an annual meeting for legislators and legislative staff to understand the economic educational and social impact of investing in quality early childhood education.

(5) Develop and recommend updates to a multi-year plan for the expansion of effective early childhood services.

**§ 6.373. Composition.**

(a) The Early Learning Investment Commission (Commission) will consist of the following members, who collectively will be diverse and representative of the Commonwealth's population:

(1) Secretary of the Budget.

(2) Secretary of Planning and Policy.

(3) Secretary of Community and Economic Development.

(4) Secretary of Education.

(5) Secretary of Public Welfare.

(6) Deputy Secretary of the Office of Child Development and Early Learning.

(7) High-level business executives, representing the diversity of economic sectors and regions in this Commonwealth appointed by the Governor.

(8) Chairperson and Co-Chairperson of the Early Learning Council (Council).

(9) Director of the Pennsylvania Key.

(b) The Governor will designate a Chairperson and a Vice-Chairperson or may designate two persons as Co-Chairpersons from among the Council members. The Chairperson and Vice-Chairperson serve at the pleasure of the Governor.

(c) The Commission, through the Commission Nominating Committee, appointed by the Co-Chairpersons, who will serve as ex-officio advisory members, will make recommendations to the Governor for Commission membership.

[Pa.B. Doc. No. 10-1574. Filed for public inspection August 27, 2010, 9:00 a.m.]

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# THE COURTS

## Title 237—JUVENILE RULES

### PART I. RULES

[ 237 PA. CODE CHS. 1, 4 AND 8 ]

#### Proposed Amendments to Rules 120, 163, 167, 170, 172, 408 and 800 and Proposed New Rule 173

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 120, 163, 167, 170, 172, 173, 408, and 800 be adopted and prescribed. These proposed modifications set forth the procedures for expunging and destroying documents, fingerprints, and photographs.

The following Explanatory Report highlights the intent of these Rules. Please note that the Committee's Reports should not be confused with the official Committee Comments to the Rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Explanatory Reports.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

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

All comments shall be received no later than Monday, September 27, 2010.

*By the Juvenile Court Procedural Rules Committee*

CYNTHIA K. STOLTZ, Esq.,  
*Chair*

### Annex A

#### TITLE 237. JUVENILE RULES

#### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 1. GENERAL PROVISIONS

#### PART A. BUSINESS OF COURTS

#### Rule 120. Definitions.

\* \* \* \* \*

**DESTROY OR DESTRUCTION is to permanently erase or the process of permanent erasure of an item leaving no trace or indication that it ever existed.**

\* \* \* \* \*

**EXPUNGE or EXPUNGEMENT is to legally erase or the process of legal erasure of juvenile record information making it permanently not available to the public, but where some information may be kept only by a juvenile justice agency for limited purposes: 1) to determine eligibility in a court program; or 2) for retention of statistical records when all identifiers to trace the identity of an individual have been removed.**

\* \* \* \* \*

**INTELLIGENCE INFORMATION is information concerning the habits, practices, characteristics, possessions, associations, or financial status of any juvenile compiled in an effort to anticipate, prevent, monitor, investigate, or prosecute delinquent activity.**

**INVESTIGATIVE INFORMATION is the information assembled as result of the performance of any inquiry, formal or informal, into delinquent activity or an allegation of a delinquent act and may include *modus operandi* information.**

\* \* \* \* \*

**JUVENILE JUSTICE AGENCY is any court, including the minor judiciary, or any other governmental agency specifically authorized to perform the administration of juvenile justice as its function. Juvenile justice agencies include, but are not limited to, organized State and municipal police departments, probation agencies, district or prosecuting attorneys, or any such persons, agencies, or departments as determined by the court to be juvenile justice agencies.**

**JUVENILE RECORD is the information collected and retained by juvenile justice agencies concerning juveniles, and arising from the initiation of delinquency proceedings, consisting of identifiable descriptions, dates and notations of arrest, written allegations, petitions, other formal charging documents, official court records, and any dispositions arising from those records. The juvenile record does not include intelligence information or investigative information that is maintained separately by law enforcement agencies.**

\* \* \* \* \*

#### Comment

\* \* \* \* \*

**“Destroy” and “expunge” do not have the same meaning. “Destroy” is to permanently erase; whereas, “expunge” is to *legally* erase. Outside of law enforcement and prosecuting attorneys, no one has access to expunged items. Documents in which personal identifiers have been removed may be dispensed to agencies authorized by the court to compile statistics. For limited purposes, specific information should be kept.**

The term “disposition” includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a

finding that the juvenile did not commit a delinquent act pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case “with prejudice” prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

**The term “intelligence information” may include information on prescribing, dispensing, selling, obtaining, or using a controlled substance as defined in the act of April 14, 1972 (P. L. 233, No. 64) known as the “Controlled Substance, Drug, Device and Cosmetic Act.”**

**“Juvenile records” as used in these Rules do not include investigative and intelligence information kept separately by law enforcement agencies. Those documents kept separately by law enforcement agencies are not subject to Rules 170 and 172.**

**The term “juvenile justice agency” is a very broad term that includes all those agencies that enforce the administration of justice.**

The “official court record” is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation’s reports and files unless they are made a part of the official record by being filed with the clerk of courts.

\* \* \* \* \*

**Official Note:** Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 37 Pa.B. 1483 (April 7, 2007).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendment to Rule 120 published with the Court’s Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 40 Pa.B. 222 (January 9, 2010).

**PART C. RECORDS**

**PART C(1). ACCESS TO JUVENILE RECORDS**

**Rule 163. Release of Information to School.**

A. *Generally.* Upon finding a juvenile to be a delinquent, the court shall, through the juvenile probation office, provide the following information to the building principal or his or her designee of any public, private, or parochial school in which the juvenile is enrolled:

- 1) name and address of the juvenile;
- 2) the delinquent act or acts that the juvenile was found to have committed;

- 3) a brief description of the delinquent act or acts; and
- 4) the disposition of the case.

B. *Additional information.*

1) If the juvenile is adjudicated delinquent of a felony offense, the court, through the juvenile probation office, shall provide to the building principal or his or her designee relevant information regarding the juvenile contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history, and the supervision plan of the juvenile.

2) The court or the juvenile probation office shall have the authority to share any additional information regarding the juvenile under its jurisdiction with the building principal or his or her designee as deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the juvenile.

C. *Transfers to other schools.* Any information provided to and maintained by the building principal or his or her designee under this rule shall be transferred to the building principal or his or her designee of any public, private, or parochial school to which the juvenile transfers enrollment.

D. *Maintained separately.* Any information provided to the building principal or his or her designee under this rule shall be maintained separately from the juvenile’s official school record.

**Comment**

The delinquency information in the school record is to be used only by school officials and is not to be released to the general public or third parties unless ordered by the court.

For further dissemination and usage in school, *see* 42 Pa.C.S. § 6341(b.1).

**Pursuant to paragraph (D), information provided by the court is to be kept and maintained separately from the juvenile’s official school record. If the court has ordered a record to be expunged, the court should concurrently order the destruction of the information provided to the school by the court; including information subsequently provided to another school. The terms “expunged” and “destruction” should not be confused in this Comment. Because the school is not law enforcement or a prosecutor, there is no reason for the school to maintain its information. Therefore, the school is to destroy all information received by the court.**

**Official Note:** Rule 163 adopted April 1, 2005, effective October 1, 2005.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 163 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

**PART C(2). MAINTAINING RECORDS**

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

A. *Filings.*

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

2) All orders and court notices shall be filed in the official court record.



B. *Service.*

1) A copy of any order or court notice shall be served promptly on each [ **party's attorney, and the juvenile, if unrepresented** ] party, their attorneys, the juvenile probation officer, and any other person, service provider, or agency listed in the court order.

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

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

a) in writing by:

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

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

iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;

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

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

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

b) orally in open court on the record.

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

#### Comment

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

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

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

**Official Note:** Rule 167 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

#### *Committee Explanatory Reports:*

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

Final Report explaining the amendments to Rule 167 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

#### PART C(3). EXPUNGING OR DESTROYING RECORDS, FINGERPRINTS, OR PHOTOGRAPHS

Rule 170. [ **Expunging or Destroying Juvenile Court** ] Motion to Expunge or Destroy Records.

A. *Motion.* [ **Juvenile** ] Upon motion, the court may order that juvenile records [ **may** ], fingerprints, or photographs be expunged [ **upon motion** ] or destroyed.

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

- 1) [ **The** ] the name of the juvenile;
- 2) the date of birth of the juvenile, if known;
- 3) the juvenile's case docket number, if any;
- 4) the allegations to which the order pertains;
- 5) the law enforcement agency that initiated the allegations;
- 6) the reference number of the police report or written allegation to be expunged or destroyed;
- 7) the date of arrest;
- 8) the disposition of the written allegation or petition;
- 9) the reasons [ **and statutory authority** ] for expunging or destroying the [ **document** ] documents, fingerprints, or photographs; and
- 10) the agencies upon which certified copies of the court order shall be served.

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

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

E. *Hearing.* Unless the attorney for the Commonwealth consents to expunging the records or destroying the fingerprints and photographs, the court shall:

- 1) schedule and conduct a hearing[, and thereafter grant or deny the motion. ];
- 2) absent good cause, order the destruction of the juvenile's fingerprints and photographs, if the court has found that the juvenile:
  - 1) committed none of the delinquent acts, or
  - 2) is not in need of treatment, supervision, and rehabilitation; and
  - 3) if the motion is granted, specify whether items shall be expunged or destroyed.

F. *Inter-county transferred cases.*

- 1) A motion should be filed in the county which received the transfer of the case pursuant to Rule 302.
- 2) The receiving county should include any transferring court(s) in the order to expunge juvenile records.



## Comment

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

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

Pursuant to paragraph (B)(9), the reasons for expunging the records or destroying fingerprints and photographs are to be included in the motion.

“Expunge” is defined by Rule 120 which means to legally erase or the process of legal erasure of an item making it permanently not available to the public, but where some information may be kept only by a juvenile justice agency or to determine subsequent eligibility in a court program; or is when all identifiers to trace the identity of an individual have been removed for retention of statistical records.

The retention of certain information is crucial for many statistical purposes, such as those statistics produced by the Juvenile Court Judges’ Commission, the Office of Children and Families in the Court, the Administrative Office of Pennsylvania Courts, and other legitimate research bodies. All identifiers used to trace the identity of an individual are to be removed from items kept for these statistical purposes.

See Rule 800 for suspension of the Criminal History Records Information Act (CHRIA) and 42 Pa.C.S. § 6309(a), which makes CHRIA applicable in juvenile cases. All procedures expunging juvenile cases are governed by this Rule. See also Rule 120 for the definition of “expunge” and Rule 172 for entry of the court order.

In addition, Rule 800 suspends § 6341(a) of the Juvenile Act, which provides for the automatic destruction of fingerprints or photographs if the court finds that the juvenile committed none of the alleged delinquent acts.

Pursuant to paragraph (D), the attorney for the Commonwealth is given an opportunity to respond to the motion. The attorney for the Commonwealth should specify its position on whether items should be expunged or destroyed. Expunged items are available to law enforcement and the attorney for the Commonwealth in limited circumstances. Whereas, destroyed items are permanently erased.

Intelligence and investigative information kept separately by law enforcement agencies is not subject to this Rule.

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

*Committee Explanatory Reports:*

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

**Rule 172. Order to Expunge or Destroy.**

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

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

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

**Official Note:** Rule 172 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 172 published with the Court’s Order at 40 Pa.B. 222 (January 9, 2010).

**Rule 173. Retention of Specific Information in Juvenile Records.**

**A. Maintenance of specific information.** All information retained according to this Rule shall be confidential. This information is not eligible for inspection pursuant to Rule 160.

**B. By court.** The court may maintain the following information:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) the case docket number;
- 4) a copy of the order to expunge; and
- 5) any compliance letters sent pursuant to Rule 172(A)(3);

**C. By Juvenile Justice Agencies.**

1) Juvenile Justice Agencies may maintain the following information solely for purpose of determining subsequent eligibility for a court program or in the preparation of a pre-sentence report in criminal court:

- a) a list of the names of juveniles who have been adjudicated delinquent;
- b) identifying information, such as date of birth;
- c) a list of the delinquent acts petitioned; and
- d) a list of the delinquent acts founded.

2) Juvenile Justice Agencies may maintain necessary records as intelligence and investigative information.

#### Comment

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

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

Pursuant to paragraph (A)(3), the agency, department, or office is to notify the court of the action taken. This notification may be accomplished by filing a signed affidavit when requested.

Paragraph (C) sets forth the information that can be maintained by the court, prosecuting attorney, and the Central Repository.

### CHAPTER 4. ADJUDICATORY HEARING

#### Rule 408. Ruling on Offenses.

A. *Entered finding.* Within seven days of hearing the evidence on the petition or accepting an admission under Rule 407, the court shall enter a finding by specifying which, if any, offenses, including grading and counts, alleged in the petition were committed by the juvenile.

B. *Did not commit acts.*

1) If the court finds the juvenile [ **did not commit all** ] committed none of the alleged delinquent acts, the court shall dismiss the petition and release the juvenile, if detained, unless there are other grounds for the juvenile's detention.

2) The court shall move to expunge the records related to the dismissed petition pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.

3) Absent cause shown, the court shall expunge the records and order the destruction of any fingerprints or photographs.

C. *Committed act.* [ **If** ] After an adjudicatory hearing, if the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409.

#### Comment

Under paragraph (A), for any offense the court finds that the juvenile committed, the court is to specify the grading and count(s). See 42 Pa.C.S. § 6341(b). It is noted that some offenses have no specific grading, i.e., ungraded felony or misdemeanor of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 *et seq.*, or the ungraded delinquent act of failure to comply with a sentence for a summary offense, 42 Pa.C.S. § 6302 (definition of "delinquent act").

Pursuant to paragraph (B), if the court finds that the juvenile [ **did not commit all** ] committed none of the alleged delinquent acts, the court, upon its own motion, is to expunge the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172 and is to order the de-

struction of the fingerprints and photographs pursuant to 42 Pa.C.S. § 6341(a). If the court does find that the juvenile committed at least one of the offenses petitioned, there is no expungement or destruction of records, fingerprints, or photographs. Absent cause shown, the court is to expunge the records pursuant to Rule 172. In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. See Comment to Rule 170 for further definition of a reference number.

Paragraph (C) requires that there is to be an adjudicatory hearing before proceeding pursuant to Rule 409. This rule is not meant to preclude the use of a consent decree. If a consent decree is ordered, the court does not proceed under Rule 409.

*Official Note:* Rule 408 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 408 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 408 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

### CHAPTER 8. SUSPENSIONS

#### Rule 800. Suspensions of Acts of Assembly.

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

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

2) **The Act of July 16, 1979, P.L. 116, No. 47, § 2, 18 Pa.C.S. § 9101 *et seq.*, which provides for the expungement of juvenile records, is suspended only insofar as it applies to juvenile cases. All procedural requirements for expunging juvenile records are governed by Rules 120, 170, and 172.**

3) **The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6341(a), which provides that fingerprints and photographs are to be immediately destroyed where it is determined that the acts ascribed to the juvenile were not committed by him, is suspended only insofar as the Act is inconsistent with Rule 120 and 171, which require a motion for the destruction of fingerprints and photographs.**

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

[ 3 ] 5) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsis-

tent with Rule 127(A), which requires all proceedings to be recorded, except for detention hearings.

[ 4 ] 6) The Public Defender Act, Act of December 2, 1968, P. L. 1144, No. 358, § 1 *et seq.* as amended through Act of December 10, 1974, P. L. 830, No. 277, § 1, 16 P. S. 9960.1 *et seq.*, which requires the Public Defender to represent all juveniles who for lack of sufficient funds are unable to employ counsel is suspended only insofar as the Act is inconsistent with Rules 150 and 151, which require separate counsel if there is a conflict of interest.

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

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

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

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

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

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

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

[ 12 ] 14) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6323(a)(2), which provides that a

delinquent child may be referred for an informal adjustment by a juvenile probation officer, is suspended only insofar as the Act is inconsistent with Rule 312, which provides that only an *alleged* delinquent child may be referred for an informal adjustment because the filing of informal adjustment shall occur prior to the filing of a petition.

[ 13 ] 15) Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P. L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as inconsistent with Rule 340 only insofar as the section may delay disclosure to a juvenile seeking discovery under Rule 340(B)(6); and Section 5721(b) of the Act, 18 Pa.C.S. § 5721(b), is suspended only insofar as the time frame for making a motion to suppress is concerned, as inconsistent with Rules 347 and 350.

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

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

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

#### Comment

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

**Official Note:** Rule 800 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately; amended March 23, 2007, effective August 1, 2007; amended February 26, 2008, effective June 1, 2008; amended March 19, 2009, effective June 1, 2009. Amended February 12, 2010, effective immediately.

#### Committee Explanatory Reports:

Final Report explaining the amendments to Rule 800 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 37 Pa.B. 1483 (April 7, 2007).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 40 Pa.B. 1073 (February 27, 2010).



## Explanatory Report

### Background

The Committee has received several inquiries as to the application of the Criminal History Record Information Act (CHRIA) in juvenile cases. 18 Pa.C.S. § 9101 *et seq.*

According to 18 Pa.C.S. § 9105, nothing in CHRIA shall apply to juveniles except as provided in § 9123. Section 9123 governs juvenile records and provides the Court with criteria for expunging records. *See* 18 Pa.C.S. §§ 9105 and 9123.

CHRIA was adopted in 1980. Subsequently in 1986, the legislature enacted § 6309(a) of the Juvenile Act, making other sections of CHRIA applicable to alleged delinquents. The Juvenile Act expanded CHRIA's applicability regarding: 1) fingerprints and photographs; and 2) information collected, maintained, disseminated, or received by juvenile justice agencies.

Except for §§ 9105 (relating to other criminal justice agencies), 9112(a) & (b) (relating to mandatory fingerprinting), 9113 (relating to disposition reporting by criminal justice agencies) and 9121(b) (relating to general regulations), the remaining provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information) shall apply to all alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to § 6308(c) (relating to law enforcement records) and to any juvenile justice agency which collects, maintains, disseminates or receives juvenile history record information. 42 Pa.C.S. § 6309(a)

Section 9104 of CHRIA sets forth its scope and it does not apply to court documents, records, or indices prepared or maintained by or filed in any court. 18 Pa.C.S. § 9104(a)(2).

Because there are no criteria for expunging court cases, these proposed rule additions address the expunging of the official court record.

In addition, these proposed rule modifications address the destruction of fingerprints and photographs of juveniles. Section 6341(a) of the Juvenile Act provides for the immediate destruction of fingerprints and photographs if it is determined that the juvenile did not commit the alleged delinquent acts. "Destruction" was not defined and did not take into account any compelling reasons for keeping the documents. With the new definitions of "destroy" and "expunge," the Commonwealth may argue that the fingerprints and photographs be expunged but not destroyed.

### Rule 120—Definitions

This proposed Rule provides specific definitions of "expunge" and "destroy." Although many standard dictionaries and thesauruses use these terms to define each other or as synonyms, it is important to note that they have different legal meanings.

"Destroy," as used in these Rules, is the permanent erasure of a document or item. There shall be nothing left to trace or indicate that the item ever existed.

The term, "expunge," as distinguished from destroy means making a document or item not available to the public under any circumstances. There are several circumstances where the information may be necessarily retained for limited use by "juvenile justice agencies" and/or for statistical purposes. However, expunging a

document allows the juvenile to have a clean record when trying to secure a job, enrolling in college, or enlisting in the military.

"Intelligence information" and "investigative information" have also been defined to limit the information that may be kept by "juvenile justice agencies."

"Juvenile justice agencies" is defined as the court and agencies authorized to perform the administration of justice, including the attorney for the Commonwealth. This is especially important in retention of specific information to determine subsequent eligibility in a court program.

"Juvenile record" is defined to discern it from the "official court record." The "official court record" is the juvenile court file maintained by the clerk of courts; whereas, the "juvenile record" is collected and maintained by "juvenile justice agencies."

### Rule 163—Release of Information to School

When the court enters an order to expunge records, it should concurrently enter an order to destroy all information provided to the school. Because the school is not a "juvenile justice agency"; it should not retain any information provided by the court.

Paragraph (D) of this Rule requires that the school maintain a separate file of information provided from the court. This information is not to be placed in the juvenile's official school record. Therefore, when the court enters a destruction order, the school can destroy the separate file without affecting the official school record.

### Rule 167—Filings and Service of Court Orders and Notices

This proposal modifies Rule 167 to include a party, juvenile probation officer, and any other person, service provider, or agency listed in the court order among those individuals or entities who must receive copies of court orders and notices.

The juvenile should always receive a copy of court orders and notices regardless of whether the juvenile is represented by counsel. The juvenile probation officer and any other person, service provider, or agency listed in the court order should also be provided with a copy.

### Rule 170—Motion to Expunge or Destroy Records

Upon motion, the court may order that juvenile records, fingerprints, or photograph be expunged or destroyed.

The court should specify whether an item is being destroyed or expunged. The presentation of a motion allows the Commonwealth the opportunity to object and provide compelling reasons why the items at issue should be "expunged," rather than "destroyed." *See also* Rule 800 for suspension of § 6341(a) of the Juvenile Act.

Intelligence and investigative information kept separately by law enforcement agencies is not subject to this Rule.

### Rule 172—Order to Expunge or Destroy

The proposed language adds that the court's order must identify with specificity which items shall be expunged or destroyed. *See discussion infra.*

### Rule 173—Retention of Specific Information in Juvenile Records

This new proposed Rule provides for the retention of specific information by the court and juvenile justice agencies.

The information kept by the court must be limited to the information provided in paragraph (B). However, juvenile justice agencies have more latitude in keeping information for the purpose of determining subsequent eligibility in a court program, preparing a pre-sentence report, or for maintaining intelligence and investigative information.

Information retained by juvenile justice agencies is neither open to inspection by the public, nor governed by Rule 160 or § 6308 of the Juvenile Act.

*Rule 408—Ruling on Offenses*

It was brought to the Committee's attention that paragraph (B) was confusing because of its use of the term "all." The proposed modification clarifies the intent of the Rule and provides new language to read that if the court finds that the juvenile committed none of the alleged delinquent acts, the court shall dismiss the petition and release the juvenile.

If the court finds, for example, that the juvenile committed one of the twelve alleged delinquent acts, then the petition cannot be dismissed.

*Rule 800—Suspension of Acts of Assembly*

Application of CHRIA to juvenile matters, specifically fingerprints, photographs, and other law enforcement records has been much debated and created confusion among the bench and bar.

This Rule suspends CHRIA, 18 Pa.C.S. § 9101 *et seq.*, as it applies to juvenile cases.

Rules 170, 172, and 173 govern expunging and destroying records, fingerprints, or photographs.

This Rule also suspends § 6341(a) of the Juvenile Act only to the extent that it conflicts with Rules 120 and 171, which require a motion for the destruction of fingerprints and photographs.

[Pa.B. Doc. No. 10-1575. Filed for public inspection August 27, 2010, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Amendment of Philadelphia Traffic Court Local Rule No. 1036; Administrative Order 01 of 2010

##### Order

*And Now*, this 9th day of August, 2010, *It Is Hereby Ordered* that Philadelphia Traffic Court Local Rule No. 1036, is amended as follows.

As required by Pa.R.Crim.P. No. 105(D), the proposed amended rule has been submitted to the Supreme Court's Criminal Procedural Rules Committee for review and written notification has been received from the Committee certifying that the proposed amended rule is not inconsistent with any general rule of the Supreme Court. The original Administrative Order and amended local rule shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the Administrative Judge of the Philadelphia Traffic Court, and, as required by Pa.R.Crim.P. No. 105(E), two certified copies of this Administrative Order and amended local rule as well as a copy on a computer diskette shall be

distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The amended local rule will become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. No. 105(F) one certified copy of this Administrative Order and amended local rule shall be filed with the Administrative Office of Pennsylvania Courts and the local rule will also be published on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and posted on the First Judicial District's web site at <http://courts.phila.gov>. Copies of this Administrative Order and amended local rule shall be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

*By the Court*

HONORABLE BERNICE A. DeANGELIS,  
*Administrative Judge*  
*Philadelphia Traffic Court*

#### Philadelphia Traffic Court Local Rule 1036. Traffic Court Hearing Officers.

(a) *Qualifications.* Traffic Court Hearing Officers shall be knowledgeable with the Pennsylvania Motor Vehicle Code and the Pennsylvania Rules of Criminal Procedure, and any other rules or laws which control the issuance, processing and disposition of citations issued pursuant to the Motor Vehicle Code, including these Local Rules, shall complete an initial course of training and instruction of not less than [ **thirty-five (35)** ] **twenty (20)** hours as may be established from time to time by the Administrative Judge of the Traffic Court, shall possess such experience and educational requirements as may be established from time to time by the Administrative Judge of the Traffic Court, and must pass a written examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office. Attendance at training courses conducted by or on behalf of the Minor Judiciary Education Board may satisfy the training and instructional requirements.

(b) *Continuing Education.* Traffic Court Hearing Officer shall complete a continuing education program each year equivalent to not less than [ **twenty (20)** ] **ten (10)** hours per year in such courses or programs as may be established from time to time by the Administrative Judge of the Traffic Court. Attendance of continuing education courses conducted by or on behalf of the Minor Judiciary Education Board may satisfy the continuing education requirement. Failure to meet the continuing education requirements on a yearly basis shall result in the Hearing Officer being suspended, without pay, until such time as the continuing education requirements are met.

(c) *Duties.* As authorized by Pa.R.Crim.P. 1036(A), Traffic Court Hearing Officers are authorized to perform the following duties:

(1) set collateral consistent with Pa.R.Crim.P. 452 and 1034;

(2) establish or re-establish payment plans consistent with Pa.R.Crim.P. 456;

(3) conduct warrant hearings as provided in Local Rule 1033. At the conclusion of the warrant hearing, the Hearing Officer shall:

(i) if it appears that a summary trial can be held immediately, forward the case to a Traffic Court judge for an immediate summary trial;

(ii) if it appears that a summary trial cannot be held immediately, schedule a summary trial date and serve the notice on the defendant and determine whether collateral must be posted by the defendant to secure defendant's release pending the summary trial. The Scheduling Orders shall be substantially as set forth in Local Rule 1033;

(iii) release the defendant unless collateral has been ordered and is not posted. If collateral is ordered and is not posted, the defendant shall be brought to the county prison and held pending the summary trial or hearing. However, the defendant shall be released at any time before the summary trial or hearing when the collateral is posted; and

(iv) direct that all outstanding Traffic Court warrants against the defendant be withdrawn.

(4) such other duties as may, from time to time, be designed by the Administrative Judge of the Philadelphia Traffic Court through an amendment to this Local Rule.

COMMENT: The Traffic Court Hearing Officer shall set collateral, pursuant to Pa.R.Crim.P. 1034, in a reasonable amount, i.e. an amount which upon consideration of the defendant's income and the defendant's expenses may be reasonably posted by the defendant. It is the intention of the court that most, if not all, defendants arrested pursuant to Traffic Court warrants will be released pending the date of the summary trial or hearing. However, should Traffic Court records disclose that the defendant has a history of failure to appear for Traffic Court summary trials or hearings, especially after personal service of the notice of trial or scheduling order, the defendant may be held until the summary trial or hearing date and may be released only upon payment of the full amount of collateral or outstanding fines. Should the defendant be ordered held until the date of the summary trial or hearing, the summary trial or hearing should be scheduled as soon as practical.

Adopted January 3, 2006, published in the *Pennsylvania Bulletin* on January 14, 2006, and effective on February 13, 2006; **Amended on August 9, 2010, Effective on \_\_\_\_\_** (thirty days after publication in the *Pennsylvania Bulletin*).

[Pa.B. Doc. No. 10-1576. Filed for public inspection August 27, 2010, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BUCKS COUNTY

#### Adult Probation/Parole Firearms Policy; Administrative Order No. 60; MD 1988-2010

And Now, this 2nd day of August, 2010, it is *Hereby Ordered and Directed* that the Chief of the Office of Adult Probation of Bucks County may designate certain Bucks County Probation/Parole Officers on the search/arrest team to carry firearms, providing they have successfully completed the training required by the Bucks County Adult Probation/Parole Department and the Firearm Education and Training Commission.

All Bucks County Probation/Parole Officers authorized to carry firearms must comply with the requirements of the Bucks County Adult Probation/Parole Firearms Policy.

The Firearms Policy is as follows and incorporated herein, subject to amendment only by approval of the President Judge.

This order shall take effect September 15, 2010.

*By the Court*

SUSAN DEVLIN SCOTT,  
*President Judge*

Bucks County Adult Probation and Parole Department  
55 East Court Street  
Doylestown, PA 18901

Subject: Firearm Training

#### I. Purpose:

To describe the requirements for special training for arrest/search team members issued departmental firearms for use in the performance of their duties.

#### II. Policy:

All members of the Departmental arrest/search team are required to be armed. Prior to being issued a firearm, team members must complete all requirements as outlined in the following procedures. These requirements include, but are not limited to, psychological testing, successful completion of the initial qualification course and successful participation in other trainings as described in the procedures.

#### III. Procedures:

##### *Carrying Firearms:*

##### A. General Policy Overview:

Recognizing the potential danger in making arrests, executing warrants, locating absconders, working in high crime areas, and dealing with individuals having the capacity to demonstrate violent behavior, the Court authorizes the carrying of firearms by the department's arrest/search team for defensive purposes only.

1. The request is initiated in writing to the Chief Adult Probation Officer and is approved in accordance with Court policy.

2. The requesting individual has met the standards as set forth by the Court.

3. The individual continues to follow procedure meeting all safety and qualification requirements.

Only those members of the department's arrest/search team may request permission to carry firearms. Participation in the arrest/search team is strictly voluntary and member selection will be dependent on the individual officer's demonstrated ability in physical conflict control training, understanding of the Use of Force Model and ability to perform these duties in addition to their normal work responsibilities.

It must be realized that in making the decision to carry a weapon a great deal of legal, ethical, and professional responsibility is undertaken by both the agency and individual employee. This policy has been developed to provide needed direction and support by helping to assure adequate training, safety and handling of a weapon in meeting these requirements.

##### B. Legal Background

The Parole Act of 1941 in Section 27 states, "Parole officers appointed by the Court are hereby declared to be peace officers and are hereby given police power throughout the Commonwealth to arrest without warrant, writ, rule or process any parolee or probationer under the



supervision of the Court for failing to report as required by the terms of his or her probation or parole or for any other violation thereof." Legally this limits the authority of the parole officer to those individuals on probation and parole under supervision of the Court and outlines the conditions under which this authority may be used. In an opinion issued by the Attorney General on August 12, 1971, it was stated that "... Parole Agents may legally carry firearms while conducting their official duties..." provided adequate training is provided with the individual passing an approved firearm course and "... only in accordance with strict criteria."

In 1973, with the adoption of the Pennsylvania Crimes Code, a peace officer was defined in Chapter 5, as "... any person who by virtue of his public office or public employment is vested by law to make arrests for offenses..." Therefore, the police power of Parole Agents differs from that of the police officer. This necessitates special policy guidelines considering the conditions found in the probation and parole setting. Reference Act No. 277 of 1963. This section was later repealed and re-enacted under Section 42 Pa.C.S.A. § 9913, Peace officer power for probation officers.

"An officer is declared to be a peace officer and shall have police powers and authority throughout this Commonwealth to arrest, with or without warrant, writ, rule or process, any person on probation, intermediate punishment or parole under the supervision of the court for failing to report as required by the terms of that person's probation, intermediate punishment or parole or for any other violation of that person's probation, intermediate punishment or parole."

### *C. Carrying and Use of Firearms*

#### *1. General Principles*

The Pennsylvania Criminal Law and Criminal Procedure Manual defines deadly force as "... force which, under the circumstances in which it is used, is readily capable of causing death or serious injury."

The use of deadly force by Probation Officers is strictly limited to defensive situations. An officer may use a firearm only to defend him/herself or another person from what the officer perceives as an immediate threat of death or serious injury when there appears to be no other alternative. All nonviolent alternatives, including withdrawal from the scene, should be attempted before the use of a firearm is contemplated. Firearms will not be drawn or displayed routinely during arrests, nor should they be used for any other reason other than as described above. The Court does not authorize the carrying of a departmental issued firearm during off-duty hours, while in the Courthouse where there are designated storage cabinets, while attending training sessions other than firearms training, or during court appearances. The continued authorization to carry a firearm will be dependent upon the individual's compliance with the Court Firearms Policy and safe proper conduct while in possession of a weapon. Generally, the firearm is to be concealed on the person and not drawn or displayed unless there is a reasonable belief of a threat of immediate death or serious bodily injury. The carrying of a firearm places a great deal of responsibility upon the person, and the weapon must be treated with respect. Individuals found to be careless or negligent in their handling of a weapon will have their authorization to carry a firearm withdrawn.

#### *2. Issuance of Authorization to Carry a Firearm*

The process of requesting authorization to carry an office issued .40 cal. Smith & Wesson (Model M&P 40), shall be initiated by submitting a request for Firearms Authorization (See Exhibit "A") through management channels to the Chief Adult Probation Officer requesting the permission to carry a firearm. This written request will be analyzed by the Chief Adult Probation Officer in terms of:

a. Documentation that the requesting individual has taken an initial firearms training course.

b. Observation and documentation of the following: serious physical impairment; drug, alcohol or emotional related problems; and/or receipt of a report from a certified psychiatrist or doctor stating the individual is unable to perform his prescribed duties. Under such circumstances, the employee will agree to have the information provided that is needed by the Court to make a decision. Such information gathered will be handled in a confidential manner by the Chief Adult Probation Officer as called for by the Court. Failure to agree to the release of this information by a treatment provider can result in the request to carry a firearm being denied.

Arrest team members desiring to carry, or have access to, a firearm in conjunction with the performance of their duties must first pass an initial firearms training program. This training is mandatory for all arrest/search team members.

Under no circumstances can a weapon be carried without the prior authorization of the Court.

Upon authorization, a firearm shall be issued by the Chief County Adult Probation Officer and only that weapon shall be carried in the performance of their duties.

#### *3. Relinquishing Authorization*

Once an arrest/search team member has been authorized to carry a firearm, that officer cannot request relinquishment of that authorization for at least 3 years. The decision to carry a firearm is a difficult and moral decision that must be considered carefully by the Officer before requesting authorization. Special situations that arise will be evaluated on an individual basis.

#### *4. Firearms Not To be Carried Without a License*

Since Probation/Parole Officers are declared peace officers with police powers to arrest offenders in violation of probation, parole or intermediate punishment, a license to carry a firearm during the performance of their official duties is not required. However, the department recommends that all weapon-carrying Officers obtain a license to carry a weapon. The costs of the permit shall be absorbed by the Officer.

#### *5. Safety*

The safe handling of weapons is of paramount concern. This involves the joint effort of individual staff, supervisors, and the overall agency in assuring that every possible effort is made to avert accidents, negligence or misuse.

#### *6. Authorized Weapons and Equipment*

Arrest/search team members are authorized to carry approved weapons only (Smith & Wesson Model M&P 40).

Staff shall use only approved and county issued holsters.

Arrest team members approved to carry a firearm will be issued a Smith & Wesson M&P .40 cal. and three (3) magazines with no more than fifteen (15) rounds of ammunition in each magazine.

Staff shall use only county/office issued ammunition.

Staff who have been approved and issued a firearm shall carry their firearm while performing field duties during working hours.

Staff carrying unapproved weapons do so at their own risk and are subject to having their authorization to carry a weapon withdrawn or possibly face disciplinary action.

a. *Storing the Weapon*

When in the field, weapons are to be carried but concealed on the individual and not left in the car, a briefcase, etc. where they are vulnerable to theft or use by others.

Firearms should not be left in vehicles or other unsecured areas. Should circumstances arise requiring the emergency or brief storage of a firearm, the containment area must be stationary, locked and inaccessible to all except the probation officer.

Where firearms storage cabinets are provided, staff will secure their weapons in these cabinets while working in the Courthouse. If this cabinet is not utilized or available, staff must keep firearms and holsters concealed on their person. Weapons and/or holsters shall not be displayed. Under no circumstances are weapons to be stored anywhere in the office other than the approved storage cabinet. Provisions for the safe storage of any unassigned weapons should be made with an appropriate local law enforcement agency or by the Chief Adult Probation Officer.

When at home the officer shall secure their weapon where it is safe and not accessible to others. Firearm lock boxes, issued with the weapon, must be used whenever the weapon is not being carried, and the ammunition must be removed and stored separately to further reduce the chances of an accident.

Under no circumstances will staff dry fire weapons in the office.

b. *Care, Cleaning and Inspection*

Weapons shall be inspected for cleanliness prior to any practice or qualification.

Individuals to whom a firearm is issued are responsible for the care and cleaning of the weapon and for the proper use of safety equipment. If defects are noted or repairs are needed, the individual should effect repairs and immediately notify the Chief Adult Probation Officer or office firearms instructor.

Weapons shall be cleaned immediately following their use (practice, qualifying). Also, weapons shall be cleaned at least once a month regardless of their use.

7. *Handling of Special Occurrences*

In the case of theft, loss, allegations of misuse, or the discharge of a weapon, a prompt inquiry will be initiated involving the Chief Adult Probation Officer and the Court. A written report of this investigation shall be completed and received in writing within two (2) working days of the initiation of the request. Extensions of up to an additional three (3) days may be granted with the approval of the Court.

Additional steps in handling each type of situation follow:

a. *Lost or Stolen Weapons*

1.) All lost or stolen weapons will be immediately reported to the local police and State Police providing the weapon serial number, details of the occurrence, person discovering theft, etc.

2.) The Chief Adult Probation Officer will be notified as soon as possible followed promptly by a memorandum from the employee involved, fully explaining the circumstances.

3.) The Chief Adult Probation Officer will notify the Court who will decide if further inquiry is necessary.

4.) Where a weapon is damaged or lost through the employee's negligence or misuse, the employee will be held responsible for the costs of repair or replacement of the weapon and may face additional disciplinary action.

b. *Discharge of a Weapon*

1.) Any discharge or firing of an authorized weapon other than during agency-approved training, or during practice at an established range, must be reported immediately to the Chief Adult Probation Officer by the employee firing the weapon providing the exact location and time of the incident, a detailed description of the incident, names and addresses of any witnesses, reasons the firearm was fired, names of any investigating police officers, and information that may be necessary in understanding and investigating the incident. The failure to promptly report the discharge of a weapon may result in disciplinary/corrective action. This information will be immediately conveyed, followed by a complete written report to the Chief Adult Probation Officer through the Court.

2.) In the event death or injury results from the discharge of a weapon, local and State Police must be immediately notified by the person discharging the weapon. The area in which the discharge occurred must be secured and cordoned off as soon as possible. The officer shall remain in the area until dismissed by the Law Enforcement Agent (LEA) in charge or by the Chief Adult Probation Officer.

3.) The Chief Adult Probation officer will contact the Court, and they will decide what course of action is necessary in investigating the incident.

c. *Warning Shots*

1.) Probation officers are prohibited from firing warning shots under any circumstances.

2.) Warning shots are usually not aimed at a specific target; therefore, they may create a danger to other probation officers and the public.

3.) Warning shots invite inappropriate responses from other probation officers who may mistake the intention of the warning shot and subsequently shoot at the subject without appropriate justification.

d. *Rescue Shots*

1.) A rescue shot is utilized for the purpose of identifying location and/or acquiring appropriate assistance.

2.) An officer who is in danger of death or serious bodily injury and incapacitated to such an extent that they cannot signal in any other manner, may fire a rescue shot(s). Probation officers must exercise reasonable care in these situations.

e. *Target Identification and Isolation*

1.) Probation officers facing a decision to use deadly force must be cognizant of any innocent third parties that may be present in or near the line of fire.

2.) Probation officers are prohibited from discharging firearms when they cannot identify their target and it appears reasonable and likely that an innocent person(s) may be injured, unless the prohibition in discharging a firearm is likely to result in the death or serious bodily injury of the probation officer or another person.

3.) Probation officers shall establish target identification and target isolation. Target identification shall be defined as an empirical verification of a person at which force may be directed and used. Target isolation shall be defined as the ability to segregate a target from surrounding people or objects.

f. *Shooting and Moving Vehicles*

Probation officers shall not discharge a firearm at or from a moving vehicle except under the following conditions:

1.) As a last resort measure of self-defense when the subject is using deadly force by means other than the vehicle.

2.) As a last resort of self-defense when a vehicle is being driven in a manner deliberately intended to kill or injure an officer or another person.

3.) In deciding to shoot at a moving vehicle, probation officers must take into account the following limitations and consequences:

- a.) the difficulty of hitting a moving target;
- b.) the possibility of ricochets striking unintended targets;
- c.) population densities;
- d.) the difficulty in penetrating the automobile body and/or steel-belted radial tires;
- e.) the inability to stop a vehicle's momentum even when the target actor is hit; and
- f.) the possibility of damage or injury that might result from causing the vehicle to go out of control.

8. *Incidents or Allegation*

An incident is defined as, but not limited to:

- a. Allegations of misuse of a firearm.
- b. The drawing or displaying of a weapon during performance of duty.

It is the responsibility of the individual carrying a firearm to report immediately to the Chief Adult Probation officer any incidents or situations that may result in allegations being made or complaints filed regarding the use or displaying of a firearm. Other staff who observe any unusual situation involving a firearm should verbally report it to the Chief Adult Probation Officer/firearm instructors.

The Court will be promptly notified by phone by the Chief Adult Probation Officer of all incidents. If the Chief Adult Probation Officer is the subject of the incident or allegation, the notification or report should be made directly to the Court.

9. *Other Incidents or Special Occurrences*

Other incidents of noncompliance with policies, such as failure to properly maintain, failure to carry a weapon concealed in the office, carrying or use of unauthorized

equipment, or modifications of equipment, will be handled on a local level with a memo to the Court.

10. *Surrender of Weapon*

The Chief Adult Probation Officer will withdraw authorization to carry a weapon upon the following circumstances:

- a. From an employee involved in a serious weapon incident until the investigation is complete.
- b. If an employee is observed in unsafe behavior with a weapon, fellow employees or supervisors.
- c. If upon inspection by the Chief Adult probation officer the employee's weapon has been damaged through negligence, recklessness, or misuse.
- d. When an employee is terminated, suspended, or on extended leave.
- e. When an employee fails to obtain a passing score on bi-annual firearms requalification, held every 6 months.

f. Upon observation and documentation by the Chief Adult Probation Officer of: serious impairment; drug, alcohol or emotionally related problems; and/or receipt of a report from a certified psychiatrist or doctor stating the individual is unable to perform his/her prescribed duties. Under such circumstances, the employee will agree to the release of pertinent information by a treatment provider such that a decision can be made concerning his/her ability to carry a firearm in a responsible manner. Information gathered will be handled in a confidential manner in keeping with Court policy. Failure to agree to this release of information will require that the firearm be surrendered and authorization withdrawn.

The Chief Adult Probation Officer may suspend the authorization to carry a weapon should an immediate need be presented and/or in the event one of the previously cited conditions exists.

Other sanctions may be considered by the Court based on the findings and depending on the degree of negligence or malpractice.

The concerned employee may appeal the Chief Adult Probation Officer's decision in writing through appropriate channels. The Court has final reviewing responsibility and authority in these matters.

11. *Training*

a. *Initial qualifications*

Arrest/search team members requesting permission to carry a firearm must attend the Basic Firearms Training course as outlined by the County Probation/Parole Firearm Education and Training Commission (per Act 158 of 1994), consisting of: three days of classroom and four days of range firing, according to a schedule provided by the Commission. This training will be augmented with deadly force response and decision making training through use of the AIS PRISim® program available at the Public Safety Training Center.

Those staff failing to obtain a passing score on the first course will be permitted to retake the training a second time depending on the financial training budget or at their own expense.

b. *Re-qualification*

1.) In order to maintain the authorization to carry a firearm personnel must re-qualify twice per year with the firearm the officer will be carrying. The re-qualifications



are mandatory to continue to carry a firearm with the minimum passing score being 75%. These courses will be held and organized by the head firearm instructor for the Department as approved by the Chief Adult Probation Officer. The re-qualification is the County Probation/Parole Officers Firearm Education and Training Commission's course of fire. The procedures for qualification on this course are governed by the Commission and allow for one practice and two attempts on the course of fire during each opportunity to qualify. If the officer fails at that point there must be a period of remedial practice and another opportunity to qualify will be permitted within 30 days. Failure to qualify during the second opportunity will require the officer to retake the range portion of the basic firearms class sponsored by the Commission.

Following the completion of an initial qualification or requalification program, the Chief Adult Probation Officer shall record copies of the scores of each individual taking the training. Notation of these scores will be made in the employee's file.

2.) All officers will be subject to mandatory training as determined and outlined by the Chief of Adult Probation Officer to included dim-light shooting, tactical courses of fire and advanced firearms training as mandated by the department and/or the County Probation/Parole Officers Firearm Education and Training Commission.

3.) All arrest/search team members will be required to attend the 5 supplemental trainings provided by the Commission as time and schedules permit.

#### 12. *Conditions for Carrying a Firearm*

All weapon-carrying officers shall carry their firearm concealed and under the following circumstances:

- a. During an arrest or search and seizure situation;
- b. While conducting field contacts, including after-hour investigations by assigned on-call personnel;
- c. Range qualification and related training, including practice shooting;
- d. While in the offices of Adult Probation.

Firearms are to be carried in a concealed manner on the officer, under an article of clothing, except that when participating in an arrest/search situation, the officer may position the weapon in an unconcealed manner to enhance accessibility.

Additionally, officers must carry their departmentally issued baton and oleoresin capicum spray. Officers are required to wear their ballistic vest at all times while armed. Officers have the option of storing their weapon in the secure locker should they want to remove their ballistic vest.

#### 13. *Displaying a Firearm*

Firearms shall not be displayed or drawn for any other reason than described below:

- a. During an arrest/search situation.
- b. Justifiable self-protection or the protection of others.
- c. When the officer perceives an immediate threat of death or serious bodily injury.
- d. Cleaning the firearm, storage and inspection.
- e. Range qualification or practice shooting.
- f. Storage at a correctional facility, courthouse or other secure facility.

#### 14. *Handling of Firearms*

The continued authorization to carry a firearm will depend on the following:

- a. The officer's compliance with agency policy and procedure.
- b. The officer's ability to handle the firearm in a safe manner.
- c. The officer's ability to conduct himself/herself in a safe and proper manner while in possession of the firearm.
- d. Except for general maintenance, storage, or authorized training, officers shall not draw or exhibit their firearms unless circumstances create strong reasonable belief that it may be necessary to lawfully use the weapon.
- e. In those situations, the officer shall exercise a reasonable standard of care with the drawn weapon. At a minimum, reasonable care includes: pointing the muzzle in a safe direction; keeping the trigger finger outside the trigger guard.
- f. The use of handling of a firearm by an officer, on or off-duty, in a careless or imprudent manner or the unjustified endangering of human life by a firearm in violation of this policy statement is strictly forbidden and shall result in a disciplinary investigation and may result in the revocation of authorization to carry a firearm, and other possible disciplinary action in accordance with County/Court policy, which may include dismissal from the department.
- g. The department does not authorize or recognize the carrying of an agency issued firearm during off-duty hours. Paid leave status for the purpose of this policy statement shall be deemed as "off-duty."

A violation of any of the above procedures will result in an investigation being conducted by the Chief Adult Probation Officer or his designee. After the completion of that investigation a decision will be made about the officer's continued authorization to carry a firearm.

#### 15. *Violation of Firearm Policy*

Non-compliance with the firearms policy by an employee shall result in disciplinary action being imposed on that employee consistent with court policy.

**\*\*Note:** All circumstances that may occur when effecting arrest/search cannot be predicted. The above procedures are not meant to hamper the individual discretion of each staff member, but to act as a guide in carrying out this responsibility. Any injury or unusual incidents occurring during the effect of arrest shall be reported immediately to the Chief Adult Probation Officer or his designee.

Effective September 15, 2010

#### **FIREARMS AUTHORIZATION REQUEST**

I, \_\_\_\_\_, an adult probation/parole officer for the Bucks County Adult Probation/Parole Department and member of the Arrest/Search Team, a division of the Court of Common Pleas, Seventh Judicial District, do hereby request authorization to carry a firearm in the performance of my duties.

In making the aforementioned request, I acknowledge and certify the following:

1. I am a tenured employee and not on a probationary status.

2. I am not pending any disciplinary action nor am I involved in or have knowledge of any departmental, criminal or civil investigation or litigation against me. I have also been free of disciplinary action for the past two years.

3. I do not have a problem with drugs or alcohol. I am not presently using any drugs, except as authorized by a medical physician. I have verified with my physician that the medication prescribed will not have any effect on my judgment or impair my ability to carry a firearm in the performance of my duties.

4. I have completed psychological testing and have been approved mentally sound by a licensed psychologist to carry a firearm.

5. I am medically and physically sound to carry out my assigned duties as a probation/parole officer.

6. I have completed classroom instruction on firearms and have successfully passed a written examination (County Probation/Parole Officers' Firearms Education and Training Commission).

7. I have completed range instruction and have qualified in a practical phase of shooting (County Probation/Parole Officers' Firearms Education and Training Commission).

8. I will only use my firearm for defensive purposes only, where retreat is not possible and death or serious bodily injury is imminent.

9. I have successfully completed training in chemical agents and impact weapons and have received certifications.

10. I have successfully completed training in control tactics, defensive tactics and Use of Force Instruction and have received certification.

I hereby affirm that the aforementioned information is true. Also, I understand that the falsification of any aforementioned information shall result in the appropriate disciplinary action.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT "A"**

**FIREARM CERTIFICATION**

Officer's Name: \_\_\_\_\_

- 1. Successful completion of criminal background investigation. [ ] Yes [ ] No
- 2. Successful completion of psychological evaluation. [ ] Yes [ ] No
- 3. Successful completion of defensive tactics. [ ] Yes [ ] No
- 4. Successful completion of chemical agent and expandable baton training. [ ] Yes [ ] No
- 5. Successful completion of Use of Force Training. [ ] Yes [ ] No
- 6. Successful completion of training at the County Probation and Parole Officer's Firearms and Education and Training Commission. [ ] Yes [ ] No
- 7. Ability to demonstrate proficiency, safety and knowledge in the proper use and handling of a firearm. [ ] Yes [ ] No

**AUTHORIZATION**

REQUEST GRANTED [ ] REQUEST DENIED [ ]

Chief Adult Probation/Parole Officer:

I, Sean R. Ryan, Chief Adult Probation/Parole Officer hereby approve/deny the within request to carry a firearm in accordance with court and departmental policies and procedures.

Signature \_\_\_\_\_ Date \_\_\_\_\_

[Pa.B. Doc. No. 10-1577. Filed for public inspection August 27, 2010, 9:00 a.m.]

**BUCKS COUNTY**

**Order Promulgating Rule of Civil Procedure No. 4019(g)(1)(c) and Rule of Civil Procedure No. 208.2(e); Administrative Order No. 61**

**Order of Court**

And Now, this 13th day of August, 2010, Bucks County Rule of Civil Procedure No. 4019(g)(1)(c) and Bucks County Rule of Civil Procedure No. 208.2(e) are promulgated as follows:

**Rule 4019(g)(1)(c). Discovery Motions Court.**

(1) In lieu of the procedure set forth in 4019(g)(1)(a), counsel in any civil action, excluding Family Court matters, may present any motion regarding discovery in Discovery Motions Court. The motion must comply with the requirements of Pa.R.C.P. No. 208.2, but need not include the language set forth in B.C.R.C.P. No. 4019(g)(1)(a) in its proposed order.

Note: All actions filed in the Criminal and Orphans' Court divisions are specifically excluded from the procedures set forth by the rule. For the purpose of this rule, "Family Court matters" are actions before the Domestic Relations Section [actions for Support (Pa.R.C.P. No. 1910.1 *et seq.*)] and family court matters such as actions pursuant to the Protection from Abuse Act (Pa.R.C.P. No. 1901 *et seq.*), actions for Custody (Pa.R.C.P. No. 1915.1 *et seq.*), and actions for Divorce (Pa.R.C.P. No. 1920.1 *et seq.*).

(2) Discovery Motions Court shall be held each Friday afternoon at 1:30 PM. Discovery motions may be presented to the motions judge only after a copy of the motion and the proposed order of court have been served on all counsel of record and any unrepresented party not later than the Friday preceding the intended date of presentation.

(3) Notice of the date, time and place of presentation must accompany the copy of the motion and the proposed order of court. Service may be made in any manner as authorized by the Pennsylvania Rules of Civil Procedure, including facsimile transmission pursuant to Pa.R.C.P. No. 440(a)(1)(ii) and/or e-mail pursuant to Pa.R.C.P. No. 205.4(g)(1), with service of the required documents to be completed no later than the Friday preceding the date of presentation. Motions seeking sanctions in the form of dismissal of an action or any claim therein, or for a financial penalty levied against a party, must be served upon the party as well as upon his or her counsel.

(4) The presenting party must attach to the motion a certification of compliance with this rule setting forth the

date on which the motion was served on counsel, unrepresented parties, and represented parties against whom sanctions are sought, the manner of service, and that such service was made in compliance with the Rule of Civil Procedure under which it was effected.

(5) Prior to serving a motion and proposed order of court, the parties have an obligation to make a good faith effort to resolve their discovery dispute. The motion shall specifically identify what good faith efforts were made in an attempt to resolve the discovery dispute without court action, and shall include as attachments copies of any and all writings sent to respondent(s) which evidence such efforts. At least one such writing shall be sent by the movant to the respondent prior to filing a motion pursuant to this rule.

**EXPLANATORY COMMENT:** The purpose of this rule is to foster the use of Discovery Motions Court practice. At the hearing, the Motions Court Judge may in the judge's discretion determine that the matter is too complex to handle during Motions Court and issue an appropriate order referring the matter to the judge assigned to the said case. Sufficient notice and receipt of the motion or petition and proposed order of court is required by law and fundamental fairness. Counsel desiring to take advantage of Discovery Motions Court practice must be diligent in complying with the notice requirement.

**Rule 208.2(e). Proof of Notice of Efforts to Resolve Discovery Disputes.**

All motions filed pursuant to Bucks County Rule of Civil Procedure 4019(g)(1)(c) shall specifically allege what good faith efforts were made in an attempt to resolve the discovery dispute without court action, and shall include as attachments copies of any and all writings sent to respondent(s) which evidence such efforts.

This Order shall become effective October 1, 2010.

*By the Court*

SUSAN DEVLIN SCOTT,  
*President Judge*

[Pa.B. Doc. No. 10-1578. Filed for public inspection August 27, 2010, 9:00 a.m.]

**LACKAWANNA COUNTY**

**Repeal and Adoption of Rules of Civil Procedure;  
No. 94 CV 102**

**Order**

*And Now*, this 2nd day of August, 2010, it is hereby *Ordered and Decreed* that the following Lackawanna County Rules of Civil Procedure are amended as follows:

1. Lacka. Co. R.C.P. 214 is amended to include paragraph (d) as reflected in the following Rule. The amended language of Local Rule 214(d) appears in bold face for ease of reference;

2. New Lacka. Co. R.C.P. 2206 is adopted as reflected in the following Rule. The new language of Local Rule 2206 appears in bold face for ease of reference;

3. Pursuant to Pa. R.C.P. 239(c)(2)—(6), the following Local Rules shall be disseminated and published in the following manner:

(a) Seven (7) certified copies of the following Local Rules shall be filed with the Administrative Office of the Pennsylvania Courts;

(b) Two (2) certified copies of the following Local Rules and a computer diskette containing the text of the attached Local Rules in Microsoft Word format and labeled with the court's name and address and computer file name shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) One (1) certified copy of the attached Local Rules shall be filed with the Civil Procedural Rules Committee;

(d) The following Local Rules shall be kept continuously available for public inspection and copying in the Office of the Clerk of Judicial Records, Civil Division, and upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Judicial Records shall furnish to any requesting person a copy of the requested Local Rule(s); and

(e) A computer diskette containing the text of the following Local Rules in Microsoft Word format and labeled with the court's name and address and computer file name shall be distributed to the Lackawanna Bar Association for publication on the web site of the Lackawanna Bar Association.

4. The following amendment to Lackawanna County R.C.P. 214 and the adoption of new Lackawanna County R.C.P. 2206 shall become effective thirty (30) days after the date of their publication in the *Pennsylvania Bulletin* pursuant to Pa. R.C.P. 239(d).

*By the Court*

CHESTER P. HARHUT,  
*President Judge*

**Rule 214. Listing Cases for Hearing or Trial.**

(a) The Court Administrator shall assign a case for hearing or trial upon the filing of a Certificate of Readiness in the form attached to the Appendix of these Local Rules as Form 7. The Certificate of Readiness should identify the judge who has decided any case dispositive motion under Lacka. Co. R.C.P. 1028, 1034 or 1035.2, and whenever practicable, the Court Administrator shall assign the case for hearing or trial to the judge who has decided that case dispositive motion.

(b) No Certificate of Readiness may be filed until all discovery in the case has been completed and all depositions for use at trial have been scheduled or completed. Nor may a Certificate of Readiness be filed if any case dispositive motion is pending for disposition by the court. The filing of a Certificate of Readiness shall constitute a verification that no case dispositive motions are pending nor does any party or attorney contemplate filing such a case dispositive motion.

(c) No party or lawyer may file more than one Certificate of Readiness on any single day.

**(d) At least fifteen (15) days prior to the filing of a Certificate of Readiness, the party or lawyer seeking to certify the case for trial must advise all counsel of record and self-represented parties of the intention to file a Certificate of Readiness. If no counsel or party objects to the filing of a Certificate of Readiness within that fifteen (15) day period, the Certificate of Readiness may be filed as provided by paragraphs (b) and (c) above. In the event that**



an attorney or party objects to the filing of a Certificate of Readiness, and the attorney or party seeking to certify the case for trial believes that the objection is frivolous or being asserted for an improper purpose such as to unnecessarily delay the disposition of the litigation, the attorney or party seeking to certify the case for trial shall present a motion to the Motion Court judge pursuant to Lacka. Co. R.C.P. 208.3(a) requesting leave of court to file a Certificate of Readiness over the objection of the opposing party or counsel.

**Rule 2206. Court Approval of Distribution of Proceeds.**

Whenever any sum of money is to be paid to the plaintiff in settlement of claims or satisfaction of a verdict or judgment in an action for damages under the Wrongful Death Act, 42 Pa.C.S. § 8301, and the Survival Act, 42 Pa.C.S. § 8302, the plaintiff shall present a motion for approval of the proposed distribution of proceeds pursuant to the procedure set forth in Lacka. Co. R.C.P. 208.3(a). The motion shall include, *inter alia*, the proposed allocation of the proceeds between the wrongful death and survival claims and shall attach correspondence or some other form of documented communication from the Pennsylvania Department of Revenue confirming that it does not object to the proposed

**apportionment of the proceeds between the wrongful death claim and the survival claim.**

[Pa.B. Doc. No. 10-1579. Filed for public inspection August 27, 2010, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Transfer to Inactive Status

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated, August 13, 2010, David I. Cornell was transferred to inactive status, effective immediately, pursuant to Rule 301(e), Pa.R.D.E. (relating to disabled attorneys) for an indefinite period and until further Order of the Supreme Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

*Secretary*

*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-1580. Filed for public inspection August 27, 2010, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 4—ADMINISTRATION

### STATE EMPLOYEES' RETIREMENT BOARD

[ 4 PA. CODE CH. 247 ]

#### Priority of Taxation, Attachment and Assignment of Funds

The State Employees' Retirement Board (Board) adds § 247.11 (relating to priority of forfeitures, attachments and assignments of funds) to read as set forth in Annex A.

##### A. *Effective Date*

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

##### B. *Contact Person*

For further information, contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 787-9657; or Brian E. McDonough, Deputy Chief Counsel, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (717) 783-7317.

##### C. *Statutory Authority*

This final-form rulemaking is being made under the authority of 71 Pa.C.S. §§ 5902(h) and 5953 (relating to administrative duties of the board; and taxation, attachment and assignment of funds).

##### D. *Background and Purpose*

This final-form rulemaking sets priorities among conflicting demands on forfeiture, attachments and assignments of members' retirement benefits authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code). A court decision has offered partial guidance in this area. The final-form rulemaking will enable consistent application of the statute and could avoid litigation of priority issues.

##### E. *Summary of Comments and Responses*

Comments were received from the Independent Regulatory Review Commission (IRRC) regarding this rulemaking. The comments are mooted by revisions in the final rulemaking.

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

Executive Order 1996-1 requires a cost/benefit analysis of the regulation.

##### *Benefits*

The final-form rulemaking is intended to alleviate confusion and prevent possible disputes with regard to conflicting demands upon members' retirement benefits.

##### *Costs*

There are no costs to the Commonwealth, its citizens or State employees associated with this final-form rulemaking.

##### *Compliance costs*

The final-form rulemaking is not expected to impose additional compliance costs on State employees.

##### G. *Sunset Review*

A sunset review is not applicable.

##### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 18, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 2062 (May 3, 2008), to IRRC and to the House State Government Committee and the Senate Finance Committee (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 14, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2010, and approved the final-form rulemaking.

##### I. *Findings*

The Board finds that:

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

(2) The final-form rulemaking is necessary and appropriate for the administration of 71 Pa.C.S. Part XXV.

##### J. *Order*

The Board, acting under 71 Pa.C.S. § 5902(h), orders that:

(a) The regulations of the Board, 4 Pa. Code Chapter 247, are amended by adding § 247.11 to read as set forth in Annex A.

(b) The final-form rulemaking shall be submitted to the Office of Attorney General for approval as to legality as required by law.

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

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

NICHOLAS J. MAIALE,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 4359 (July 31, 2010).)*

**Fiscal Note:** Fiscal Note 31-7 remains valid for the final adoption of the subject regulations.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART X. STATE EMPLOYEES' RETIREMENT BOARD

#### CHAPTER 247. BENEFITS

#### § 247.11. Priority of forfeitures, attachments and assignments of funds.

(a) The right of a person to any benefit or right accrued or accruing under the code, as amended from time to

time, and the moneys in the fund are subject to prior payment or forfeiture of rights, as set forth in section 5953 of the code (relating to taxation, attachment and assignment of funds), in the following sequential priority to the extent the forfeitures and competing claims exist at the time the distribution is made as determined by the Board consistent with applicable law:

(1) For pension forfeitures, fines and restitution as provided under the Public Employee Pension Forfeiture Act (43 P.S. §§ 1311—1315), as amended from time to time, or under Pa.Const. Art. V, § 16(b).

(2) To the employer after certification by the head of the employer of the amount that the member is obligated to pay, and after review and approval by the employer’s legal representative or upon receipt of an assignment from the member in the amount so certified.

(3) To an alternate payee or attaching authority as set forth in an approved domestic relations order, order for support, or order for the enforcement of arrearages as described in section 5953.1 of the code (relating to approval of domestic relations orders).

(4) To the member directly or to an eligible retirement plan by way of an eligible rollover distribution.

(b) Payments from a member’s retirement benefits under subsection (a)(2) shall first be made from the entire accumulated deductions then standing to the credit of the member upon entering pay status. The remaining balance, if any, of payments due under subsection (a)(2) and payments due under subsection (a)(3) for orders for support or orders for the enforcement of arrearages, or both, shall be paid out of the monthly annuity payable to or on behalf of the member at the rate of up to 50% (as determined by the System consistent with applicable law) of the gross monthly annuity until paid in full. The amount payable under subsection (a)(3) pursuant to an approved domestic relations order may be paid out of the monthly annuity paid to or on behalf of the member at the rate of up to 100% (as determined by the System consistent with applicable law) of the member’s remaining monthly annuity until paid in full. Unpaid amounts remaining after termination of an annuity paid to or on behalf of the member or, after the death of the member prior to receiving an annuity, shall be paid out of the remaining initial present value then standing to the credit of the member, if any.

[Pa.B. Doc. No. 10-1581. Filed for public inspection August 27, 2010, 9:00 a.m.]

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [ 34 PA. CODE CH. 13 ]

#### Propane and Liquefied Petroleum Gas

Under section 16 of the Propane and Liquefied Petroleum Gas Act (act) (35 P.S. § 1329.16), the Department of Labor and Industry (Department) amends Chapter 13 (relating to propane and liquefied petroleum gas) to read as set forth in Annex A.

#### Statutory Authority

This final-form rulemaking is issued under the authority in section 16 of the act which provides: “The depart-

ment shall promulgate and enforce regulations to implement this act. These regulations may include setting forth minimum general standards covering the design, installation and construction of containers and pertinent equipment for the storage and handling of liquefied petroleum gases (LPG), specifying the odorization of the gases and establishing guidelines for the processes and technologies that are not covered by industry standards.”

Section 5(a) of the act (35 P.S. § 1329.5(a)) also mandates that the Department establish fees by regulation for the approval of new and expansion of existing LPG facilities, permits and certification of training programs. Section 17(a)(1) of the act (35 P.S. § 1329.17(a)(1)) charges the Department with responsibility for enforcing the act and regulations promulgated under the act.

#### Background

LPG is a highly flammable and combustible material, which can pose a serious threat to life and property if stored or handled improperly or if a leak occurs. The Commonwealth previously adopted the act of December 27, 1951 (P.L. 1793, No. 475) (Repealed). In 2002, the Legislature replaced this repealed act with the act in an effort to bring the Commonwealth’s LPG program up to current National standards of safety, training and inspection. The act’s primary improvement was requiring Nationally accepted standards for and consistent application of inspections of LPG containers and facilities.

The Department published proposed rulemaking at 39 Pa.B. 4340 (July 25, 2009). As a result, the Department received written comments from John McKeown, Kathy Speaker MacNett, Esq. (on behalf of the Pennsylvania Propane Gas Association (PAPGA)) and David Scriven, Esq. (on behalf of the Pennsylvania Public Utility Commission (PUC)). The Department also received written comments from the Independent Regulatory Review Commission (IRRC). In addition to the written comments received, the Liquefied Petroleum Gas Advisory Board (Advisory Board) met on March 4, 2010, to review the final-form rulemaking and provided comments at that time.

#### Purpose

This final-form rulemaking is necessary to implement the act. The final-form rulemaking adopts National standards which bring the Commonwealth’s program to the most current state-of-the-art in technology and safety. The final-form rulemaking applies to bulk plants, distributors and industrial users and regulates the storage, transfer, sale and use of LPG, including providing for approval of training programs for authorized attendants. The final-form rulemaking adopts fees, provides for registration and annual permits and requires facilities to maintain insurance. The final-form rulemaking sets forth the application and plan approval processes and provides for enforcement by the Department if an inspection reveals violations of the act or its regulations.

Under section 18(b) of the act (35 P.S. § 1329.18(b)), this final-form rulemaking does not apply to persons that both sell LPG and the container in which the LPG is contained if the container is not more than 2.5 pounds water capacity.

#### Response to Comments

IRRC commented that a more specific reference to the Code of Federal Regulations would be helpful in the definition of “cylinder” in § 13.1 (relating to definitions).

In response, the Department provided a citation to 49 CFR Part 178, Subpart C (relating to specifications for cylinders).

IRRC and PAPGA commented on the definition of “cylinder exchange cabinet” in § 13.1. IRRC suggested that the Department explain its intent for the application of the definition while PAPGA requested that the Department exclude commercial cylinder exchange cabinets. The Department did not amend the definition of “cylinder exchange cabinet” because it does not intend to exclude commercial or industrial cylinder exchange cabinets from the requirements in these regulations.

IRRC commented that the definition of “distributor” in § 13.1 is different from the statutory definition and that the definition, by statute, is a person not an inanimate object. IRRC suggested that the Department justify the second sentence of the definition. The Department added this language to the statutory definition of “distributor” to clarify that definition as including a cylinder exchange cabinet or a dispensing station. This clarity will assist the regulated community and the Department. To address IRRC’s comment regarding the nature of a “distributor,” the Department added language indicating that the definition includes the owner of a cylinder exchange cabinet or dispensing station.

IRRC commented that the definition of “industrial user” in § 13.1 includes a sentence not in the statutory definition and requested that the Department justify its inclusion. The Department added a sentence to the statutory definition consistent with its authority under section 16 of the act to clarify that a person who maintains a total storage capacity at a site of more than 2,000 gallons and whose storage tanks are not registered under a distributor is an industrial user, regardless of whether the location is residential or commercial. The term “industrial” may imply to some persons that it cannot apply to residential installations that meet the criteria of the definition. However, in the interest of safety, an industrial user should be determined based upon the amount of LPG that is stored, rather than based upon the specific nature of the property upon which it is stored. The inclusion of this sentence in the definition creates clarity for the regulated community.

In response to comments from the Advisory Board, the Department clarified that the fee for a cylinder exchange cabinet in § 13.3(a)(1)(iv) (relating to fees) applies only to retail cylinder exchange cabinets. Commercial cylinder exchange cabinets are regulated under the Department’s authority to regulate a distributor.

PAPGA requested that the Department provide for online registration in § 13.5 (relating to registration and annual permits). IRRC asked if the Department offers online registration and if registration forms are available online. The Department is not able to offer online registration at this time. Following this final-form rulemaking, the Department will make the necessary forms available for download from its web site and has included language to this effect in § 13.5. The forms are currently under development and will be updated to reflect changes in this section.

PAPGA requested that the Department repeat certain statutory language regarding the limitation on filling tanks. The Department complied with that request in § 13.8 (relating to transfer of LPG and removal of containers) with an added provision that requires owners or distributors to remove LPG containers within 30 days after notification to do so from the property owner. This

provision was added in response to complaints from property owners regarding containers that were not removed upon request. The time period was set in consultation with the Advisory Board.

PAPGA and IRRC commented that the final-form rulemaking should consistently use the term “LPG facility” as defined in § 13.1 in place of the more generic term “facility” throughout the regulations. The Department amended §§ 13.21(e) and 13.52(a)(1) (relating to LPG facilities over 400,000 gallons; and notice of deficiency) to consistently use the term “LPG facility.”

IRRC commented that the reference to “modifications” in § 13.20 (relating to application process and plan approval) needed clarification as it was not clear what degree of modification would require an application. After review, the Department elected to delete the reference to “modifications” in § 13.20. The Department determined that the requirements for modifications are appropriately governed by § 13.23 (relating to repairs and alterations to ASME vessels), which requires that repairs or alterations be performed in accordance with the National Board Inspection Code. The National Board Inspection Code provides guidance regarding what alterations or repairs are required to comply with it.

PAPGA commented that the Department should grandfather existing containers so that a manufacturer’s data report would not be required for existing tanks as specified in § 13.20. IRRC requested that the Department include an alternative compliance mechanism for older tanks. Tanks used for the storage of LPG are unfired pressure vessels and are properly governed by the Boiler and Unfired Pressure Vessel Law (35 P.S. §§ 1331.1—1331.19). The Boiler and Unfired Pressure Vessel Law and its corresponding regulations (see Chapter 3a) require that an unfired pressure vessel have either a manufacturer’s data report or be issued a Pennsylvania special number. The Department has added the option of providing a Pennsylvania special number and noted that a number is obtained under section 7 of the Boiler and Unfired Pressure Vessel Law (35 P.S. § 1331.7). The Department has also amended the definitions of “ASME Code” and “National Board Inspection Code” in § 13.1 to indicate that the applicable edition of those codes will be that adopted under the Boiler and Unfired Pressure Vessel Law.

PAPGA disagrees with the inclusion of “sidewalks, concrete aprons and parking lots at retail establishments” in the definition of “busy thoroughfares or sidewalks” in § 13.24 (relating to cylinder exchange cabinets). IRRC requested clarification regarding the need for inclusion of this provision. The Department included this provision due to safety concerns. Cylinders containing LPG are frequently placed outside of large retail establishments where there is significant vehicle and pedestrian traffic. The Department determined that it is in the public interest to protect these areas, as vehicle impact with LPG cylinders could result in significant harm.

At the request of the Advisory Board, the Department amended § 13.40(d)(5) (relating to training programs for authorized attendants) to provide that training in proper unloading of propane transports and rail cars need only be provided to attendants employed in bulk plant operations where those attendants are responsible for the activity.

Jack McKeown commented regarding the process in §§ 13.50 and 13.52 (relating to suspension of annual permit for container; and suspension of annual permit for



an owner or operator). Mr. McKeown suggests that the Department have the ability to immediately place deficient installations out of service. The procedures in Subchapter D (relating to administration) provide due process to owners or operators of LPG installations.

PAPGA commented that the act should be referenced formally in the final-form rulemaking. The act is defined in § 13.1 as PAPGA suggests.

The PUC filed comments well after the expiration of the public comment period. However, the Department will address the PUC's comments.

The PUC alleges that this final-form rulemaking creates a jurisdictional conflict between the Department and the PUC. This comment is without merit. As noted in the response to the PUC's comments filed by PAPGA, the Department has had jurisdiction over LPG since 1951 and this jurisdiction was reaffirmed by the legislature in the act. The act does not contain exclusions for public utilities.

The PUC suggests that the Department amend the definition of "distributor" in § 13.1. The PUC failed to recognize that the definition of "distributor" is in the act. The definition suggested by the PUC would not only be inconsistent with the act but would also conflict with the act and therefore would be impermissible.

The PUC next suggests that the Department is somehow required to adopt United States Department of Transportation regulations regarding LPG. However, section 16(a) of the act specifically requires the Department to "utilize the National Fire Protection Association industry standards." Additionally, the National Fire Protection Association standards adopted by the Department reference United States Department of Transportation regulations governing portable propane containers.

*Affected Persons*

This final-form rulemaking affects owners and operators of LPG bulk plants, cylinder exchange cabinets, dispensing stations, distributors and industrial users. The general public is also affected, as updating the regulations regarding LPG to National standards will increase public safety.

*Fiscal Impact*

The Commonwealth will not incur additional cost under this final-form rulemaking. The costs will be similar to costs now incurred by the Department's LPG registration and inspection program. This final-form rulemaking will not increase administrative, enforcement or legal activity.

*Reporting, Recordkeeping and Paperwork Requirements*

This final-form rulemaking will not require the creation of new forms and reporting requirements. Current forms may be updated.

*Sunset Date*

A sunset date is not appropriate for this final-form rulemaking. However, the Department will continue to monitor the impact and effectiveness of the regulations.

*Effective Date*

This final-form rulemaking will take effect upon publication in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person is Jack Davenport, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, 16th Floor, Labor and Industry Building, 651 Boas Street, Harrisburg, PA 17120, jacdavenpo@state.pa.us.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 9, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 4340, to IRRC and to the Senate Committee on Labor and Industry and the House Labor Relations Committee (Committees) for review and comment.

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

Under section 5.1(j.1)—(j-3) of the Regulatory Review Act (71 P. S. § 745.5a(j.1)—(j-3)), on July 14, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2010, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(a) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

(c) The final-form rulemaking is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 34 Pa. Code Chapter 13, are amended by adding §§ 13.8, 13.40 and 13.50; by amending §§ 13.1—13.7, 13.20—13.24, 13.41 and 13.51—13.54; and by deleting §§ 13.11—13.19, 13.25—13.29, 13.31—13.38, 13.42—13.45, 13.55—13.58, 13.61—13.68, 13.71—13.74, 13.81, 13.82, 13.91—13.96, 13.101, 13.102 and 13.111 to read as set forth in Annex A.

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

(c) The Secretary of the Department shall submit this order and Annex A to IRRC and the Committees as required by law.

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

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

SANDI VITO,  
*Secretary*

*(Editor's Note: The addition of § 13.8 was not included in the proposed rulemaking published at 39 Pa.B. 4340.)*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 4359 (July 31, 2010).)*

**Fiscal Note:** Fiscal Note 12-76 remains valid for the final adoption of the subject regulations.



## Annex A

## TITLE 34. LABOR AND INDUSTRY

## PART I. DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 13. PROPANE AND LIQUEFIED  
PETROLEUM GAS

## Subchapter A. LIQUEFIED PETROLEUM GAS

## GENERAL PROVISIONS

## § 13.1. Definitions.

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

*ASME*—The American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016-5990 or its current address.

*ASME Code*—“The Boiler and Pressure Vessel Code,” as adopted under the Boiler and Unfired Pressure Vessel Law, and any published cases and interpretations adopted by the Industrial Board under § 3a.4 (relating to adoption of National standards).

*Act*—The Propane and Liquefied Petroleum Gas Act (35 P. S. §§ 1329.1—1329.19).

*Authorized attendant*—An employee of a manufacturer, distributor or user of LPG who was trained, in a manner approved by the Department, in the proper performance of duties and who was officially recognized by the LPG facility operator to perform those duties.

*Boiler and Unfired Pressure Vessel Law*—35 P. S. §§ 1331.1—1331.19.

*Bulk plant*—

(i) An LPG storage facility which has the primary purpose of distribution of LPG and which has:

(A) A bulk storage capacity of more than 2,000 gallons.

(B) Container-filling or tank-loading facilities on the premises.

(ii) The term includes a consumer of LPG that uses storage tanks to refill the consumer’s own containers if the consumer’s storage LPG facility has a bulk storage capacity of less than 2,000 gallons and the storage tanks are not owned by a distributor.

*Certified Employee Training Program*—The “Certified Employee Training Program,” available from the Propane Education and Research Council, 1140 Connecticut Ave. NW, Suite 1075, Washington, DC 20036 or its current address.

*Container*—A vessel such as a cylinder, a tank, a portable tank and a cargo tank used for the transporting or storing of LPG.

*Cylinder*—A container constructed in accordance with United States Department of Transportation regulations, 49 CFR Part 178, Subpart C (relating to specifications for cylinders).

*Cylinder exchange cabinets*—A lockable and ventilated metal locker or rack for the storage of LPG cylinders that prevents tampering with valves and pilferage to the cylinders.

*Department*—The Department of Labor and Industry of the Commonwealth.

*Dispensing station*—Fixed equipment with an aggregate of 2,000 or less gallons of water capacity where LPG is stored and dispensed into portable containers.

*Distributor*—

(i) A person authorized by the Department to sell or transfer LPG.

(ii) The term includes the owner of a cylinder exchange cabinet or a dispensing station.

*GPS*—Global positioning system.

*Gallons*—The term shall be measured in terms of water capacity.

*Industrial Board*—The Industrial Board of the Department established under sections 445 and 2214 of The Administrative Code of 1929 (71 P. S. §§ 155 and 574), which hears requests for variances and extensions of time and appeals of Department interpretations regarding LPG matters.

*Industrial user*—A person who is the consumer of LPG and who maintains a total storage capacity at a site of more than 2,000 gallons and whose storage tanks are not registered under a distributor. This consumer may be a residential or a commercial location.

*LPG—Liquefied petroleum gas*—A material in liquid form that is composed predominately of any of the following hydrocarbons or their mixtures:

(i) Propane.

(ii) Propylene.

(iii) Normal butane or isobutane.

(iv) Butylenes.

*LPG facility*—Distributors, bulk plants and industrial users.

*NFPA*—National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.

*NFPA 54*—The “National Fuel Gas Code,” 2009 edition, issued by the NFPA.

*NFPA 58*—The “Liquefied Petroleum Gas Code,” 2008 edition, issued by the NFPA.

*NPGA*—National Propane Gas Association, 1150 17th Street, NW, Suite 310, Washington, DC 20036-4523 or its current address.

*National Board*—National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229 or its current address.

*National Board Inspection Code*—The “National Board Inspection Code,” as adopted under the Boiler and Unfired Pressure Vessel Law, issued by the National Board of Boiler and Pressure Vessel Inspectors.

*Person*—An individual, firm, partnership, unincorporated association, corporation, political subdivision or authority, including the Commonwealth.

*Secretary*—The Secretary of Labor and Industry of the Commonwealth or an authorized deputy or representative.

*Tank*—A portable or stationary ASME-approved vessel used to store liquefied petroleum gas.

*Transfer*—To cause LPG to pass from any pipeline, tank, container, tank truck, receptacle or storage location to a similar or different type of pipeline, tank, container, tank truck, receptacle or storage location.

**§ 13.2. Scope.**

This chapter applies to:

- (1) The registration and permitting of bulk plants, distributors, industrial users, dispensing stations and cylinder exchange cabinets.
- (2) The storage, transfer, sale and use of LPG.
- (3) The design, construction, location, operation and inspection of tanks, cylinders, equipment, piping and appliances used in the handling, storage and use of LPG.
- (4) The approval of training programs for authorized attendants who transfer LPG.

**§ 13.3. Fees.**

(a) The following fees apply to LPG facility applications, plan approvals, permits and training program certifications. Fees are nonrefundable.

- (1) Annual permit and registration fees:
  - (i) Bulk plants with the following storage capacities:
    - (A) 30,000 gallons or less ..... \$ 90
    - (B) 30,001 to 90,000 gallons..... \$135
    - (C) 90,001 gallons or more ..... \$180
  - (ii) Industrial users with the following storage capacities:
    - (A) 2,001 to 30,000 gallons ..... \$ 45
    - (B) 30,001 to 180,000 gallons..... \$ 90
    - (C) 180,001 gallons or more ..... \$180
  - (iii) Distributors, other than cylinder exchange cabinets, having the following number of customers:
    - (A) Less than 1,000..... \$112.50
    - (B) 1,000 to 2,999 ..... \$235
    - (C) 3,000 to 5,999 ..... \$337.50
    - (D) 6,000 or more ..... \$450
  - (iv) Retail cylinder exchange cabinet location.. \$ 50 (per physical address)
- (2) Application and plan review, including Fire Safety Analysis review, for new LPG facilities exceeding 400,000 gallons and existing LPG facilities expanded to exceed 400,000 gallons in total capacity ..... \$500
- (3) Application and plan review fee:
  - (i) For a LPG facility 4,001 to 400,000 gallons in total capacity ..... \$150
  - (ii) For a LPG facility less than 4,001 gallons in total capacity ..... \$ 50
  - (4) Duplicate permit fee..... \$ 25
  - (5) Authorized attendant training program approval ..... \$200
  - (6) Request for Industrial Board variance, appeals and extensions of time ..... \$100

(b) The Department will invoice bulk plant owners, industrial users and distributors annually for each location of usage. Payment is due within 30 days of invoice date.

**§ 13.4. Adoption of National standards.**

(a) The Department adopts the following standards and any of the standards' published cases, interpretations or tentative interim amendments approved by the Industrial Board under this chapter and the act. Other authorities

referenced in these standards are adopted if the authority is not excluded in subsection (b):

- (1) NFPA 54.
- (2) NFPA 58.
- (b) The Department will not adopt the following NFPA 58 provisions:
  - (1) Chapter 9 (relating to vehicle transportation).
  - (2) Chapter 13 (relating to marine shipping and receiving).
  - (c) The following NFPA 58 provisions which will take effect on the enumerated dates:
    - (1) Chapter 5, section 5.2.3 regarding the requalification of cylinders filled onsite, effective January 1, 2013.
    - (2) Chapter 6, section 6.25.3.2 regarding fire safety analysis for existing installations, effective January 1, 2012.
    - (3) Chapter 5, section 5.7.4.2(D) regarding the installation of valves for existing installations, effective January 1, 2018.
    - (4) Chapter 6, section 6.11 regarding the installation of internal valves for existing installations, effective January 1, 2018.
    - (d) The Industrial Board may also approve any NFPA 54 and 58 published cases, interpretations or tentative interim amendments as standards for use under the act and chapter. Provisions enumerated in subsection (b) may not be approved.

**§ 13.5. Registration and annual permits.**

(a) An operator of an LPG bulk plant, a distributor and an industrial user shall annually register with the Department on a registration form provided by the Department. The Department will make the necessary form available on its web site at [www.dli.state.pa.us](http://www.dli.state.pa.us).

(b) An applicant for registration shall submit a completed registration form, the annual fee required under § 13.3 (relating to fees) and a valid copy of an industry standard insurance certificate equal to or greater than the amount of liability insurance required under § 13.6 (relating to insurance).

(c) The Department will issue an annual permit. The permit shall be posted at the location of each bulk plant, distributor and industrial user.

**§ 13.6. Insurance.**

LPG facilities shall obtain and maintain policies of liability insurance in the following amounts:

- (1) An LPG facility with a storage capacity of not more than 9,000 gallons shall maintain minimum liability coverage of \$250,000.
- (2) An LPG facility with a storage capacity in excess of 9,000 gallons shall maintain minimum liability coverage of \$1 million per incident and \$2 million in the aggregate.

**§ 13.7. Transfer by authorized attendant and supply.**

Both of the following apply to LPG transfer and supply:

- (1) Only authorized attendants may transfer LPG.
- (2) A distributor may not supply LPG to any bulk plant, industrial user or other distributor unless the distributor has a current annual permit.

**§ 13.8. Transfer of LPG and removal of containers.**

(a) A person may not transfer, sell, fill, deliver or permit to be delivered any LPG or use an LPG container unless authorized to do so by the owner of the LPG container and authorized by the Department to do so or authorized to do so by emergency response agencies.

(b) A person acting on behalf of an authorized emergency response agency who transfers LPG or disconnects any LPG container shall notify the container owner within 5 days after that action.

(c) A person who disconnects an LPG container shall secure the LPG container in a safe fashion.

(d) Owners or distributors of LPG containers shall remove the containers within 30 days of notification from the property owner to do so.

**§§ 13.11—13.19. (Reserved).****REQUIREMENTS FOR FACILITIES,  
TANKS AND CYLINDERS****§ 13.20. Application process and plan approval.**

(a) The following shall submit an application to the Department before installation:

(1) An owner or operator of an LPG tank exceeding 2,000 gallons capacity.

(2) An owner or operator of a fixed location with aggregate capacity exceeding 4,000 gallons.

(3) An owner or operator of a dispensing station or a cylinder exchange cabinet location.

(b) The application must contain the following:

(1) A completed registration form and proof of valid insurance required under § 13.5 (relating to registration and annual permit).

(2) The appropriate fee required under § 13.3 (relating to fees).

(3) Plans that contain the following information:

(i) Equipment to be installed.

(ii) Distances of equipment to buildings and property lines.

(iii) Security measures provided.

(iv) Fire protection measures provided.

(v) Vehicle protection measures provided.

(4) A fire safety analysis required by NFPA 58, Chapter 6, section 6.25.

(5) A manufacturer's data report (U1-A) or Pennsylvania special number for each unfired pressure vessel.

(c) A Department-provided notice of intent to install form may be submitted instead of the plans required under subsection (b)(3) for the following:

(1) A distributor installing or expanding a bulk plant with a capacity of less than 9,000 gallons.

(2) An industrial user with a total storage capacity of less than 9,000 gallons.

(d) The Department will inspect applicants under subsection (a) and (c) for compliance with the plans or notice of intent to install before issuance of the initial annual permit.

(e) If the inspection reveals a violation of the act or this chapter, the Department will issue a written notice of deficiency to the owner or operator. The written notice of deficiency will contain a certification to be completed by

the owner or operator certifying that the deficiencies were corrected. The Department will not issue an annual permit unless the certification is executed by the owner or operator and returned to the Department after the deficiencies are corrected.

(f) An owner or operator may not operate an LPG tank, fixed location, dispensing station or cylinder exchange cabinet until it receives an annual permit issued by the Department.

(g) A manufacturer shall register a data report (U1-A) for each unfired pressure vessel with the National Board. If an U1-A is not available, the manufacturer shall obtain a Pennsylvania special number in accordance with section 7 of the Boiler and Unfired Pressure Vessel Law (35 P. S. § 1331.7) and Chapter 3a (relating to boiler and unfired pressure vessel regulations).

**§ 13.21. LPG facilities over 400,000 gallons.**

(a) The owner or operator of a new LPG facility in excess of 400,000 gallons or an existing LPG facility expanded to exceed 400,000 gallons shall submit an application to the Department which includes the following:

(1) A completed registration form required under § 13.5 (relating to registration and annual permits) and a completed application required under § 13.20 (relating to application process and plan approval).

(2) Documentation and plans providing the following information:

(i) Storage quantities.

(ii) Proximity to populated areas and public ways.

(iii) The impact of any rejection from the Department upon the LPG facility's ability to service current and anticipated consumer needs and upon the LPG facility's business investment.

(iv) The risk to and from existing adjacent facilities.

(v) Topography of the site.

(vi) Access for emergency vehicle response.

(vii) Public and private utilities.

(viii) Requirements for receipt or shipment of products.

(ix) Compliance with local land use ordinances.

(x) The safety plan proposed by the LPG facility, such as emergency systems, spill containment, fire protection, fencing and lighting.

(3) Proof of notification to the municipality required in subsection (b). The Department will accept a copy of the notification and signed certified mail receipt card as proof of notification to the municipality.

(4) The appropriate fee required under § 13.3 (relating to fees).

(b) The applicant shall notify the municipality where the LPG facility is located by certified mail that an application is being filed with the Department.

(c) The Department will publish notice of the application in the *Pennsylvania Bulletin* within 10 business days of receipt of the application. An aggrieved party may file a protest with the Department 45 days from the publication of the notice. A municipality or county may file written comment with the Department within 45 days from publication of the notice.



(d) Within 90 days of publication of the notice, the Department will issue a written determination containing the approval or disapproval of the application. The Department will send a copy of the determination by certified mail to the applicant and to all parties who filed a notice of protest or submitted written comments.

(e) The LPG facility owner or operator may not install or operate the LPG facility or the expanded portion of the LPG facility until it has received an annual permit issued by the Department.

**§ 13.22. Underground tanks.**

(a) Underground tanks shall be installed in accordance with NFPA 58.

(b) A distributor shall keep records of installation locations, including their location by GPS coordinates, for individual underground LPG tanks exceeding 2,000 gallons water capacity.

**§ 13.23. Repairs and alterations to ASME vessels.**

Repairs and alterations to ASME vessels shall be performed in accordance with the National Board Inspection Code.

**§ 13.24. Cylinder exchange cabinets.**

(a) A retailer or location using a cylinder exchange cabinet shall comply with section 8.4.1 of NFPA 58.

(b) The term “busy thoroughfares or sidewalks” contained in section 8.4.1.2(3) of NFPA 58 includes sidewalks, concrete aprons and parking lots at retail establishments.

**§§ 13.25—13.29. (Reserved).**

**§§ 13.31—13.38. (Reserved).**

**TRAINING PROGRAMS**

**§ 13.40. Training programs for authorized attendants.**

(a) An individual shall satisfactorily complete a Department-approved training program to become an authorized attendant to transfer LPG.

(b) Programs must include training on the following:

- (1) Physical properties and combustion characteristics of propane.
- (2) Propane industry standards, safety codes and regulations.
- (3) Basic parts of propane tanks, cylinders and bulk storage installations.
- (4) Proper use of safety and protective equipment.
- (5) Maintenance of safe working environment.

(c) Programs for attendants who will deliver LPG must include the following training in addition to the training enumerated in subsection (b):

- (1) Proper inspection, maintenance and operation of bulk propane delivery vehicles.
- (2) Proper inspection and filling of propane storage containers.
- (3) Proper delivery of propane, including exchange and filling of LPG containers.

(d) Programs for attendants who are employed in bulk plant operations must include the following training in addition to the training enumerated in subsection (b):

- (1) Identification and installation of valves in propane storage containers.

(2) Identification and installation of gauges in propane storage containers.

(3) Safe removal of propane from tanks and cylinders at the plant and at the container site.

(4) Inspection, maintenance and filling of propane tanks and cylinders at the plant and at the container site.

(5) Proper unloading of propane transports and rail cars, if the employee is responsible for this activity.

**§ 13.41. Training program approval.**

(a) The Department will approve LPG facility operator-provided training programs. An LPG facility operator that has individuals who transfer LPG shall submit a completed application for training program approval to the Department with a detailed description of its training program for authorized attendants and the appropriate fee under § 13.3 (relating to fees).

(b) The Department will issue a program approval to each approved training program or inform the LPG facility operator in writing of its reasons for rejecting a training program.

(c) An LPG facility operator shall notify the Department in writing of changes in an approved training program.

(d) Instead of developing and submitting a training program for authorized attendants, an LPG facility operator may utilize the Propane Education and Research Council training programs. The LPG facility shall notify the Department in writing that it is using a Propane Education and Research Council training program.

(e) An LPG facility operator shall maintain training records for an authorized attendant as long as the authorized attendant is employed by the LPG facility. The records must contain the following information:

- (1) The date of training.
- (2) The name of authorized attendant.
- (3) The name of course.
- (4) The name of trainer or supervisor.

(f) The Department may revoke approval of any training program that does not comply with § 13.40 (relating to training programs for authorized attendants) or this section. Actions will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

**§§ 13.42—13.45. (Reserved).**

**ADMINISTRATION**

**§ 13.50. Suspension of annual permit for container.**

The Department will suspend the annual permit for an LPG container and seal an LPG container that is unsafe or when there are violations of this act or chapter. A person, firm, partnership or corporation operating an LPG container with a suspended annual permit or system containing an LPG container with a suspended annual permit is subject to the penalties of section 17 of the act (35 P. S. § 1329.17).

**§ 13.51. Suspension of annual permit for an owner or operator.**

(a) The Department may suspend an owner’s or operator’s annual permit for any of the following reasons:

- (1) Failure to pay the required registration fee in § 13.3 (relating to fees).
- (2) Violation of the act or this chapter.



**§ 13.52. Notice of deficiency.**

(a) The Department will use the following procedures to suspend an annual permit or for alleged violations of the act or this chapter:

(1) The Department will issue a written notice of deficiency to the owner or operator of the container or LPG facility. The notice will contain a description of the deficiency, an order requiring repairs and correction of the deficiency and a compliance date. The notice will contain a certification to be completed by the owner or operator certifying that the required repairs were completed and the deficiency was corrected.

(2) The owner or operator shall execute the certification and submit it to the Department immediately after the required repairs are completed and the deficiency is corrected.

(3) If the owner or operator does not correct the deficiency within the period of time allowed in the notice of deficiency or fails to return the certification, the Department may issue an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause).

(i) The order to show cause will contain a statement of the grounds for the action, the alleged violations of the act and this chapter and notification that the container or LPG facility may be placed out of service. The order to show cause will contain notification that the owner or operator shall submit a written answer within 30 days. The Department will serve the order to show cause upon the owner or operator.

(ii) The owner or operator may file a written answer to the order to show cause with the Department within 30 days following service of the order to show cause under 1 Pa. Code § 35.37 (relating to answers to orders to show cause). The answer must contain specific admissions or denials of the allegations contained in the order to show cause and set forth the specific facts, matters of law or regulation interpretation relied upon by the owner or operator. The answer may contain a request for a variance, an extension of time for compliance or an appeal. The Department will forward requests for variances, extensions of time or appeals regarding interpretations of this chapter to the Industrial Board.

(b) The Department will consider the request for variance, extension of time or appeal as a stay to an enforcement action.

(c) The Department will inspect the container or LPG facility at the expiration of an extension of time or other time period granted for compliance under this section. If the container or LPG facility violates the act or this chapter following inspection, the Department may seal the container or LPG facility.

(d) The Department will issue an order to discontinue operation to the owner or operator for a violation that was not corrected. The Department will serve the order upon the owner or operator by certified mail or personal service. The order to discontinue operation will require the owner or operator to discontinue the use of the container or LPG facility within 24 hours.

(e) After the container or LPG facility is sealed, it may not be returned to service until the violations have been corrected, the repairs have been made and the Department removes the seal.

(f) A party aggrieved by a notice of deficiency or a notice to discontinue operation may appeal the order to the Industrial Board within 30 days of the issuance of the order. Appeals from the Industrial Board's order may be filed with the Commonwealth Court within 30 days of the date of the order.

(g) This section supplements 1 Pa. Code §§ 35.14 and 35.37.

**§ 13.53. Notice and hearing.**

Actions of the Department relating to notice of deficiency, a notice to discontinue operation or suspension of annual permit under §§ 13.50—13.52 (relating to suspension of annual permit for container; suspension of annual permit for an owner or operator; and notice of deficiency) will be taken subject to the right of notice, hearing and adjudication under 2 Pa.C.S. (relating to administrative law and procedure). Proceedings will be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

**§ 13.54. Municipal preemption.**

The Department has the sole right and ability to regulate all matters related to the operation of the LPG industry under section 15 of the act (35 P. S. § 1329.15).

(1) A municipality or other political subdivision may not adopt or enforce an ordinance or regulation which differs from or conflicts in whole or in part with the act or this chapter regarding permits, licensing standards, fees, construction, installation, maintenance, operation, inspection, location or placement of LPG containers or LPG facilities or any other matters related to this industry within this Commonwealth.

(2) A municipality may not prohibit placement of any LPG container in any existing yard setback area except to establish an absolute setback of 10 feet from a residential property line.

(3) A municipality may retain the right, under local zoning ordinances, to require an LPG facility to locate within approved residential, industrial commercial or other zones and to require an LPG facility to obtain zoning permits, pay zoning fees and undergo inspections related to the zoning of the LPG facility. Any building at an LPG facility must be in compliance with the municipal standards applied to primary structures.

§§ 13.55—13.58. (Reserved).

§§ 13.61—13.68. (Reserved).

§§ 13.71—13.74. (Reserved).

§ 13.81. (Reserved).

§ 13.82. (Reserved).

§§ 13.91—13.96. (Reserved).

§ 13.101. (Reserved).

§ 13.102. (Reserved).

§ 13.111. (Reserved).

[Pa.B. Doc. No. 10-1582. Filed for public inspection August 27, 2010, 9:00 a.m.]

# Title 55—PUBLIC WELFARE

## DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CHS. 2380, 2390, 6400 AND 6500 ]

### Individual Support Plan for Individuals with Mental Retardation

The Department of Public Welfare (Department) amends Chapters 2380, 2390, 6400 and 6500 to read as set forth in Annex A under sections 911 and 1021 of the Public Welfare Code (code) (62 P. S. §§ 911 and 1021). Notice of proposed rulemaking was published at 38 Pa.B. 1937 (April 26, 2008).

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

This final-form rulemaking codifies the current process for developing and implementing an Individual Support Plan (ISP) for an individual who is attending a facility licensed under Chapters 2380, 2390, 6400 and 6500. The ISP is the comprehensive document that identifies the services needed by an individual to support the achievement of the expected outcomes chosen by an individual. This final-form rulemaking also replaces the terms “Individual Program Plan” (IPP) and “Individual Written Program Plan” (IWPP) with ISP, the current terminology. In addition, this final-form rulemaking reorganizes the existing regulatory language to provide consistent and uniform language of the programs sections in Chapters 2380, 2390, 6400 and 6500.

This final-form rulemaking is also needed to clarify the provider’s role in developing and implementing the ISP when an individual is not receiving services through a supports coordination organization (SCO). A provider is a person or entity that enters into a contract with the Department to deliver services to an individual. An SCO is a provider that is responsible for locating, coordinating and monitoring services provided to an individual. When an individual is receiving services through an SCO, the supports coordinator (SC) will develop and implement the ISP. However, in instances when an individual is not receiving services through an SCO, the plan lead will develop and implement the ISP. The plan lead is the program specialist or family living specialist at the licensed facility where the individual receives services.

#### *Background*

Current regulations specify that a provider shall develop and implement an IPP or IWPP. Until 2002, the IPP and IWPP were the sole documents used by providers to develop and implement services provided to an individual. Each provider developed and implemented an IPP

or IWPP for each individual served in the provider’s facility. Therefore, an individual could have several plans: one for the residential program, one for the vocational program and one for the day program. In some cases, individuals and families attended multiple meetings to update each plan and the multiple plans would conflict with each other.

As part of the regulatory development process, the Office of Developmental Programs (ODP) convened an individual and family-focused workgroup. The workgroup was comprised of an individual receiving service through the ODP service system, families, providers, provider associations and administrative entity representatives. The workgroup offered suggestions for the regulatory amendments, some of which are incorporated in this final-form rulemaking.

In 2002, the Office of Mental Retardation (now ODP) implemented the ISP to resolve these multiple plan issues by replacing multiple plans with one ISP document. The individual and his family or friends, as applicable, meet with all providers delivering services to the individual at the same time to discuss and determine how to best address the needs of the individual. This meeting promotes consistency and ensures that everyone is working together to address the individual’s needs.

When an individual is receiving services through an SCO, the ISP is developed and implemented by the SC. The SC is responsible for developing and implementing one ISP involving the multiple providers governed by the various regulation chapters.

As plan improvements transitioned from the creation of multiple provider-directed plans or IWPPs to a single ISP, which is person-centered and focuses on all the needs of the individual, these ISP improvements initiated the need to amend these chapters.

The Department needed to provide a process to develop an ISP when an individual is not receiving services through an SCO and, therefore, does not have an assigned SC. The final-form rulemaking is needed to require the development of one comprehensive ISP identifying the services needed by an individual and the expected outcomes chosen by an individual. Depending on the type of facility where the individual receives services, the plan lead, who will be responsible to develop and implement the ISP, will be either the program specialist or the family living specialist.

The following list identifies which program specialist or family living specialist will take the lead on ISP development and implementation when an individual is not receiving services through an SCO:

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#### *Hierarchy Type of Facility*

- |   |  |
|---|--|
| 1 | Community Home for Individuals with Mental Retardation |
| 2 | Family Living Home                                     |
| 3 | Adult Training Facility                                |
| 4 | Vocational Facility                                    |

#### *Plan Lead*

- |                                       |
|---------------------------------------|
| Chapter 6400 Program Specialist       |
| Chapter 6500 Family Living Specialist |
| Chapter 2380 Program Specialist       |
| Chapter 2390 Program Specialist       |
- 

For example, if an individual is living in a family living home and also attending a vocational facility, the family living specialist at the family living home would be the plan lead. The plan lead is responsible for developing the ISP.

The ISP is available in the Home and Community Services Information System (HCSIS). For providers

without the ability to access HCSIS, the ISP is available through a link on the Department’s web site at <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm>.

#### *Affected Individuals and Organizations*

The ISP is the comprehensive document that identifies the needed services and expected outcomes for an indi-

vidual. These services are provided in facilities licensed under Chapters 2380, 2390, 6400 and 6500. Because this final-form rulemaking eliminates the need for each provider to have a separate ISP document, individuals and families benefit by having only one annual ISP meeting to attend. At this ISP meeting, all providers delivering services to the individual to support the individual's outcomes are required to be present. In the past, some individuals and families were asked to attend separate meetings with various providers, which created an unnecessary hardship.

In addition, providers will also benefit by not having to write separate ISPs. An ISP will be written coordinating all aspects of an individual's life into one document. Providers and individuals will benefit from the combined knowledge of all involved parties. Providers that deliver multiple services at different types of facilities will benefit by having consistent requirements for each facility.

#### *Accomplishments and Benefits*

This final-form rulemaking codifies the current process for developing and implementing the ISP. In addition, this final-form rulemaking replaces the terms IPP and IWPP with ISP, the current terminology, and reorganizes the existing regulatory language to provide consistent and uniform language of the program sections in Chapters 2380, 2390, 6400 and 6500.

#### *Fiscal Impact*

A cost is not associated with codifying existing ISP practices for the Commonwealth, local government or individuals receiving services. There may be minimal cost to providers regarding copies of ISP review documentation and assessments that are required to be provided to the plan team members. Previously, this information was only provided to the SC and the individual. Electronic distribution of materials to families is permitted if the family has a means to receive and read information in electronic form and as long as the electronic distribution of the materials is completed in a secure and protected manner and is in compliance with the act of August 21, 1996 (Pub. L. 104-191, 110 stat. 1936), known as the Health Insurance Protection and Portability Act of 1996 (HIPPA) requirements. These possible mailing and copying costs should be minimal for providers.

Since this final-form rulemaking also requires providers to use one ISP, the cost of staff time in creating a second document will be eliminated, thereby creating a financial savings for the provider.

#### *Paperwork Requirements*

Providers will need to provide copies of an individual's assessment and documentation of ISP reviews to plan team members. If the individual is not receiving services through an SCO, the provider will also have to provide copies of the ISP, including annual updates and revisions, to the plan team members. The amount of paperwork will depend on the page count of each provider's document and whether or not the individual is receiving services through an SCO. This final-form rulemaking permits electronic distribution of the ISP, including annual updates and revisions, as long as the electronic distribution of these materials are completed in a secure and protected manner and in compliance with HIPPA requirements.

The final-form rulemaking requires that the provider shall forward the assessment to the plan team members 30 calendar days before these meetings. The final-form rulemaking also adds a 30 calendar day time frame

following the ISP meetings for providers to send the ISP, annual updates and revisions to plan team members. The ISP is to be documented on the Department-designated form, which is located in HCSIS and will also be available through a link on the Department's web site at <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm>.

#### *Public Comment*

Following publication of the proposed rulemaking, the Department received comments from five commentators during the 30-day public comment period and comments from one commentator after the close of the public comment period. The comments received came from Allied Services, Comhar Incorporated, JEVS Human Services, Woods Services, Pennsylvania Association of Resources and the Philadelphia Alliance. The Department also received comments from the Independent Regulatory Review Commission (IRRC).

As stated previously, prior to publication of the proposed rulemaking, the Department held two sessions with the individual and family-focused workgroup representing a variety of stakeholders, including an individual receiving services, families, providers, provider associations and administrative entity representatives. The workgroup made suggestions for the regulatory revisions, some of which were incorporated.

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

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

#### *General—Statutory authority*

IRRC commented that the Department has indicated that its statutory authority for promulgating this regulation stems from Articles IX and X of the code (62 P. S. §§ 90—922 and 1001—1087). IRRC requested that with its submittal of the final-form rulemaking, the Department should clarify its statutory authority, particularly with regard to nonprofit institutions governed under Article IX of the code.

#### *Response*

The Department clarified the statutory authority for this final-form rulemaking. Section 911 of the code provides the Department with the statutory authority to promulgate and enforce regulations for institutions for adults with mental retardation. Further, section 1021 of the code provides the Department the authority to adopt regulations for the minimum standards for mental health facilities. The statutory definitions in Articles IX and X of the code do not distinguish between for-profit and nonprofit institutions for adults with mental retardation and mental health facilities.

#### *General—Single plan*

Several commentators addressed the lack of clarity provided in the preamble regarding the plan. One commentator stated that it is not clear whether there is to be a single individual plan document for each individual or whether there is to be a single individual plan document for each type of service. The commentator requested clarification if there will be a single plan in effect and if the plan will encompass all areas of the individual's life. The commentator also identified that the chapters had different time frames for plan development which would need to be coordinated for there to be a single plan. The commentator went on to suggest that there should be a



single coordinator of the plan services to help ensure the various services are working in a consistent manner on behalf of the individual.

This commentator also suggested that the Department discontinue the use of acronyms in relation to the plan. The commentator suggested the Department use simple English rather than an acronym and call the individual plan a “plan.” Another commentator suggested the use of the language currently in use “ISP—Individual Support Plan.”

IRRC commented that the proposed rulemaking used the term “IP” and practically identical requirements and procedures in the four chapters. However, there is nothing to indicate that the services and outcomes regulated by two or more different chapters must be coordinated and unified into a single plan.

IRRC also commented that the Department needs to formalize the process for unifying two or more chapters into one plan. This is necessary to make the process clear to providers and the individuals it serves. The final-form rulemaking should set forth procedures and requirements for unifying the individual’s plan when an individual is receiving services covered by two chapters or more.

*Response*

The Department agreed with these comments and added additional language to clarify its intent to have one comprehensive ISP per individual in §§ 2380.182(a), 2390.152(a), 6400.182(a) and 6500.152(a) (relating to development, annual update and revision of the ISP). This single ISP will include the needed services and expected outcomes for an individual.

Chapters 2380, 2390, 6400 and 6500 have also been amended to provide consistent time frames for the ISP and ISP-processes throughout all four chapters. The Department also clarified the procedures and requirements for unifying the ISP when an individual attends one or more of the facilities licensed under §§ 2380.182, 2390.152, 6400.182 and 6500.152.

Although in the proposed rulemaking the Department used the term “Individual Plan (IP)” to mean the single plan, upon further review, the Department determined to continue to use ISP, the current term.

*General—Chapters*

IRRC commented that different types of individuals are served by the four chapters. Chapters 6400 and 6500 (relating to community homes for individuals with mental retardation; and family living homes) are limited to clients with mental retardation. Chapters 2380 and 2390 (relating to adult training facilities; and vocational facilities), however, cover clients with different types of disabilities, including mental retardation. How would a provider know which clients are receiving services licensed under another chapter?

*Response*

A provider would confirm the information in its records with the family and update the records based on that conversation. The provider can also confirm information with the entity that is funding the individual at its facility to determine if that same entity is funding the individual in another licensed program.

In addition, the Department intends to provide training to providers and families on gathering and providing this information.

*General—SC*

IRRC and a commentator commented since the preamble to the proposed rulemaking indicated that the SC develops and implements the individual plan, one might assume that the SC would take responsibility for arranging one individual plan involving two or more chapters. IRRC commented that the proposed rulemaking did not indicate that the SC must do this.

Another commentator asked will individuals who are funded directly by the Commonwealth have an SC. This commentator suggested the regulations could be enhanced by clarifying who is supposed to have an SC. The commentator also suggested that either the use of SCs be stopped or be limited to working for individuals who are funded under a Centers for Medicare and Medicaid Services (CMS)—approved waiver.

*Response*

Supports coordination services are available to individuals registered for mental retardation services through the Department’s ODP. The choice of a qualified and willing SCO provider is available for the supports coordination service, as it is for all CMS waiver services. The SCO provider is responsible to deliver the supports coordination services of locating, coordinating and monitoring services to an individual.

The Department, however, does not regulate SCs. Instead, the SCOs, under contract with the Department, are contractually obligated to provide the supports coordination services to individuals, including ISP development and implementation. Further, the Department provides training to the SCs regarding ISP development and implementation.

*General—Program and family living specialist*

IRRC and a commentator commented on provisions that place the responsibility for the individual plan on a program or family living specialist when there is not an assigned SC. IRRC commented that the “specialists” are employees of the providers and there is not an indication how they would coordinate a single plan with other providers. Another commentator asked if the day services program specialist be required to coordinate the development of the plan when the individual lives in an intermediate care facility for the mentally retarded (ICF/MRs). IRRC also questioned if there is one individual plan for the activities or services governed by two or more of the four chapters, who is responsible for coordinating the individual ISP with the different providers.

*Response*

The Department agreed with the suggestions regarding the need for clarification and added a definition for “plan lead.” A plan lead is the program specialist or family living specialist who develops and implements the ISP, including ISP-related processes when the individual does not have an assigned SC. If an individual is receiving services through an SCO, the individual will have an assigned SC. The assigned SC is then responsible for the development and implementation of the ISP.

This final-form rulemaking does not amend the chapters regarding ICF/MRs. When an individual resides in an ICF/MR and also attends a day services facility licensed under Chapter 2380 or 2390, the day services program specialist is not required to coordinate the development of the ISP with the ICF/MR. If the program specialist is the plan lead, the program specialist will write the ISP as applicable to the day services facility.



The Department also added definitions for “plan lead,” “SC—Supports coordinator” and “SCO—Supports coordination organization” to §§ 2380.3, 2390.5, 6400.4 and 6500.4 (relating to definitions). The Department also amended §§ 2380.182, 2390.152, 6400.182 and 6500.152 to clarify which provider’s program specialist or family living specialist would become the plan lead when services in an ISP are governed by more than one of the four chapters.

*General—Review meeting*

IRRC and a commentator inquired whether there would be one joint review meeting with the individual and the different providers governed by two or more chapters. Who will be responsible for coordinating the timing and location of the meeting if there is not an assigned SC?

Another commentator inquired if there could be one joint review meeting which would be presided over by one of the residential providers when the individual is served by more than one provider.

*Response*

There will not be one joint review meeting. Each program specialist or family living specialist, as applicable, from each provider that is delivering services to the individual will conduct a review of the ISP with the individual every 3 months. The program specialist shall provide documentation from this review meeting to the plan team members. However, if there is a recommendation for a revision to a service or outcome, the plan lead is required to send an invitation for an ISP revision meeting to plan team members under §§ 2380.186(f), 2390.156(f), 6400.186(f) and 6500.156(f) (relating to ISP review and revision).

*General—Fiscal Impact—SC*

A few commentators commented that the proposed rulemaking could impose additional costs on providers and others in the regulated community. One example was a concern with the high turnover rate of SCs. IRRC commented that this situation could be exacerbated by this rulemaking since more will be required of specialists and other provider staff if an SC is missing or in transition. One commentator stated that provider agencies have to assist in the plan process beyond what they are required to get the plans completed.

IRRC commented that this possible fiscal impact raises several questions. IRRC inquired into the frequency of situations when there is not an assigned SC or the position is in transition. IRRC also inquired what will be the fiscal impact of the rulemaking on providers if their specialists have to take the lead in developing and writing the individual plan.

*Response*

A provider’s program specialist is not required to take over responsibilities of an SC at any time. The only time a program specialist or family living specialist is responsible for the ISP process is when the individual is not receiving services through an SCO. If an individual is receiving services through an SCO, the individual has an assigned SC. The assigned SC is then responsible for the ISP process.

It is current practice for providers to write the ISP when an individual it serves is not receiving services through an SCO. Providers that are currently writing separate ISPs for all individuals will be saving money by the implementation of one ISP and not duplicating the work of other providers. The final-form rulemaking re-

quires only one provider’s program specialist or family living specialist, as applicable, to write the ISP and for that ISP to be used by each provider that delivers services to that individual.

*General—Fiscal Impact—Staff ratios*

Commentators also commented regarding potential cost increases regarding giving individual plan teams control of staff-to-client ratios rather than using the minimum staff requirements in the existing regulation. One commentator also had concerns regarding providing the staffing levels required in a plan when staff happen to call off sick or other emergencies. The commentator stated that the amendments force the provider to guarantee a staffing level. The commentator suggested that the Department establish minimum staffing ratios and hold the providers accountable to these minimum ratios.

IRRC further commented that the Department should include a detailed fiscal impact analysis that addresses the issues and questions regarding impact on SC and staff-to-client ratios.

*Response*

The Department revised §§ 2380.35, 2390.39, 6400.45 and 6500.44 to clarify the minimum staffing requirements and ratios. The minimum staffing requirements are for the provider’s facility. Whereas, the staffing requirements stated in an individual’s ISP are what the plan team members determine is required for the individual. The staffing requirements identified in the ISP shall be implemented in addition to or above what is a minimum requirement under §§ 2380.35(e), 2390.39(e), 6400.45(f) and 6500.44(e).

The focus is on creating person-centered ISPs, which will identify what services an individual needs, rather than what services the provider is willing to offer. Prior to a provider stating it is willing to provide a service in an ISP, the provider is informed at the ISP meeting what staffing levels the individual requires. If the provider is not capable of supplying the staff required by the individual, the provider can decline to provide the service.

The provider shall plan for staff calling off sick and emergencies and is still required to deliver services as required by regulations and as written in the ISP. While the final-form rulemaking calls for minimum staffing ratios, the provider is still responsible to deliver services as written in an ISP when the provider accepted to be authorized in an individual’s ISP to provide a service.

Staffing ratios and appropriately credentialed staff are based upon the individuals’ assessed needs. Likewise, the funding an individual receives is based upon the individual’s assessed needs. Therefore, funding levels support the staffing level required.

*General—Language usage*

One commentator suggested that rather than using the term “mental retardation,” that the Department begin using the term “intellectual disabilities,” which is gaining acceptance as the currently politically correct term.

*Response*

Mental retardation is the current language which is used in State and Federal law and regulation. Until State and Federal law and regulation amend this language, the Department is unable to deviate from using the term “mental retardation” within its regulations.

*General—HCSIS use*

One commentator questioned why HCSIS could not be used to send out notifications and documents to all interested parties within the time frames required.

*Response*

HCSIS is a secure internet system which serves the Department, providers and others who have been given proper security access to it. HCSIS, however, is not utilized by all persons that may be a plan team member, such as the individual and the individual's family members. Therefore, HCSIS is not able to provide the documents and notifications to all required persons as suggested by the commentator.

§§ 2380.3, 2390.5, 6400.4 and 6500.4. *Definitions—“Documentation”*

IRRC commented that the terminology “document,” “documenting” and “documentation” are used in several provisions in the proposed rulemaking. However, it is unclear what is entailed in “documenting.” IRRC asked if this simply entails a staff person making a note or keeping a record or does it mean gathering evidence and independent verification. IRRC commented the final-form rulemaking should either define the term or specify the types or forms of documentation required for each provision.

*Response*

The Department agreed the documentation language was unclear and added a definition for “documentation” in §§ 2380.3, 2390.5, 6400.4 and 6500.4. “Documentation” is written statements that accurately record details, substantiate a claim or provide evidence of an event. Depending on the situation, it may be a note in a record or may be gathered evidence and independent verification. For example, documentation of having witnessed a service being performed could be a direct service worker's initials in a box on a form or it could be the direct service worker's statement. In addition, the Department intends to provide future training on what constitutes proper documentation.

§§ 2380.3, 2390.5, 6400.4 and 6500.4. *Definitions—“Outcome”*

IRRC and a commentator commented the term “outcome” is used throughout the proposed rulemaking. It appears to be a “term of art” for mental health professionals with a definition that is somewhat different from the standard definition for this word in most dictionaries. IRRC suggested the final-form rulemaking include a definition for the term in each of the four chapters.

*Response*

The Department agreed with the suggested recommendation. The Department added a definition of “outcomes” in §§ 2380.3, 2390.5, 6400.4 and 6500.4. “Outcomes” is defined as goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

§§ 2380.3, 2390.5, 6400.4 and 6500.4. *Definitions—“SC—Supports coordinator”*

IRRC commented the use of the term “individual” within the definition of “SC—Supports coordinator” is inconsistent with how the term “individual” is defined in the existing provisions of three of the four chapters. IRRC suggested that the word “individual” in the definition of “SC—Supports coordinator” be changed to “person” in the relevant sections of the final-form rulemaking.

*Response*

The Department agreed with this comment. The Department changed “individual” to “a supports coordination organization employee” in the definition of “SC—Supports coordinator” in §§ 2380.3, 2390.5, 6400.4 and 6500.4.

§§ 2380.3, 2390.5, 6400.4 and 6500.4. *Definitions—“SC—Supports coordinator”—Case management functions*

IRRC also inquired about “case management functions.” The term is used in the definition of “SC—Supports coordinator” but it is not defined. IRRC suggested there be a definition for this term.

*Response*

The Department deleted “case management functions” from the definition of “SC—Supports coordinator” because it was confusing. An SC is an SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

§§ 2380.33, 2390.33, 6400.44 and 6500.43. *Program specialist/Family living specialist—Plan meeting*

IRRC commented that §§ 2380.33(b)(5), 2390.33(b)(5), 6400.44(b)(5) and 6500.43(d)(5) indicate that the appropriate specialist shall be responsible for providing the completed assessment and individual plan prior to the plan meeting and this information shall be sent to the appropriate persons “within 30 days following the receipt of notification of the plan meeting.” However, these sections do not make clear whether the plan meeting could occur within this 30-day time frame. Thus, the relevant information may not be received in time. IRRC requested that the Department clarify that the plan meeting would occur after the 30-day deadline.

One commentator also suggested 30 days was too lengthy and recommended that reports be provided 15 days in advance of the plan meeting.

*Response*

Sections 2380.181, 2390.151, 6400.181 and 6500.152 of the final-form rulemaking have been revised to require the completed assessment to be provided to the plan team members at least 30-calendar days prior to the meeting. The Department did not agree with the commentator that 15 days would be sufficient advance notice since there could be possible postal delays or a family member being away on vacation.

§§ 2380.33, 2390.33, 6400.44 and 6500.43. *Program specialist/Family living specialist—Content discrepancy*

IRRC commented that §§ 2380.33(b)(6)(i) and (ii), 2390.33(b)(6)(i) and (ii), 6400.44(b)(6)(i) and (ii) and 6500.43(d)(6)(i) and (ii) use the term “content discrepancy.” However, it is unclear how the Department would determine whether the discrepancy exists. IRRC suggested that the final-form rulemaking include examples of when this would occur.

*Response*

The Department agreed that content discrepancy should be clarified. A definition of “content discrepancy” was added to §§ 2380.3, 2390.5, 6400.4 and 6500.4. “Content discrepancy” is a difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP. The Department would determine if a discrepancy existed through the following sequence of events.

If a detail in the ISP is different than what was determined by the plan team members at the ISP meet-

ing, then the program specialist or family living specialist would report this content discrepancy to the SC or plan lead as applicable as required under §§ 2380.33(b)(7), 2390.33(b)(7), 6400.44(b)(7) and 6500.43(d)(7). Content discrepancies are required to be kept in the individual's record as required under §§ 2380.173(9), 2390.124(12), 6400.213(11) and 6500.182(10) (relating to content of records). When the Department conducts State licensing inspections, the Department would see in the individual's record that there was a content discrepancy.

§§ 2380.33, 2390.33, 6400.44 and 6500.43. *Program specialist/Family living specialist—SC*

Several commentators stated that one role of the program specialist appears to be quality control for the work of the SC even though the program specialist does not have control over the SC. One commentator made several comments regarding this issue, including that provider agencies are held accountable for the work of an SC even though the provider agency does not supervise the SC. The commentator suggested that the regulations specify that a provider cannot be held accountable for the work of the SC.

#### *Response*

The Department understands that a provider cannot supervise an SC. As a provider does not have control over the actions of an SC, the Department will not hold the provider accountable for content discrepancies in the ISP and other activities conducted by the SC, as long as the program specialist or family living specialist, as applicable, reports these content discrepancies to the SC, plan lead and the team members as required under §§ 2380.33(b)(7), 2390.33(b)(7), 6400.44(b)(7) and 6500.43(d)(7) and documentation is kept to verify that it was reported as required under §§ 2380.173(9), 2390.124(12), 6400.213(11) and 6500.182(10).

Further, the Department will not hold a provider responsible for other activities conducted by the SC, as long as the provider agency has reported the issues it is having with the SC to the administrative entity or the Department and can substantiate that it attempted to remediate the situation.

§§ 2380.33(c), (d) and (e), 2390.33(c), (d) and (e), 6400.44(c), (d) and (e) and 6500.43(e) and (1). *SCs*

IRRC commented that proposed §§ 2380.33(c), (d) and (e), 2390.33(c), (d) and (e), 6400.44(c), (d) and (e) and 6500.43(e) mention individuals that do not have SCs. However, the proposed rulemaking did not indicate how the specialist would determine whether or not there is an assigned SC. IRRC suggested that the final-form rulemaking clarify this process. IRRC also inquired whether the Department considered combining these three subsections.

#### *Response*

The Department agreed with IRRC's suggestion and combined subsections (c) and (d) together in §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c) and 6500.152(b) and (c). Further, subsection (e) is addressed in §§ 2380.187, 2390.157, 6400.187 and 6500.157 (relating to copies).

Both the provider and program specialist would know whether or not the individual has an assigned SC based upon whether or not the individual is receiving services through an SCO. If the individual is receiving services through an SCO, the SC would make the referral for the individual to the provider, so the provider would know there is an SC.

Based on comments received, the Department made several changes to clarify who is responsible for the ISP under different scenarios. In addition, definitions of "plan lead" and "SCO—Supports coordination organization" were added and the definition of "SC—Supports coordinator" was amended in §§ 2380.3, 2390.5, 6400.4 and 6500.4.

§§ 2380.33, 2390.33, 6400.44 and 6500.43. *Program specialist/Family living specialist—Supports coordination agencies*

One commentator suggested the Department develop regulations for supports coordination agencies.

#### *Response*

At this time, the Department is not considering developing separate regulations for supports coordination agencies.

§§ 2380.33(b)(8), 2390.33(b)(8) and 6400.44(b)(8). *Program specialist/Family living specialist—Direct support professionals*

IRRC inquired what are "direct support professionals" in §§ 2380.33(b)(8), 2390.33(b)(8) and 6400.44(b)(8) (relating to program specialist). IRRC suggested that the final-form rulemaking should include a definition for this term.

#### *Response*

The Department incorrectly used the term "direct support professional." The current terminology used is "direct service worker." The Department added a definition of "direct service worker" in §§ 2380.3, 2390.5, 6400.4 and 6500.4. A "direct service worker" is a person whose primary job function is to provide services to an individual who attends the provider's facility.

§§ 2380.33(b)(10) and (11), 2390.33(b)(10) and (11), 6400.44(b)(10) and (11) and 6500.43(d)(10) and (11). *Documentation*

IRRC and a commentator commented that it appears that §§ 2380.33(b)(10) and (11), 2390.33(b)(10) and (11), 6400.44(b)(10) and (11) and 6500.43(d)(10) and (11) required both monthly and quarterly documentation of the "individual's participation and progress for individual plan outcomes." Another commentator suggested quarterly submission of documentation.

IRRC suggested that the final-form rulemaking explain the need for both types of documentation, in particular, why the regulation "ensures" monthly documentation, but is "providing" quarterly documentation. IRRC also suggested that the Department explain why the regulation states that quarterly documentation should be submitted to "the SC, individual and if appropriate, the individual's parent, guardian or advocate," but does not include the same for monthly documentation.

#### *Response*

Under §§ 2380.33(b)(10), 2390.33(b)(10), 6400.44(b)(10) and 6500.43(b)(10), a program specialist or a family living specialist is required to review, sign and date monthly documentation of an individual's participation and progress toward ISP outcomes. There is no monthly meeting attended by the plan team to discuss this monthly documentation, so there is not a need for the plan team to receive the monthly documentation. The documentation, however, does need to be maintained monthly to complete the quarterly ISP review. After the program specialist or the family living specialist has completed the quarterly ISP review with the individual, which requires a review of the monthly documentation,



the program specialist is required to submit the ISP review documentation to the SC or plan lead, as applicable, and the plan team members as required under §§ 2380.186(d), 2390.156(d), 6400.186(d) and 6500.156(d). Providing the ISP review documentation is to keep plan team members informed of both the individual's monthly and quarterly progress and for the plan team to determine if revisions to the ISP are necessary. This quarterly documentation shall be provided as the review of this information by the plan team might necessitate an ISP revision meeting.

§§ 2380.33(d), 2390.33(d) and 6400.44(d). *Plan format*

IRRC commented that §§ 2380.33(d), 2390.33(d) and 6400.44(d) provided that without an assigned SC, "the program specialist shall prepare the individual plan using the Department approved format." However, the regulations do not describe the approved format or how to obtain copies. A commentator stated that the Department-approved format seems unnecessarily limiting since various individuals with different types of disabilities are serviced in a Chapter 2390 facility.

IRRC suggested that the final-form rulemaking indicate whether it will be available online or identify the appropriate bureau or division to contact with questions regarding the format.

*Response*

The Department-designated form is available in HCSIS and will be available through a link on the Department's web site at <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm>. In addition, the Department will issue an alert to the field indicating when and how to obtain the designated ISP document as well as provide training on obtaining and utilizing the Department's designated ISP document.

§§ 2380.35 and 6400.45. *Staffing*

IRRC commented that the proposed rulemaking amended both sections by adding language stating that "direct staff support" and "staffing ratios" shall be implemented as written and "specified in the individual ISP." However, existing subsection (a) in both sections specifies minimum required ratios for staff and individuals. Two commentators raised similar concerns regarding subsection (a) and the new language in § 2380.35(e) and (f) (relating to staffing). One of these commentators requested that the staffing ratios not be determined by the team members. The commentator went on to note that similar staffing language is also included in § 6400.45(d) and (e) (relating to staffing).

IRRC also suggested the Department determine whether the minimum ratios prescribed in subsection (a) apply to the staff ratios set up by the individual ISPs or whether the Department should revise subsection (a). In addition, the final-form rulemaking should clarify resulting conflicts including whether the exceptions in the original regulation in § 2380.35(a) are allowed (that is, "except while staff persons are attending meetings or training at the facility"). IRRC and a commentator inquired as to the difference between the phrase "direct staff support as specified in the individual plan shall be implemented as written" and the phrase "staffing ratios specified in the individual ISP shall be implemented as written."

*Response*

Since subsection (a) is still applicable, including the exceptions regarding attendance at meetings and train-

ing, the Department did not propose to amend § 2380.35(a) and did not amend this subsection in its final-form rulemaking.

The minimum staffing requirements are for the provider's facility. Whereas, the staffing requirements stated in an individual's ISP are what the plan team members determine is required for the individual. The staffing requirements identified in the ISP shall be implemented in addition to or above what is a minimum requirement under §§ 2380.35(e), 2390.39(e), 6400.45(f) and 6500.44(e).

Based on the comments received and in the interest of lessening confusion, the Department determined not to introduce new definitions and, instead, deleted the definitions and use of the term "direct staff support." The Department also revised the language in §§ 2380.35(e), 2390.39(e), 6400.45(d) and 6500.44(e) and clarified that the ISP shall be implemented as written, including when the staff ratio is greater than required by subsections (a), (b) and (c).

§ 6500.43. *Family living specialist*

IRRC commented that in the new language in subsection (d)(10), the words "participation progress" appear together. IRRC asked if the word "and" should be between these two words. The phrase "participation and progress" is used in subsection (d)(11). IRRC suggested that the Department review the regulation and make the appropriate changes to the final-form rulemaking, if necessary.

*Response*

The Department reviewed § 6500.43(d)(10) and (11). These paragraphs were amended for clarity. Subsection (d)(10) now reads "reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes." Subsection (d)(11) now reads "reporting a change related to the individual's needs to the SC, as applicable, and plan team members."

§§ 2380.101 and 2390.91. *Program activities*

IRRC and a commentator commented that originally these sections required that "program activities" shall be provided as specified in each individual plan. The proposed rulemaking added that "services" shall also be provided. However, the proposed rulemaking did not define "services," nor did it explain the need for including this term. IRRC suggested that a definition for this term should be included in the final-form rulemaking.

*Response*

The term "services" is presently used in the field and is, therefore, being added in the final-form rulemaking. "Services" will replace the term "activities." The Department added a definition of "services" in §§ 2380.3, 2390.5, 6400.4 and 6500.4. "Services" are defined as "actions or assistance provided to the individual to support the achievement of an outcome."

§§ 2380.103, 2390.95, 6400.122 and 6500.112. *Invitation to ISP meeting*

One commentator expressed that if there is an SC, the SC and not the program specialist should be the one sending out the invitations to the plan meeting.

*Response*

The Department agrees with this suggestion. The Department stated that an invitation shall be sent to plan team members at least 30 calendar days prior to the ISP meeting required under §§ 2380.182(d)(4), 2390.152(d)(4), 6400.182(d)(4) and 6500.152(d)(4). Although the Depart-



ment does not regulate SCs, SCOs are contractually obligated to deliver supports coordination services per Department policies and regulations. When the individual is receiving services through an SCO, all ISP processes, including the sending of the invitations, shall be conducted by the SC.

When the individual does not have an SC, all ISP processes, including the sending of the invitations, shall be conducted by the plan lead as provided under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c) and 6500.152(b) and (c).

§§ 2380.103, 2390.95, 6400.122 and 6500.112. *Medical specialist*

One commentator stated that medical specialist shall be listed as team members and all team members receive a copy of the plan. The commentator wanted the regulations to specify that medical specialists do not have to be provided with a copy of the plan unless they specifically request to be copied.

*Response*

The Department determined upon review that a medical specialist does not have to be a plan team member, but may be a plan team member if the person plays a role in the individual's life under §§ 2380.184(a)(2), 2390.154(a)(2), 6400.184(a)(2) and 6500.154(a)(2) (relating to plan team participation).

The Department also considered the possibility of allowing a medical specialist to request a copy of the ISP without attending the ISP meeting, but determined not to include this in the final-form rulemaking. The Department determined that if the medical specialist attended the ISP meeting, the medical specialist shall be provided with a copy of the ISP following the ISP meeting.

§§ 2380.103, 2390.95, 6400.122 and 6500.112. *Development of the plan*

IRRC commented that in proposed § 2380.103(2), the new time period for completion of the individual plan is "within 30 days after the individual's admission date." IRRC and a commentator questioned why not use "30 individual attendance days," which is used in the existing regulation, or "60 days" or "90 days," as proposed in other chapters. One commentator suggested the adoption of a 60-day time frame to develop the ISP; another commentator suggested "within 60 attendance days" time frame.

IRRC questioned whether the measurement of "attendance days" is being deleted in the proposed regulation. IRRC also questioned what happens if the individual is absent for a prolonged period. IRRC suggested that the Department explain not only the need for, but also provide for, possible exceptions to this deadline.

*Response*

The Department deleted the language "attendance" days for consistency and uniformity among the chapters. In addition, the Department clarified that an ISP shall be completed within 90 calendar days in §§ 2380.182(d)(2), 2390.152(d)(2), 6400.182(d)(2) and 6500.152(d)(2), rather than 30 or 60 calendar days. This 90-day requirement conforms to the current requirement in § 6500.152 and is also for consistency and uniformity among the chapters.

There are no exceptions to this requirement. If the individual is absent from the provider facility for an extended period of time, but the individual is authorized to receive services from the provider, the provider is still responsible to develop the individual's ISP and be in compliance with all regulation requirements. Only when

the provider discontinues being identified on the individual's ISP as delivering services to the individual, is the provider able to discontinue compliance with the regulations in reference to that individual.

§§ 2380.103, 2390.95, 6400.122 and 6500.112. *Development of the plan; plan review*

IRRC inquired what type of change to the individual's needs would prompt the individual plan team to review an individual plan more frequently than every 3 months. Regarding this, a commentator suggested that a common time frame be identified for all reviews unless a specific need is identified for more frequent reviews.

*Response*

The plan team does not meet to review the ISP on a quarterly basis. The program specialist or family living specialist, as applicable, reviews the ISP with the individual and then sends ISP review documentation to the plan team members. If during the ISP review, the program specialist or family living specialist recommends that a service or outcome in the ISP should be revised, added or deleted, at that time, the plan team would be invited to an ISP revision meeting as required under §§ 2380.186(f), 2390.156(f), 6400.186(f) and 6500.156(f) when the recommendations would be discussed and the ISP could be revised.

Based on the comments received, the Department clarified the language regarding more frequent reviews of the ISP in §§ 2380.186(a), 2390.156(a), 6400.186(a) and 6500.156(a). A review of the ISP shall occur more frequently than every 3 months if the individual's needs have changed impacting the services as specified in the current ISP. The language in each chapter includes a common time frame of every 3 months.

§ 2380.103. *Development of the plan—“Declines”*

One commentator suggested changing "denies" and "denial" to "declines" and "declination" in proposed § 2380.103.

*Response*

The Department agreed with the comment and made the suggested change to §§ 2380.33(b)(15), 2390.33(b)(15), 6400.44(b)(15) and 6500.43(b)(15).

§ 2390.96. *Content of the plan—Combined language*

One commentator suggested that the language in this proposed section be combined to read that the program specialist shall document and report all missing or incomplete items from the ISP.

*Response*

The Department determined it was not necessary to mention both actions within the same section in the regulations. The Department changed the language in § 2390.33(b)(7) to read that the program specialist is responsible to report content discrepancies to the SC or plan lead and the plan team members. In § 2390.124(12), the Department requires that content discrepancy in the ISP, including annual updates and revisions, is to be maintained in the individual's record.

§§ 2380.104, 2390.97, 6400.123 and 6500.113. *Review of the ISP*

Proposed § 2380.104(a) stated that the review of each individual's progress can be completed "every 3 months, or more frequently if the individual's needs change." One commentator questioned if the review is moved up before the 3-month mark, will subsequent reviews be recalibrated to be 3 months from the earlier date or from

the original date for the 3-month review. IRRC also commented the Department should clarify this issue in the final-form rulemaking.

*Response*

If a review was completed prior to the 3-month mark, a subsequent review would be completed 3 months from the date of the previous completed review, unless there was a change in the individual's needs impacting services as specified in the current ISP. This language was clarified in §§ 2380.186(a), 2390.156(a), 6400.186(a) and 6500.156(a).

§§ 2380.104(c)(1), (2) and (3), 2390.97(d)(1), (2) and (3), 6400.123(c)(1), (2) and (3) and 6500.113(c)(1), (2) and (3). *Review of the plan*

IRRC commented that proposed §§ 2380.104(c)(1), (2) and (3), 2390.97(d)(1), (2) and (3), 6400.123(c)(1), (2) and (3) and 6500.113(c)(1), (2) and (3) provided various circumstances for when an individual plan shall be revised. IRRC questioned who is responsible for making these determinations. Is it the provider, the individual plan team or the Department? If there is a disagreement between a provider and a client or client's family or representative, what is the process for resolving the difference.

*Response*

The plan team is expected to develop the individual's ISP, including annual updates and revisions, as required under §§ 2380.184(a), 2390.154(a), 6400.184(a) and 6500.154(a). Ultimately, if the individual, individual's plan team members and provider cannot agree on an ISP or the services in an ISP, the individual and individual's plan team can choose a new provider or the provider can decline to provide the services being requested.

§§ 2380.186, 2390.156, 6400.186 and 6500.156. *Outcomes*

One commentator presented concerns regarding an outcome being revised if progress on an outcome has not been made. The commentator is concerned that the determination of "no progress" can be subjective and should be left up to the ISP team members to decide.

*Response*

Based upon the comment received, the Department agreed and determined that an outcome or services to support the achievement of an outcome may be revised by the plan team as required under §§ 2380.184(a), 2390.154(a), 6400.184(a) and 6500.154(a). Therefore, §§ 2380.186(c)(4), 2390.156(c)(4), 6400.186(c)(4) and 6500.156(c)(4) have been revised to provide that a recommendation shall come from the program specialist or family living specialist for the deletion, addition or modification of an outcome or service to support the achievement of an outcome based on the ISP review. If a recommendation for a revision to a service or outcome is made, the plan lead is required to send an invitation to the plan team members for an ISP revision meeting.

The Department is aware that progress may occur at different times for each individual, but progress towards an outcome an individual wishes to achieve should always be determined and measured. The Department has required that the plan team shall determine the individual's current status in relation to an outcome and develop a method of evaluation to determine progress toward expected outcomes at §§ 2380.183(3), 2390.153(3), 6400.183(3) and 6500.153(3) (relating to content of the ISP). That way, the plan team has a consistent method for measuring progress. If there is no progress towards a

desired outcome, the services to support the achievement of the outcome may be flawed and may need to be revised or the plan team may determine that the outcome is unattainable as written and may need to be revised or deleted.

§§ 2380.186, 2390.156, 6400.186 and 6500.156—*Review of the plan. Supports coordinator*

One commentator suggested that the SC rather than the program specialist should be responsible for conducting all reviews—monthly, quarterly and all program reviews.

*Response*

The Department determined in §§ 2380.186(a), 2390.156(a), 6400.186(a) and 6500.156(a) that it should be the program specialist or family living specialist who conducts the ISP review with the individual on a quarterly basis or more frequently if the need of the individual has changed which impacts a service or outcome in the current ISP. The program specialist or family living specialist reviews the monthly documentation of an individual's progress toward ISP outcomes as required under §§ 2380.33(b)(10), 2390.33(b)(10), 6400.44(b)(10) and 6500.43(b)(10).

The Department determined it would not be feasible for an SC to produce all ISPs for each individual in the SC's caseload and then hold monthly and quarterly reviews with each individual in the SC's caseload.

The SC will be kept up to date regarding the monthly and quarterly ISP review as the program specialist or family living specialist is responsible to provide documentation of the quarterly ISP review to the SC or plan lead, as applicable, and plan team members under §§ 2380.186(d), 2390.156(d), 6400.186(d) and 6500.156(d). The quarterly ISP review is to include a review of the monthly documentation from the prior 3 months as required under §§ 2380.186(c)(1), 2390.156(c)(1), 6400.186(c)(1) and 6500.156(c)(1).

§§ 2380.186, 2390.156, 6400.186 and 6500.156. *Review of the plan—Copies*

A commentator provided an example of a potential fiscal impact of having to provide copies of the quarterly review documents. The commentator recommended when two providers are involved, the residential provider takes the lead role for this assignment rather than the two providers duplicating their efforts.

*Response*

The Department determined that each program specialist or family living specialist would conduct a quarterly review of the individual's progress towards outcomes specific to the facility in §§ 2380.186(a), 2390.156(a), 6400.186(a) and 6500.156(a). The Department determined this is the best way to provide an effective review of the individual's ISP, as the program specialist or family living specialist at a particular provider's facility has more knowledge of the effectiveness and progress of a service within their own facility than a program specialist or family living specialist from another provider's facility.

§§ 2380.106, 2390.96, 6400.125 and 6500.115. *Content of the plan*

IRRC commented that the topics and their sections are not necessarily in the same order in each chapter. For example, the section on "content of the individual plan" comes before the section on "review" in Chapter 2390, but there is a different order in the other chapters. IRRC

suggested that the Department review the numerical order of their sections and, if appropriate, make the necessary changes.

*Response*

The Department agreed with this comment. Based on IIRC's comment to review the order of the sections, the Department renumbered and reordered the program-related sections in all four chapters.

§§ 2380.106(5), 2390.96(5), 6400.125(5) and 6500.115(6).  
*Supervision*

One commentator asked how formal the schedule of periods of time to be without supervision needs to be within the content of an individual's plan.

*Response*

The Department clarified the language in §§ 2380.183(4), 2390.153(4), 6400.183(4) and 6500.153(4). The Department is requiring a schedule that outlines the amount of time an individual is to be without direct staff supervision. This does not mean that the individual's ISP should state "from 4 o'clock to 5 o'clock every Monday the individual must be without direct supervision." Instead, this means the schedule should state how long the individual may be without direct supervision. For example, the individual should have 1 hour, once a week, when the individual is without direct supervision. In addition, the Department intends to provide training regarding all final-form rulemaking amendments, including this requirement.

§§ 2380.106(a)(5), 2390.96(a)(5), 6400.125(a)(5) and 6500.115(a)(6). *Content of the plan*

One commentator requested that the Department define that outcomes should be objective, observable and measurable. IIRC commented that in proposed §§ 2380.106(a)(5), 2390.96(a)(5), 6400.125(a)(5) and 6500.115(a)(6) the phrase "greater level of independence" was vague. It is unclear how specialists determine whether an individual had achieved a greater level. IIRC suggested the Department provide examples of how this is observed or measured. IIRC also requested that the final-form regulation clarify whether the term "assessment" refers to an individual's initial or periodic assessment.

*Response*

Based on comments received, the Department revised §§ 2380.183(3), 2390.153(3), 6400.183(3) and 6500.153(3) to require that the ISP, including annual updates and revisions, include the individual's current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome. This requirement allows a plan team to determine how to best measure an individual's current condition and progress in relation to an outcome.

The Department also added language to §§ 2380.181(a), 2390.151(a), 6400.181(a) and 6500.151(a) (relating to assessment) to provide for an initial assessment that is updated annually.

§§ 2380.106(a)(7) and (8), 6400.125(a)(7) and (8) and 6500.115(a)(7) and (8). *Maladaptive behavior*

IIRC inquired what is "maladaptive behavior" in proposed §§ 2380.106(a)(7) and (8), 6400.125(a)(7) and (8) and 6500.115(a)(7) and (8). IIRC suggested that the final-form rulemaking include a definition for this term.

In addition, a commentator suggested that the Department use a different term other than "maladaptive behav-

ior." The commentator suggested using terms such as "challenging, socially devalued, socially unacceptable, dangerous or assaultive."

*Response*

The Department deleted this term since it is outdated. The language was replaced with "symptoms of a diagnosed psychiatric illness." "Maladaptive behavior" was subjective and could be broadly defined. "Symptoms of a psychiatric illness" are determined by medical professionals and defined in medical definitions. Therefore, these medical definitions are less subject to varying interpretation.

§§ 2380.106(a)(8), 6400.125(a)(8) and 6500.115(a)(8). *Restrictive procedures*

IIRC asked for examples of "restrictive procedures" in proposed §§ 2380.106(a)(8), 6400.125(a)(8) and 6500.115(a)(8). IIRC suggested that the final-form rulemaking include a definition for this term.

*Response*

Restrictive procedures are currently defined in §§ 2380.151, 6400.191 and 6500.161 (relating to definition of restrictive procedures). However, Chapter 2390 currently does not have an existing section defining "restrictive procedures." For consistency and clarity, the definition of "restrictive procedures" was added in § 2390.5.

In addition, the Department added §§ 2380.183(6), 2390.153(6), 6400.183(6) and 6500.153(6) requiring ISPs to include a protocol to eliminate the use of restrictive procedures if they are being utilized.

One commentator also suggested that the best way to reduce the need for restrictive procedures is to reduce the frequency of the behavior that required the use of restrictive procedures.

*Response*

The Department agreed with this suggestion and added language in §§ 2380.183(6)(i)—(iv), 2390.153(6)(i)—(iv), 6400.183(6)(i)—(iv) and 6500.153(6)(i)—(iv) to clarify that if restrictive procedures are utilized, there must be a protocol developed to: assess the cause of the behavior; address the underlying causes of the behavior which led to the use of restrictive procedures; determine the method and time line for restrictive procedures elimination; and determine a protocol for intervention or redirection without utilizing restrictive procedures.

§ 2390.94. *Initial assessment*

IIRC and a commentator commented that proposed § 2390.94 required an "initial assessment" of the individual within 20 attendance days of admission. IIRC asked how often assessments will be performed after the first one. Where is this specified in the regulation? IIRC commented that proposed § 2390.97 required a review of the individual ISP every 3 months, but it did not specifically mention an assessment. IIRC recommended the timing of new assessments or reassessments should be specified in the final-form rulemaking.

*Response*

The Department agreed with the comment and amended §§ 2380.181, 2390.151, 6400.181 and 6500.151 in the final-form rulemaking. An initial assessment shall be performed within 60 calendar days following the individual's admission date to the facility. An updated assessment must be performed annually thereafter.



§ 2390.99. *Interdisciplinary team responsibility for individual written program plan*

IRRC commented this section is among the existing provisions in Chapter 2390. However, it was not included in the proposed rulemaking even though its title included the term “individual written program plan,” which is being deleted elsewhere in this chapter. The section reads: “The interdisciplinary team is responsible for ensuring that the client needs specified in the plan are met.” IRRC asked if this section is to be retained, should the title be revised and the term “plan” in the text be replaced with the new acronym “IP” in the final-form rulemaking.

*Response*

The Department rescinded § 2390.99 so that it was consistent within and across the four chapters in this final-form rulemaking. This section was not in any of the other three chapters applicable to this final-form rulemaking and was no longer required due to these regulatory amendments.

The Department also identified existing §§ 2380.174, 6400.214 and 6500.183 (relating to record location), which needed to be revised to match the amendments in the final-form rulemaking in §§ 2380.173, 2390.124, 6400.213 and 6500.182.

§ 6400.12. *Copies of the plan*

IRRC inquired what will happen to the existing language in subsection (b), which included the current acronym of IPP. It appeared that the proposed rulemaking would move this existing language to new subsection (d) unaltered.

*Response*

The Department redesignated § 6400.127 as § 6400.187. Section 6400.187 does not use IPP.

§ 2380.187. *Copies of the plan*

One commentator requested real time access to the plan.

*Response*

The plan team, which includes the provider, shall have access to the ISP within 30 calendar days following the ISP meeting as required under §§ 2380.187, 2390.157, 6400.187 and 6500.157.

*Chapter 2390, Appendix A*

Appendix A is entitled “Vocational Facilities Licensing Inspection Instrument.” IRRC commented that in a few places, this appendix referred to the “individual written program plan” or IWPP. IRRC asked when will this appendix be updated to refer to the individual plan.

*Response*

The Department determined to rescind Appendix A (relating to licensing inspection instrument for vocational facilities—statement of policy) and not codify the revisions to this licensing inspection instrument. Currently, the licensing inspection instruments, licensing weighting systems and licensing indicator system are issued as Department bulletins. Due to this regulatory amendment, the Department will designate these Department bulletins as obsolete and will post the revised documents on the Department’s web site. The revised documents will be available at a link on the Department’s web site at <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm>.

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 16, 2008, the Department submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 1937, to IRRC and to the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare (Committees) for review and comment.

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

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.1) and (j.2)), on July 14, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2010, and approved the final-form rulemaking.

*Findings*

The Department finds that:

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

(2) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the code.

*Order*

The Department, acting under the authority of sections 911 and 1021 the code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 2380, 2390, 6400 and 6500, are amended by amending §§ 2380.3, 2380.33, 2380.35, 2380.123, 2380.173, 2380.174, 2390.5, 2390.33, 2390.39, 2390.124, 6400.4, 6400.44, 6400.45, 6400.163, 6400.213, 6400.214, 6500.4, 6500.43, 6500.44, 6500.133, 6500.182 and 6500.183; by deleting §§ 2380.101—2380.108, 2390.91—2390.100 and 6400.121—6400.130 and 6500.111—6500.118; and by adding §§ 2380.181—2380.188, 2390.151—2390.159, 6400.181—6400.190 and 6500.151—6500.160 to read as set forth in Annex A.

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

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

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

HARRIET DICHTER,  
*Secretary*

*(Editor’s Note:* For a statement of policy relating to this statement of policy, see 40 Pa.B. 4974 (August 28, 2010).)

*(Editor’s Note:* For the text of the order of the Independent Regulatory Commission relating to this document, see 40 Pa.B. 4359 (July 31, 2010).)

**Fiscal Note:** Fiscal Note 14-512 remains valid for the final adoption of the subject regulations.



## Annex A

## TITLE 55. PUBLIC WELFARE

## PART IV. ADULT SERVICES MANUAL

Subpart D. NONRESIDENTIAL  
AGENCIES/FACILITIES/SERVICES

## CHAPTER 2380. ADULT TRAINING FACILITIES

## GENERAL PROVISIONS

## § 2380.3. Definitions.

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

*Adult*—A person 18 years of age or older.

*Adult training facility or facility*—A building or portion of a building in which services are provided to four or more individuals, who are 59 years of age or younger and who do not have a dementia-related disease as a primary diagnosis, for part of a 24-hour day, excluding care provided by relatives. Services include the provision of functional activities, assistance in meeting personal needs and assistance in performing basic daily activities.

*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.

*Department*—The Department of Public Welfare of the Commonwealth.

*Direct service worker*—A person whose primary job function is to provide services to an individual who attends the provider's facility.

*Documentation*—Written statements that accurately record details, substantiate a claim or provide evidence of an event.

*Firesafety expert*—A local fire department, fire protection engineer, State certified fire protection instructor, college instructor in fire science, county or State fire school, volunteer fire person trained by a county or State fire school or an insurance company loss control representative.

*ISP—Individual Support Plan*—The comprehensive document that identifies services and expected outcomes for an individual.

*Individual*—An adult with disabilities who receives care in an adult training facility and who has developmental needs which require assistance to meet personal needs and to perform basic daily activities. Examples of adults with disabilities include adults who exhibit one or more of the following:

(i) A physical disability such as blindness, visual impairment, deafness, hearing impairment, speech or language impairment or a physical handicap.

(ii) A mental illness.

(iii) A neurological disability such as cerebral palsy, autism or epilepsy.

(iv) Mental retardation.

(v) A traumatic brain injury.

*Outcomes*—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

*Plan lead*—The program specialist or family living specialist, as applicable, when the individual is not receiving services through an SCO.

*Plan team*—The group that develops the ISP.

*Provider*—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

*SC—Supports coordinator*—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

*SCO—Supports coordination organization*—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

*Services*—Actions or assistance provided to the individual to support the achievement of an outcome.

## STAFFING

## § 2380.33. Program specialist.

(a) At least one program specialist shall be assigned for every 30 individuals, regardless of whether they meet the definition of individual in § 2380.3 (relating to definitions).

(b) The program specialist shall be responsible for the following:

(1) Coordinating and completing assessments.

(2) Providing the assessment as required under § 2380.181(f) (relating to assessment).

(3) Participating in the development of the ISP, including annual updates and revisions of the ISP.

(4) Attending the ISP meetings.

(5) Fulfilling the role of plan lead, as applicable, under §§ 2380.182 and 2380.186(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).

(6) Reviewing the ISP, annual updates and revisions under § 2380.186 (relating to ISP review and revision), for content accuracy.

(7) Reporting content discrepancy to the SC or plan lead, as applicable, and plan team members.

(8) Implementing the ISP as written.

(9) Supervising, monitoring and evaluating services provided to the individual.

(10) Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.

(11) Reporting a change related to the individual's needs to the SC or plan lead, as applicable, and plan team members.

(12) Reviewing the ISP with the individual as required under § 2380.186.

(13) Documenting the review of the ISP as required under § 2380.186.

(14) Providing the documentation of the ISP review to the SC or plan lead, as applicable, and plan team members as required under § 2380.186(d).

(15) Informing plan team members of the option to decline the ISP Review documentation as required under § 2380.186(e).

(16) Recommending a revision to a service or outcome in the ISP as provided under § 2380.186(c)(4).

(17) Coordinating the services provided to an individual.

(18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each individual.

(19) Developing and implementing provider services as required under § 2380.188 (relating to provider services).

(c) A program specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year of work experience working directly with persons with disabilities.

(2) A bachelor's degree from an accredited college or university and 2 years of work experience working directly with persons with disabilities.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years of work experience working directly with persons with disabilities.

**§ 2380.35. Staffing.**

(a) A minimum of one direct service worker for every six individuals shall be physically present with the individuals at all times individuals are present at the facility, except while staff persons are attending meetings or training at the facility.

(b) While staff persons are attending meetings or training at the facility, a minimum of one staff person for every ten individuals shall be physically present with the individuals at all times individuals are present at the facility.

(c) A minimum of two staff persons shall be present with the individuals at all times.

(d) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the individual's ISP, as an outcome which requires the achievement of a higher level of independence.

(e) The staff qualifications and staff ratio as specified in the ISP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) An individual may not be left unsupervised solely for the convenience of the facility or the direct service worker.

**§§ 2380.101—2380.108. (Reserved).**

**MEDICATIONS**

**§ 2380.123. Use of prescription medications.**

(a) Prescription medications shall only be used by the individual for whom the medication was prescribed.

(b) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the ISP to address the social, emotional and environmental needs of the individual related to the symptoms of the psychiatric illness.

**RECORDS**

**§ 2380.173. Content of records.**

Each individual's record must include the following information:

(1) Personal information including:

(i) The name, sex, admission date, birthdate and social security number.

(ii) The race, height, weight, color of hair, color of eyes and identifying marks.

(iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.

(iv) Religious affiliation.

(v) A current, dated photograph.

(2) Unusual incident reports related to the individual.

(3) Physical examinations.

(4) Assessments as required under § 2380.181 (relating to assessment).

(5) A copy of the invitation to:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(6) A copy of the signature sheet for:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(7) A copy of the current ISP.

(8) Documentation of ISP reviews and revisions under § 2380.186 (relating to ISP review and revision), including the following:

(i) ISP review signature sheets.

(ii) Recommendations to revise the ISP.

(iii) ISP revisions.

(iv) Notices that the plan team member may decline the ISP review documentation.

(v) Requests from plan team members to not receive the ISP review documentation.

(9) Content discrepancies in the ISP, the annual update or revision under § 2380.186.

(10) Restrictive procedure protocols and records related to the individual.

(11) Copies of psychological evaluations, if applicable.

**§ 2380.174. Record location.**

(a) The record information required in § 2380.173(1) (relating to content of records) shall be kept at the facility.

(b) The most current copies of record information required in § 2380.173(2)—(11) shall be kept at the facility.

(c) The record information required in § 2380.173(2)—(11), that is not current shall be kept at the facility or at the facility's administrative office.

**PROGRAM**

**§ 2380.181. Assessment.**

(a) Each individual shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the facility and an updated assessment annually thereafter.

(b) If the program specialist is making a recommendation to revise a service or outcome in the ISP as provided under § 2380.186(c)(4) (relating to ISP review and revision), the individual shall have an assessment completed as required under this section.

(c) The assessment shall be based on assessment instruments, interviews, progress notes and observations.

(d) The program specialist shall sign and date the assessment.

(e) The assessment must include the following information:

(1) Functional strengths, needs and preferences of the individual.

(2) The likes, dislikes and interests of the individual, including vocational and employment interests.

(3) The individual's current level of performance and progress in the following areas:

(i) Acquisition of functional skills.

(ii) Communication.

(iii) Personal adjustment.

(iv) Personal needs with or without assistance from others.

(4) The individual's need for supervision.

(5) The individual's ability to self-administer medications.

(6) The individual's ability to safely use or avoid poisonous materials, when in the presence of poisonous materials.

(7) The individual's knowledge of the danger of heat sources and ability to sense and move away quickly from heat sources which exceed 120° F and are not insulated.

(8) The individual's ability to evacuate in the event of a fire.

(9) Documentation of the individual's disability, including functional and medical limitations.

(10) A lifetime medical history.

(11) Psychological evaluations, if applicable.

(12) Recommendations for specific areas of training, vocational programming and competitive community-integrated employment.

(13) The individual's progress over the last 365 calendar days and current level in the following areas:

(i) Health.

(ii) Motor and communication skills.

(iii) Personal adjustment.

(iv) Socialization.

(v) Recreation.

(vi) Community-integration.

(14) The individual's knowledge of water safety and ability to swim.

(f) The program specialist shall provide the assessment to the SC or plan lead, as applicable, and plan team members at least 30 calendar days prior to an ISP meeting for the development, annual update and revision of the ISP under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP).

**§ 2380.182. Development, annual update and revision of the ISP.**

(a) An individual shall have one ISP.

(b) When an individual is not receiving services through an SCO and does not reside in a home licensed under Chapter 6400 or 6500 (relating to community homes for individuals with mental retardation; and fam-

ily living homes), the adult training facility program specialist shall be the plan lead when one of the following applies:

(1) The individual attends a facility licensed under this chapter.

(2) The individual attends a facility licensed under this chapter and a facility licensed under Chapter 2390.

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the facility.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 2380.186, shall be provided as required under § 2380.187 (relating to copies).

**§ 2380.183. Content of the ISP.**

The ISP, including annual updates and revisions under § 2380.186 (relating to ISP review and revision), must include the following:

(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.

(2) Services provided to the individual to increase community involvement, including work opportunities as required under § 2380.188 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.



(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and timeline for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the individual's potential to advance in the following:

- (i) Vocational programming.
- (ii) Community involvement.
- (iii) Competitive community-integrated employment.

**§ 2380.184. Plan team participation.**

(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 2380.186 (relating to ISP review and revision).

(1) A plan team must include as its members the following:

- (i) The individual.
- (ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.
- (iii) A direct service worker who works with the individual from each provider delivering a service to the individual.
- (iv) Any other person the individual chooses to invite.

(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:

- (i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.
- (ii) Additional direct service workers who work with the individual from each provider delivering services to the individual.
- (iii) The individual's parent, guardian or advocate.

(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for an ISP, annual update and ISP revision meeting.

(c) A plan team member who attends a meeting under subsection (b) shall sign and date the signature sheet.

**§ 2380.185. Implementation of the ISP.**

(a) The ISP shall be implemented by the ISP'S start date.

(B) The ISP shall be implemented as written.

**§ 2380.186. ISP review and revision.**

(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the facility licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change which impact the services as specified in the current ISP.

(b) The program specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the facility licensed under this chapter.

(2) A review of each section of the ISP specific to the facility licensed under this chapter.

(3) The program specialist shall document a change in the individual's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

- (i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.
- (ii) The addition of an outcome or service to support the achievement of an outcome.
- (iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 2380.181(b) (relating to assessment).

(d) The program specialist shall provide the ISP review documentation, including recommendations, if applicable, to the SC or plan lead, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.

**§ 2380.187. Copies.**  
A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP annual update and ISP revision meetings.

**§ 2380.188. Provider services.**

(a) The facility shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The facility shall provide opportunities and support to the individual for participation in community life, including work opportunities.

(c) The facility shall provide services to the individual as specified in the individual's ISP.

(d) The facility shall provide services that are age and functionally appropriate to the individual.

**CHAPTER 2390. VOCATIONAL FACILITIES**

**GENERAL PROVISIONS**

**§ 2390.5. Definitions.**

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



*Abusive act*—An act or omission of an act that willfully deprives a client of rights or which may cause or causes actual physical injury or emotional harm to a client.

*Certificate of compliance*—A document issued to a legal entity permitting it to operate a vocational facility at a given location, for a specific period of time, according to appropriate regulations of the Commonwealth.

*Chief executive officer*—The staff person responsible for the general management of the facility. Other terms such as “program director” or “administrator” may be used as long as the qualifications specified in § 2390.32 (relating to chief executive officer) are met.

*Client*—A disabled adult receiving services in a vocational facility.

*Competitive employment*—A job in a regular work setting with an employee-employer relationship, in which a disabled adult is hired to do a job that other nondisabled employees also do.

*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.

*Criminal abuse*—Crimes against the person such as assault and crimes against the property of the client such as theft or embezzlement.

*Department*—The Department of Public Welfare of the Commonwealth.

*Direct service worker*—A person whose primary job function is to provide services to a client who attends the provider’s facility.

*Disabled adult*—

(i) A person who because of a disability requires special help or special services on a regular basis in order to function vocationally.

(ii) The term includes persons who exhibit any of the following characteristics:

(A) A physical disability, such as visual impairment, hearing impairment, speech or language impairment or other physical handicap.

(B) Social or emotional maladjustment.

(C) A neurologically based condition such as cerebral palsy, autism or epilepsy.

(D) Mental retardation.

*Documentation*—Written statements that accurately record details, substantiate a claim or provide evidence of an event.

*Handicapped employment*—A vocational program in which the individual client does not require rehabilitation, habilitation or ongoing training in order to work at the facility.

*ISP—Individual Support Plan*—The comprehensive document that identifies services and expected outcomes for a client.

*Individual written program plan*—A plan that is developed for a client on the basis of assessment data that specifies specific objectives and program services for the clients.

*Interdisciplinary team*—A group of persons representing one or more service areas relevant to identifying a client’s needs, including at a minimum the county casemanager if the client is funded through the county mental health and mental retardation program, the client and the program specialist.

*Outcomes*—Goals the client and client’s plan team choose for the client to acquire, maintain or improve.

*Plan lead*—The program specialist or family living specialist, as applicable, when the client is not receiving services through an SCO.

*Plan team*—The group that develops the ISP.

*Provider*—An entity or person that enters into an agreement with the Department to deliver a service to a client.

*Restrictive procedure*—A practice that limits a client’s movement, activity or function; interferes with a client’s ability to acquire positive reinforcement; results in the loss of objects or activities that a client values; or requires a client to engage in a behavior that the client would not engage in given freedom of choice.

*SC—Supports coordinator*—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to a client when the client is receiving services from an SCO.

*SCO—Supports coordination organization*—A provider that delivers the services of locating, coordinating and monitoring services provided to a client.

*Services*—Actions or assistance provided to the client to support the achievement of an outcome.

*Sheltered employment*—A program designed to enable the client to move out of the vocational facility into competitive employment or into a higher level vocational program focusing on the development of competitive worker traits and using work as the primary training method.

*Training*—

(i) Occupational training that follows a specific curriculum and is designed to teach skills for a specific occupation in the competitive labor market.

(ii) The term also includes personal and work adjustment training that is designed to develop appropriate worker traits and teach an understanding of the expectations of a work environment to enable the client to progress into a higher level rehabilitation program or into competitive employment.

*Vocational evaluation*—The use of planned activities, systematic observation and testing to accomplish a formal assessment of a client, including an identification of program needs, potential for employment and identification of employment objectives.

*Vocational facility (facility)*—A premise in which rehabilitative, habilitative or handicapped employment or employment training is provided to one or more disabled clients for part of a 24-hour day.

*Work activities center*—A program focusing on working and behavioral/therapeutic techniques to enable clients to attain sufficient vocational, personal, social and independent living skills to progress to higher level vocational programs.

*Work performance review*—An assessment of the client’s skill level.

## STAFFING

### § 2390.33. Program specialist.

(a) A minimum of one program specialist for every 45 clients shall be available when clients are present at the facility.

(b) The program specialist shall be responsible for the following:

- (1) Coordinating and completing assessments.
- (2) Providing the assessment as required under § 2390.151(f) (relating to assessment).
- (3) Participating in the development of the ISP, including annual updates and revisions of the ISP.
- (4) Attending the ISP meetings.
- (5) Fulfilling the role of plan lead, as applicable, under §§ 2390.152 and 2390.156(f) and (g) (relating to development, annual update and revision to the ISP; and ISP review and revision).
- (6) Reviewing the ISP, annual updates and revisions for content accuracy.
- (7) Reporting content discrepancy to the SC or plan lead, as applicable, and plan team members.
- (8) Implementing the ISP as written.
- (9) Supervising, monitoring and evaluating services provided to the client.
- (10) Reviewing, signing and dating the monthly documentation of a client's participation and progress toward outcomes.
- (11) Reporting a change related to the client's needs to the SC or plan lead, as applicable, and plan team members.
- (12) Reviewing the ISP with the client as required under § 2390.156.
- (13) Documenting the review of the ISP as required under § 2390.156.
- (14) Providing documentation of the ISP review to the SC or plan lead, as applicable, and plan team members as required under § 2390.156(d).
- (15) Informing plan team members of the option to decline the ISP review documentation as required under § 2390.156(e).
- (16) Recommending a revision to a service or outcome in the ISP as provided under § 2390.156(c)(4).
- (17) Coordinating the services provided to a client.
- (18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each client.
- (19) Developing and implementing provider services as required under § 2390.158 (relating to provider services).

(c) A program specialist shall meet one of the following groups of qualifications:

- (1) Possess a master's degree or above from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field.
- (2) Possess a bachelor's degree from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field; and 1 year experience working directly with disabled persons.
- (3) Possess an associate's degree or completion of a 2 year program from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupa-

tional Therapy, Therapeutic Recreation or other human services field; and 3 years experience working directly with disabled persons.

(4) Possess a license or certification by the State Board of Nurse Examiners, the State Board of Physical Therapists Examiners, or the Committee on Rehabilitation Counselor Certification or be a licensed psychologist or registered occupational therapist; and 1 year experience working directly with disabled persons.

**§ 2390.39. Staffing.**

(a) A minimum of two staff shall be present at the facility when 10 or more clients are present at the facility.

(b) A minimum of one staff shall be present at the facility when fewer than 10 clients are present at the facility.

(c) If 20 or more clients are present at the facility, there shall be at least one staff present at the facility who meets the qualifications of program specialist.

(d) A client may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the client's assessment and is part of the client's ISP, as an outcome which requires the achievement of a higher level of independence.

(e) The staff qualifications and staff ratio as specified in the ISP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) A client may not be left unsupervised solely for the convenience of the facility or the direct service worker.

**§§ 2390.91—2390.100. (Reserved).**

**CLIENT RECORDS**

**§ 2390.124. Content of records.**

Each client's record must include the following information:

- (1) The name, sex, admission date, birthdate and place, social security number and dates of entry, transfer and discharge.
- (2) The name, address and telephone number of parents, legal guardian and a designated person to be contacted in case of an emergency.
- (3) The name and telephone number of a physician or source of health care.
- (4) Written consent from the client, parent or guardian for emergency medical treatment.
- (5) Physical examinations.
- (6) Assessments as required under § 2390.151 (relating to assessment).
- (7) A copy of the vocational evaluations, if applicable.
- (8) A copy of the invitation to:
  - (i) The initial ISP meeting.
  - (ii) The annual update meeting.
  - (iii) The ISP revision meeting.
- (9) A copy of the signature sheet for:
  - (i) The initial ISP meeting.
  - (ii) The annual update meeting.
  - (iii) The ISP revision meeting.
- (10) A copy of the current ISP.
- (11) Documentation of ISP reviews and ISP revisions under § 2390.156 (relating to ISP review and revision), including the following:

- (i) ISP Review signature sheets.
- (ii) Recommendations to revise the ISP.
- (iii) ISP revisions.
- (iv) Notices that the plan team member may decline the ISP review documentation.
- (v) Requests from plan team members to not receive the ISP review documentation.
- (12) Content discrepancy in the ISP, the annual update or revision under § 2390.156.
- (13) Restrictive procedure protocols and records related to the client.
- (14) Unusual incident reports related to the client.
- (15) Copies of psychological evaluations, if applicable.
- (16) Vocational evaluations as required under § 2390.159.

### PROGRAM

#### § 2390.151. Assessment.

- (a) Each client shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the facility and an updated assessment annually thereafter.
- (b) If the program specialist is making a recommendation to revise a service or outcome in the ISP as provided under § 2390.156(c)(4) (relating to ISP review and revision), the client shall have an assessment completed as required under this section.
- (c) The assessment shall be based on assessment instruments, interviews, progress notes and observations.
- (d) The program specialist shall sign and date the assessment.
- (e) The assessment must include the following information:
  - (1) Functional strengths, needs and preferences of the client.
  - (2) The likes, dislikes and interest of client, including vocational and employment interests of the client.
  - (3) The client's current level of performance and progress in the following areas:
    - (i) Acquisition of vocational functioning skills.
    - (ii) Communication; ability to receive, retain and carry out instructions.
    - (iii) Personal adjustment.
    - (iv) Personal needs with or without assistance from others.
  - (4) The client's need for supervision.
  - (5) The client's ability to self-administer medications.
  - (6) The client's ability to safely use or avoid poisonous materials, when in the presence of poisonous materials.
  - (7) The client's knowledge of the danger of heat sources and ability to sense and move away quickly from heat sources which exceed 120° F and are not insulated.
  - (8) The client's ability to evacuate in the event of a fire.
  - (9) Documentation of the client's disability, including functional and medical limitations.
  - (10) A lifetime medical history.
  - (11) Psychological evaluations, if applicable.
  - (12) Recommendations for specific areas of vocational training or placement and competitive community-integrated employment.

(13) The individual's progress over the last 365 calendar days and current level in the following areas:

- (i) Health.
- (ii) Motor and communication skills.
- (iii) Personal adjustment.
- (iv) Socialization.
- (v) Vocational skills.

(f) The program specialist shall provide the assessment to the SC or plan lead, as applicable, and plan team members at least 30 calendar days prior to an ISP meeting for the development, annual update and revision of the ISP under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP).

#### § 2390.152. Development, annual update and revision of the ISP.

(a) A client shall have one ISP.

(b) When a client is not receiving services through an SCO and is not receiving services in a facility or home licensed under Chapters 2380, 6400 or 6500 (relating to adult training facilities; community homes for individuals with mental retardation; and family living homes), the vocational facility program specialist shall be the plan lead.

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the client's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the client's admission date to the facility.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) And also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 2390.156, shall be provided as required under § 2390.157 (relating to copies).

#### § 2390.153. Content of the ISP.

The ISP, including annual updates and revisions under § 2390.156 (relating to ISP review and revision) must include the following:

(1) Services provided to the client and expected outcomes chosen by the client and client's plan team.

(2) Services provided to the client to develop the skills necessary for promotion into a higher level of vocational programming or into competitive community-integrated employment as required under § 2390.158 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.



(4) A protocol and schedule outlining specified periods of time for the client to be without direct supervision, if the client's current assessment states the client may be without direct supervision and if the client's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve a higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the client, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

- (i) An assessment to determine the causes or antecedents of the behavior.
- (ii) A protocol for addressing the underlying causes or antecedents of the behavior.
- (iii) The method and timeline for eliminating the use of restrictive procedures.
- (iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the client's potential to advance in the following:

- (i) Vocational programming.
- (ii) Competitive community-integrated employment.

**§ 2390.154. Plan team participation.**

(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 2390.156 (relating to ISP review and revision).

(1) A plan team must include as its members the following:

- (i) The client.
- (ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the client.
- (iii) A direct service worker who works with the client from each provider delivering a service to the client.
- (iv) Any other person the client chooses to invite.

(2) If the following have a role in the client's life, the plan team may also include as its members, as applicable, the following:

- (i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.
- (ii) Additional direct service workers who work with the client from each provider delivering services to the client.
- (iii) The client's parent, guardian or advocate.

(b) At least three plan team members, in addition to the client, if the client chooses to attend, shall be present for the ISP, annual update and ISP revision meetings.

(c) A plan team member who attends an ISP meeting under subsection (b) shall sign and date the signature sheet.

**§ 2390.155. Implementation of the ISP.**

- (a) The ISP shall be implemented by the ISP's start date.
- (b) The ISP shall be implemented as written.

**§ 2390.156. ISP review and revision.**

(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the facility licensed under this chapter with the client every 3 months or more frequently if the client's needs change which impacts the services as specified in the current ISP.

(b) The program specialist and client shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of a client's participation and progress during the prior 3 months toward ISP outcomes supported by services provide by the facility licensed under this chapter.

(2) A review of each section of the ISP specific to the facility licensed under this chapter.

(3) The program specialist shall document a change in the client's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

- (i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.
- (ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 2390.151(b) (relating to assessment).

(d) The program specialist shall provide the ISP review documentation, including recommendations if applicable, to the SC or plan lead, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead, as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.

**§ 2390.157. Copies.**

A copy of the ISP, ISP annual update and ISP revision, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP, ISP annual update and ISP revision meetings.



**§ 2390.158. Provider services.**

(a) The facility shall provide services including work experience and other developmentally oriented, vocational training designed to develop the skills necessary for promotion into a higher level of vocational programming or competitive community-integrated employment.

(b) The facility shall provide opportunities and support to the client for participation in community life, including competitive community-integrated employment.

(c) The facility shall provide services to the client as specified in the client's ISP.

(d) The facility shall provide services that are age and functionally appropriate to the client.

**§ 2390.159. Vocational evaluation.**

If the facility provides vocational evaluation, the following apply:

(1) The vocational evaluator shall perform the evaluations.

(2) A copy of the written evaluation shall be kept in the client's record.

(3) The written evaluation must include the following information:

(i) The client's current level of vocational functioning.

(ii) The employment objectives for the client.

(iii) The vocational interests of the client.

(iv) The client's level of personal and social adjustment.

(v) The client's work attitude.

(vi) The client's fatigue levels.

(vii) The client's ability to receive, retain and carry out instructions.

(viii) Recommendations for specific areas of training or placement.

(4) The facility shall ensure the client and the client's parent, guardian or advocate, as applicable, are informed of the results of the evaluation.

(i) The client and the client's parent, guardian or advocate, as applicable, shall sign a statement acknowledging receipt of the evaluation results.

(ii) The signed statement acknowledging receipt of the evaluation results shall be kept in the client's record.

**PART VIII. MENTAL RETARDATION MANUAL****Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES****ARTICLE I. LICENSING/APPROVAL****CHAPTER 6400. COMMUNITY HOMES FOR INDIVIDUALS WITH MENTAL RETARDATION****GENERAL PROVISIONS****§ 6400.4. Definitions.**

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

*Agency*—A person or legally constituted organization operating one or more community homes for people with mental retardation serving eight or fewer individuals.

*Community home for people with mental retardation home*—A building or separate dwelling unit in which residential care is provided to one or more individuals with mental retardation, except as provided in § 6400.3(f)

(relating to applicability). Each apartment unit within an apartment building is considered a separate home. Each part of a duplex, if there is physical separation between the living areas, is considered a separate home.

*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.

*Department*—The Department of Public Welfare of the Commonwealth.

*Direct service worker*—A person whose primary job function is to provide services to an individual who resides in the provider's residential home.

*Documentation*—Written statements that accurately record details, substantiate a claim or provide evidence of an event.

*Fire safety expert*—A local fire department, fire protection engineer, State certified fire protection instructor, college instructor in fire science, county or State fire school, volunteer fire person trained by a county or State fire school or an insurance company loss control representative.

*ISP—Individual Support Plan*—The comprehensive document that identifies services and expected outcomes for an individual.

*Individual*—A person with mental retardation who resides, or receives residential respite care, in a home and who is not a relative of the owner of the home.

*Mental retardation*—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

(i) Maturation.

(ii) Learning.

(iii) Social adjustment.

*Normalization*—A principle designed to ensure for every person with mental retardation and the person's family the right to live a life as close as possible to that which is typical for the general population.

*Outcomes*—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.

*Plan lead*—The program specialist, when the individual is not receiving services through an SCO.

*Plan team*—The group that develops the ISP.

*Provider*—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

*Relative*—A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece or nephew.

*SC—Supports coordinator*—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

*SCO—Supports coordination organization*—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

*Services*—Actions or assistance provided to the individual to support the achievement of an outcome.

**STAFF**

**§ 6400.44. Program specialist.**

(a) A minimum of one program specialist shall be assigned for every 30 individuals. A program specialist shall be responsible for a maximum of 30 people, including people served in other types of services.

(b) The program specialist shall be responsible for the following:

- (1) Coordinating and completing assessments.
- (2) Providing the assessment as required under § 6400.181(f) (relating to assessment).
- (3) Participating in the development of the ISP, ISP annual update and ISP revision.
- (4) Attending the ISP meetings.
- (5) Fulfilling the role of plan lead, as applicable, under §§ 6400.182 and 6400.186(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).
- (6) Reviewing the ISP, annual updates and revisions under § 6400.186 (relating to ISP review and revision) for content accuracy.
- (7) Reporting content discrepancy to the SC, as applicable, and plan team members.
- (8) Implementing the ISP as written.
- (9) Supervising, monitoring and evaluating services provided to the individual.
- (10) Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.
- (11) Reporting a change related to the individual's needs to the SC, as applicable, and plan team members.
- (12) Reviewing the ISP with the individual as required under § 6400.186.
- (13) Documenting the review of the ISP as required under § 6400.186.
- (14) Providing the documentation of the ISP review to the SC, as applicable, and plan team members as required under § 6400.186(d).
- (15) Informing plan team members of the option to decline the ISP review documentation as required under § 6400.186(e).
- (16) Recommending a revision to a service or outcome in the ISP as provided under § 6400.186(c)(4).
- (17) Coordinating the services provided to an individual.
- (18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each individual.
- (19) Developing and implementing provider services as required under § 6400.188 (relating to provider services).

(c) A program specialist shall have one of the following groups of qualifications:

- (1) A master's degree or above from an accredited college or university and 1 year work experience working directly with persons with mental retardation.
- (2) A bachelor's degree from an accredited college or university and 2 years work experience working directly with persons with mental retardation.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years work experience working directly with persons with mental retardation.

**§ 6400.45. Staffing.**

(a) A minimum of one staff person for every eight individuals shall be awake and physically present at the home when individuals are awake at the home.

(b) A minimum of one staff person for every 16 individuals shall be physically present at the home when individuals are sleeping at the home.

(c) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the individual's ISP, as an outcome which requires the achievement of a higher level of independence.

(d) The staff qualifications and staff ratio as specified in the ISP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(e) An individual may not be left unsupervised solely for the convenience of the residential home or the direct service worker.

**§§ 6400.121—6400.130. (Reserved).**

**MEDICATIONS**

**§ 6400.163. Use of prescription medications.**

(a) Prescription medications shall only be used by the individual for whom the medication was prescribed.

(b) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the ISP to address the social, emotional and environmental needs of the individual related to the symptoms of the diagnosed psychiatric illness.

(c) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a review with documentation by a licensed physician at least every 3 months that includes the reason for prescribing the medication, the need to continue the medication and the necessary dosage.

**PROGRAM**

**§ 6400.181. Assessment.**

(a) Each individual shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the residential home and an updated assessment annually thereafter. The initial assessment must include an assessment of adaptive behavior and level of skills completed within 6 months prior to admission to the residential home.

(b) If the program specialist is making a recommendation to revise a service or outcome in the ISP as provided under § 6400.186(c)(4) (relating to ISP review and revision), the individual shall have an assessment completed as required under this section.

(c) The assessment shall be based on assessment instruments, interviews, progress notes and observations.

(d) The program specialist shall sign and date the assessment.

(e) The assessment must include the following information:

- (1) Functional strengths, needs and preferences of the individual.

- (2) The likes, dislikes and interest of the individual.
- (3) The individual's current level of performance and progress in the following areas:
- (i) Acquisition of functional skills.
  - (ii) Communication.
  - (iii) Personal adjustment.
  - (iv) Personal needs with or without assistance from others.
  - (4) The individual's need for supervision.
  - (5) The individual's ability to self-administer medications.
  - (6) The individual's ability to safely use or avoid poisonous materials, when in the presence of poisonous materials.
  - (7) The individual's knowledge of the danger of heat sources and ability to sense and move away quickly from heat sources which exceed 120° F and are not insulated.
  - (8) The individual's ability to evacuate in the event of a fire.
  - (9) Documentation of the individual's disability, including functional and medical limitations.
  - (10) A lifetime medical history.
  - (11) Psychological evaluations, if applicable.
  - (12) Recommendations for specific areas of training, programming and services.
  - (13) The individual's progress over the last 365 calendar days and current level in the following areas:
    - (i) Health.
    - (ii) Motor and communication skills.
    - (iii) Activities of residential living.
    - (iv) Personal adjustment.
    - (v) Socialization.
    - (vi) Recreation.
    - (vii) Financial independence.
    - (viii) Managing personal property.
    - (ix) Community-integration.
  - (14) The individual's knowledge of water safety and ability to swim.
  - (f) The program specialist shall provide the assessment to the SC, as applicable, and plan team members at least 30 calendar days prior to an ISP meeting for the development, annual update and revision of the ISP under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP).

**§ 6400.182. Development, annual update and revision of the ISP.**

- (a) An individual shall have one ISP.
- (b) When an individual is not receiving services through an SCO, the residential program specialist shall be the plan lead when one of the following applies:
  - (1) The individual resides at a residential home licensed under this chapter.
  - (2) The individual resides at a residential home licensed under this chapter and attends a facility licensed under Chapter 2380 or 2390 (relating to adult training facilities; and vocational facilities).

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessment as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the facility.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 6400.186, shall be provided as required under § 6400.187 (relating to copies).

**§ 6400.183. Content of the ISP.**

The ISP, including annual updates and revisions under § 6400.186 (relating to ISP review and revision), must include the following:

(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.

(2) Services provided to the individual to increase community involvement, including volunteer or civic-minded opportunities and membership in National or local organizations as required under § 6400.188 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.

(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and timeline for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.



(7) Assessment of the individual's potential to advance in the following:

- (i) Residential independence.
- (ii) Community involvement.
- (iii) Vocational programming.
- (iv) Competitive community-integrated employment.

**§ 6400.184. Plan team participation.**

(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 6400.186 (relating to ISP review and revision).

(1) A plan team must include as its members the following:

- (i) The individual.
- (ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.
- (iii) A direct service worker who works with the individual from each provider delivering services to the individual.

(iii) Any other person the individual chooses to invite.

(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:

- (i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.
- (ii) Additional direct service workers who work with the individual from each provider delivering services to the individual.
- (iii) The individual's parent, guardian or advocate.

(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for an ISP, annual update and ISP revision meeting.

(c) A plan team member who attends a meeting under subsection (b) shall sign and date the signature sheet.

**§ 6400.185. Implementation of the ISP.**

(a) The ISP shall be implemented by the ISP's start date.

(b) The ISP shall be implemented as written.

**§ 6400.186. ISP review and revision.**

(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the residential home licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change which impacts the services as specified in the current ISP.

(b) The program specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the residential home licensed under this chapter.

(2) A review of each section of the ISP specific to the residential home licensed under this chapter.

(3) The program specialist shall document a change in the individual's needs, if applicable.

(4) The program specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 6400.181(b) (relating to assessments).

(d) The program specialist shall provide the ISP review documentation, including recommendations, if applicable, to the SC, as applicable, and plan team members within 30 calendar days after the ISP review meeting.

(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.

**§ 6400.187. Copies.**

A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP, annual update and ISP revision meetings.

**§ 6400.188. Provider services.**

(a) The residential home shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The residential home shall provide opportunities and support to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.

(c) The residential home shall provide services to the individual as specified in the individual's ISP.

(d) The residential home shall provide services that are age and functionally appropriate to the individual.

**§ 6400.189. Day services.**

(a) Day services such as competitive community-integrated employment, education, vocational training, volunteering, civic-minded and other meaningful opportunities shall be provided to the individual.

(b) Day services shall be provided at a location other than the residential home where the individual lives, unless one of the following applies:

(1) There is written annual documentation by a licensed physician that it is medically necessary for the individual to complete day services at the residential home.



(2) There is written annual documentation by the plan team that it is in the best interest of the individual to complete day services at the residential home.

**§ 6400.190. Recreational and social activities.**

(a) The residential home shall provide recreational and social activities, including volunteer or civic-minded opportunities and membership in National or local organizations at the following locations:

- (1) At the residential home.
- (2) Away from the residential home.

(b) Time away from the residential home may not be limited to time in school, work or vocational, developmental and volunteer facilities.

(c) Documentation of recreational and social activities shall be kept in the individual's record.

**INDIVIDUAL RECORDS**

**§ 6400.213. Content of records.**

Each individual's record must include the following information:

- (1) Personal information including:
  - (i) The name, sex, admission date, birthdate and social security number.
  - (ii) The race, height, weight, color of hair, color of eyes and identifying marks.
  - (iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.
  - (iv) The religious affiliation.
  - (v) The next of kin.
  - (vi) A current, dated photograph.
- (2) Unusual incident reports relating to the individual.
- (3) Physical examinations.
- (4) Dental examinations.
- (5) Dental hygiene plans.
- (6) Assessments as required under § 6400.181 (relating to assessment).
- (7) A copy of the invitation to:
  - (i) The initial ISP meeting.
  - (ii) The annual update meeting.
  - (iii) The ISP revision meeting.
- (8) A copy of the signature sheets for:
  - (i) The initial ISP meeting.
  - (ii) The annual update meeting.
  - (iii) The ISP revision meeting.
- (9) A copy of the current ISP.
- (10) Documentation of ISP reviews and revisions under § 6400.186, including the following:
  - (i) ISP review signature sheets.
  - (ii) Recommendations to revise the ISP.
  - (iii) ISP revisions.
  - (iv) Notices that the plan team member may decline the ISP review documentation.
  - (v) Requests from plan team members to not receive the ISP review documentation.

(11) Content discrepancy in the ISP, The annual update or revision under § 6400.186.

(12) Restrictive procedure protocols and records related to the individual.

(13) Copies of psychological evaluations, if applicable.

(14) Recreational and social activities provided to the individual.

**§ 6400.214. Record location.**

(a) Record information required in § 6400.213(1) (relating to content of records) shall be kept at the home.

(b) The most current copies of record information required in § 6400.213(2)—(14) shall be kept at the residential home.

(c) Record information required in § 6400.213(2)—(14) that is not current shall be kept at the residential home or the administrative office.

**CHAPTER 6500. FAMILY LIVING HOMES**

**GENERAL PROVISIONS**

**§ 6500.4. Definitions.**

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

*Agency*—A person or legally constituted organization administering one or more family living homes.

*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.

*Department*—The Department of Public Welfare of the Commonwealth.

*Direct service worker*—A person whose primary job function is to provide services to an individual who resides in the provider's family living home.

*Documentation*—Written statements that accurately record details, substantiate a claim or provide evidence of an event.

*Family living home or home*—

(i) The private home of an individual or a family in which residential care is provided to one or two individuals with mental retardation, except as provided in § 6500.3(f) (relating to applicability).

(ii) The term does not include a home if there are more than two individuals, including respite care individuals, living in the home at any one time who are not family members or relatives of the family members.

(iii) If relatives of the individual live in the home, the total number of people living in the home at any one time who are not family members or relatives of the family members may not exceed four.

*ISP—Individual Support Plan*—The comprehensive document that identifies services and expected outcomes for an individual.

*Individual*—

(i) A person with mental retardation who resides, or receives residential respite care, in a family living home and who is not a relative of the owner of the family members.

(ii) The term does not include family members.

*Mental retardation*—Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:

- (i) Maturation.
- (ii) Learning.
- (iii) Social adjustment.

*Outcomes*—Goals the individual and individual’s plan team choose for the individual to acquire, maintain or improve.

*Plan lead*—The family living specialist, when the individual is not receiving services through an SCO.

*Plan team*—The group that develops the ISP.

*Provider*—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

*Relative*—A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece or nephew.

*Respite care*—Temporary family living care not to exceed 31 calendar days for an individual in a calendar year.

*SC—Supports coordinator*—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

*SCO—Supports coordination organization*—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

*Services*—Actions or assistance provided to the individual to support the achievement of an outcome.

**STAFFING**

**§ 6500.43. Family living specialist.**

- (a) There shall be a family living specialist for each individual.
- (b) A family living specialist shall be assigned to no more than 8 homes.
- (c) A family living specialist shall be responsible for a maximum of 16 people, including people served in other types of services.
- (d) The family living specialist shall be responsible for the following:
  - (1) Coordinating and completing assessments.
  - (2) Providing the assessment as required under § 6500.151(f) (relating to assessment).
  - (3) Participating in the development of the ISP, including annual updates and revisions of the ISP.
  - (4) Attending the ISP meetings.
  - (5) Fulfilling the role of plan lead, as applicable, under §§ 6500.152 and 6500.156(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).
  - (6) Reviewing the ISP, annual updates and revisions for content accuracy.
  - (7) Reporting content discrepancy to the SC, as applicable, and plan team members.
  - (8) Implementing the ISP as written.
  - (9) Supervising, monitoring and evaluating services provided to the individual.
  - (10) Reviewing, signing and dating the monthly documentation of an individual’s participation and progress toward outcomes.

(11) Reporting a change related to the individual’s needs to the SC, as applicable, and plan team members.

(12) Reviewing the ISP with the individual as required under § 6500.156.

(13) Documenting the review of the ISP as required under § 6500.156.

(14) Providing the documentation of the ISP review to the SC, as applicable, and plan team members as required under § 6500.156(d).

(15) Informing plan team members of the option to decline the ISP review documentation as required under § 6500.156(e).

(16) Recommending a revision to a service or outcome in the ISP as provided under § 6500.156(c)(4).

(17) Coordinating the services provided to an individual.

(18) Coordinating the support services for the family.

(19) Coordinating the training of direct service workers and the family in the content of health and safety needs relevant to each individual.

(20) Developing and implementing provider services as required under § 6500.158 (relating to provider services).

(e) A family living specialist shall have one of the following groups of qualifications:

- (1) A master’s degree or above from an accredited college or university and 1 year work experience working directly with persons with mental retardation.
- (2) A bachelor’s degree from an accredited college or university and 2 years work experience working directly with persons with mental retardation.
- (3) An associate’s degree or 60 credit hours from an accredited college or university and 4 years work experience working directly with persons with mental retardation.
- (4) A high school diploma or general education development certificate and 6 years work experience working directly with persons with mental retardation.

**§ 6500.44. Supervision.**

- (a) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual’s assessment and is part of the individual’s ISP, as an outcome which requires the achievement of a higher level of independence.
- (b) An individual requiring direct supervision may not be left under the supervision of a person under the age of 18.
- (c) There shall be a family living specialist or designee accessible when the individual is in the home.
- (d) Supervision as specified in the ISP shall be implemented as written when the supervision specified in the ISP is greater than required under subsections (a), (b) and (c).
- (e) The staff qualifications and staff ratio as specified in the ISP shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).
- (f) An individual may not be left unsupervised solely for the convenience of the family or direct service worker.

§§ 6500.111—6500.118. (Reserved).

#### MEDICATIONS

§ 6500.133. Use of prescription medications.

(a) A prescription medication shall only be used by the individual for whom the medication was prescribed.

(b) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the ISP to address the social, emotional and environmental needs of the individual related to the symptoms of the diagnosed psychiatric illness.

(c) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a review with documentation by a licensed physician at least every 3 months that includes the reason for prescribing the medication, the need to continue the medication and the necessary dosage.

#### PROGRAM

§ 6500.151. Assessment.

(a) Each individual shall have an initial assessment within 1 year prior to or 60 calendar days after admission to the family living home and an updated assessment annually thereafter. The initial assessment must include an assessment of adaptive behavior and level of skills completed within 6 months prior to admission to the family living home.

(b) If the program specialist is making a recommendation to revise a service or outcome in the ISP as required under § 6500.156(c)(4) (relating to ISP review and revision), the individual shall have an assessment completed as required under this section.

(c) The assessment shall be based on assessment instruments, interviews, progress notes and observations.

(d) The family living specialist shall sign and date the assessment.

(e) The assessment must include the following information:

(1) Functional strengths, needs and preferences of the individual.

(2) The likes, dislikes and interest of the individual.

(3) The individual's current level of performance and progress in the areas:

(i) Acquisition of functional skills.

(ii) Communication.

(iii) Personal adjustment.

(iv) Personal needs with or without assistance from others.

(4) The individual's need for supervision.

(5) The individual's ability to self-administer medications.

(6) The individual's ability to safely use or avoid poisonous materials, when in the presence of poisonous materials.

(7) The individual's knowledge of the danger of heat sources and ability to sense and move away quickly from heat sources which exceed 120° F and are not insulated.

(8) The individual's ability to evacuate in the event of a fire.

(9) Documentation of the individual's disability, including functional and medical limitations.

(10) A lifetime medical history.

(11) Psychological evaluations, if applicable.

(12) Recommendations for specific areas of training, programming and services.

(13) The individual's progress over the last 365 calendar days and current level in the following areas:

(i) Health.

(ii) Motor and communication skills.

(iii) Activities of residential living.

(iv) Personal adjustment.

(v) Socialization.

(vi) Recreation.

(vii) Financial independence.

(viii) Managing personal property.

(ix) Community integration.

(14) The individual's knowledge of water safety and ability to swim.

(f) The program specialist shall provide the assessment to the SC, as applicable, and plan team members at least 30 calendar days prior to an ISP meeting for the development of the ISP, the annual update, and revision of the ISP under §§ 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP).

§ 6500.152. Development, annual update and revision of the ISP.

(a) An individual shall have one ISP.

(b) When an individual is not receiving services through an SCO, the family living program specialist shall be the plan lead when one of the following applies:

(i) The individual resides at a family living home licensed under this chapter.

(ii) The individual resides at a family living home licensed under this chapter and attends a facility licensed under Chapter 2380 or 2390 (relating to adult training facilities; and vocational facilities).

(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.

(d) The plan lead shall develop, update and revise the ISP according to the following:

(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessments as required under §§ 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).

(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the family living home.

(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.

(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.

(5) Copies of the ISP, including annual updates and revisions under § 6500.156 (relating to ISP review and revision), shall be sent as required under § 6500.157 (relating to copies).

**§ 6500.153. Content of the ISP.**

The ISP, including annual updates and revisions under § 6500.156 (relating to ISP review and revision) must include the following:

(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.

(2) Services provided to the individual to increase community involvement, including volunteer or civic-minded opportunities and membership in National or local organizations as required under § 6500.158 (relating to provider services).

(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.

(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.

(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.

(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:

(i) An assessment to determine the causes or antecedents of the behavior.

(ii) A protocol for addressing the underlying causes or antecedents of the behavior.

(iii) The method and time line for eliminating the use of restrictive procedures.

(iv) A protocol for intervention or redirection without utilizing restrictive procedures.

(7) Assessment of the individual's potential to advance in the following:

- (i) Residential independence.
- (ii) Community involvement.
- (iii) Vocational programming.
- (iv) Competitive community-integrated employment.

**§ 6500.154. Plan team participation.**

(a) The plan team shall participate in the development of the ISP, including the annual updates and revision under § 6500.156 (relating to ISP review and revision).

(1) A plan team shall include as its members the following:

- (i) The individual.
- (ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.
- (iii) A direct service worker who works with the individual from each provider delivering services to the individual.

(iv) Any other person the individual chooses to invite.

(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:

(i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.

(ii) Additional direct service workers who work with the individual from each provider delivering a service to the individual.

(iii) The individual's parent, guardian or advocate.

(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for the ISP, annual update and ISP revision meeting.

(c) Plan team members who attend a meeting under subsection (b) shall sign and date the signature sheet.

**§ 6500.155. Implementation of the ISP.**

(a) The ISP shall be implemented by the ISP's start date.

(b) The ISP shall be implemented as written.

**§ 6500.156. ISP review and revision.**

(a) The family living specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the family living home licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change, which impacts the services as specified in the current ISP.

(b) The family living specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.

(c) The ISP review must include the following:

(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the family living home licensed under this chapter.

(2) A review of each section of the ISP specific to the family living home licensed under this chapter.

(3) The family living specialist shall document a change in the individual's needs, if applicable.

(4) The family living specialist shall make a recommendation regarding the following, if applicable:

(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.

(ii) The addition of an outcome or service to support the achievement of an outcome.

(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.

(5) If making a recommendation to revise a service or outcome in the ISP, the family living specialist shall complete a revised assessment as required under § 6500.151(b) (relating to assessment).

(d) The family living specialist shall provide the ISP review documentation, including recommendations if applicable, to the SC, as applicable, and plan team members within 30 calendar days after the ISP review meeting.



(e) The family living specialist shall notify the plan team members of the option to decline the ISP review documentation.

(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under §§ 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.

(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.

**§ 6500.157. Copies.**

A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP, annual update and ISP revision meetings.

**§ 6500.158. Provider services.**

(a) The family living home shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The family living home shall provide opportunities to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.

(c) The family living home shall provide services to the individual as specified in the individual's ISP.

(d) The family living home shall provide services that are age and functionally appropriate to the individual.

**§ 6500.159. Day services.**

(a) Day services such as employment, education, training, volunteer, civic-minded and other meaningful opportunities shall be provided to the individual.

(b) Day services and activities shall be provided at a location other than the family living home where the individual lives, unless one of the following exists:

(1) There is written annual documentation by a licensed physician that it is medically necessary for the individual to complete day services at the family living home.

(2) There is written annual documentation by the plan team that it is in the best interest of the individual to complete day services at the family living home.

**§ 6500.160. Recreational and social activities.**

(a) The family living home shall provide recreational and social activities, including volunteer or civic-minded opportunities and membership in National or local organizations at the following locations:

- (1) The family living home.
- (2) Away from the family living home.

(b) Time away from the family living home may not be limited to time in school, work or vocational, developmental and volunteer facilities.

(c) Documentation of recreational and social activities shall be kept in the individual's record.

**INDIVIDUAL RECORDS**

**§ 6500.182. Content of records.**

(a) A separate record shall be kept for each individual.

(b) Entries in an individual's record must be legible, dated and signed by the person making the entry.

(c) Each individual's record must include the following information:

(1) Personal information, including:

(i) The name, sex, admission date, birthdate and Social Security number.

(ii) The race, height, weight, color of hair, color of eyes and identifying marks.

(iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.

(iv) The religious affiliation.

(v) The next of kin.

(vi) A current, dated photograph.

(2) Unusual incident reports relating to the individual.

(3) Physical examinations.

(4) Dental examinations.

(5) Assessments as required under § 6500.151 (relating to assessment).

(6) A copy of the invitation to:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting.

(7) A copy of the signature sheet for:

(i) The initial ISP meeting.

(ii) The annual update meeting.

(iii) The ISP revision meeting

(8) A copy of the current ISP.

(9) Documentation of ISP reviews and revisions under § 6500.156 (relating to ISP review and revision), including the following:

(i) ISP review signature sheets

(ii) Recommendations to revise the ISP.

(iii) ISP revisions.

(iv) Notices that the plan team member may decline the ISP review documentation.

(v) Requests from plan team members to not receive the ISP review documentation.

(10) Content discrepancy in the ISP, the annual updates or revisions under § 6500.156.

(11) Restrictive procedure protocols related to the individual.

(12) Restrictive procedure records related to the individual.

(13) Recreational and social activities provided to the individual.

(14) Copies of psychological evaluations and assessments of adaptive behavior, as necessary.

**§ 6500.183. Record location.**

Copies of the most current record information required in § 6500.182(c)(1)–(14) (relating to individual records) shall be kept in the family living home.

[Pa.B. Doc. No. 10-1583. Filed for public inspection August 27, 2010, 9:00 a.m.]

# PROPOSED RULEMAKINGS

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 77 ]

### Noncoal Mining Fees

The Environmental Quality Board (Board) proposes to amend Chapter 77 (relating to noncoal mining) to read as set forth in Annex A. This proposed rulemaking addresses the fees paid by noncoal mine operators.

This proposed rulemaking was adopted by the Board at its meeting of June 15, 2010.

#### A. *Effective Date*

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

#### B. *Contact Persons*

For further information, contact Tom Callaghan, Director, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 783-1659; or Richard S. Morrison, 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](http://www.depweb.state.pa.us).

#### C. *Statutory Authority*

The amendments are proposed under sections 7(a) and 11(a) of the Noncoal Surface Mining Conservation and Reclamation Act (act) (52 P. S. §§ 3307(a) and 3311(a)) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### D. *Background and Purpose*

The purpose of this proposed rulemaking is to establish fees as authorized by the act. Section 7(a) of the act states: "The department is authorized to charge and collect from persons a reasonable filing fee, which shall not exceed the cost of reviewing, administering and enforcing the permit." The act thus authorizes the Department to collect fees from noncoal mining permit applicants and permittees in an amount sufficient to cover the Department's costs of administering the noncoal mining regulatory program, so long as the amount of fees collected does not exceed those costs. The Department calculated its costs of administering the noncoal mining program and will establish fees through this proposed rulemaking sufficient to cover most of its costs.

The proposed rulemaking implements the statutory authorization of the act to collect a reasonable filing fee through two kinds of fees—the permit application fee and the administrative fee. The permit application fee is intended to cover only the Department's cost to review noncoal mining permit applications. The permit fees have been set according to the type of permit application submitted; the amounts of these fees are based on the number of hours typically required to review a specific type of permit application. A large noncoal surface mining permit where mining will take place below the water table is substantially more complex and requires signifi-

cantly more review time than a small noncoal surface mining permit. The amount of the respective permit fees reflects the average review time for each type of permitting action.

The annual administrative fee is intended to cover the Department's cost of administering the permit. These include, among other things, the cost of performing inspections of noncoal mining operations, compliance assistance and other compliance related activities, as well as tracking of required reporting and monitoring by permittees. As with the permit fees, the annual administrative fees have been set based on workload analyses. A large surface mining permit with blasting activity necessitates substantially more administrative activity by the Department; the annual administrative fee reflects the differences between types of operations based on the Department's respective administrative workload.

The assessment of the two kinds of fees is necessary to fairly represent the cost to the Commonwealth for reviewing and administering a noncoal mining permit. This proposed rulemaking has become necessary in large part due to recent funding cuts. General appropriation funds to support the Department's regulatory/permitting programs were significantly reduced in Fiscal Year 2009-10 so it has become necessary to pay for the noncoal mining program through collection of fees paid by the regulated industry. The cost of implementing this program is \$2.5 million per year.

#### *Permit Application Fee*

The permit application fee amounts were calculated based on a workload analysis that the Department uses to manage the work force. The workload analysis assigns a certain number of hours for the review time for each type of application. Other factors, including the wage rate for the employee classification that reviews the application, benefits and overhead are included in the fee calculation. The result of this calculation was then rounded off.

Permit applications vary in their complexity based on a number of factors. The primary factor relates to hydrologic impacts. Applications that propose to mine below the water table take more time to review. Therefore, the application fee for these permits is higher. Similarly, if blasting is proposed, then the blasting inspector is involved in the review of the blast plan for the application. Therefore, a fee is being proposed for blast plans.

#### *Annual Administration Fee*

The annual administration of a noncoal mining permit is accomplished through routine inspections to assure that the mining activities are in compliance with the permit requirements. The Department established inspection frequencies based upon the type of permit and the status of the activity.

There are two types of permits—small and large. Small permits authorize up to 10,000 tons per year in production. Large permits are needed for production that exceeds 10,000 tons per year. The inspection frequency for large permits is four per year. For small permits, the frequency is two per year.

For large permits that authorize blasting, one inspection per year by the blasting inspector is needed. This results in a higher annual administrative fee amount for the large noncoal permits where blasting is authorized.

There is not an advisory board for the noncoal mining program. However, the Department has engaged in extensive outreach with the regulated community. Feedback from the industry was considered in the drafting of this proposed rulemaking.

#### E. *Summary of Regulatory Requirements*

The following sections are included in this proposed rulemaking:

##### § 77.1. *Definitions*

This section is being amended to add definitions of “annual administration fee,” “large noncoal permit,” “major permit revision,” “minor permit revision,” “permit application fee,” “permit status” and “small noncoal permit.” These definitions are needed for clarity in implementing the fee schedules.

##### § 77.51. *License requirement*

Subsection (e) is being amended to require an operator to pay fees to be eligible for a renewal of a mining license.

##### § 77.106. *Fees*

This section is being renamed from “permit fees” to “fees” and amended to include fee schedules for the permit application fees and annual administration fees. This section also specifies the intended use of the funds collected from the fees to support the Department’s costs of reviewing applications and administering and enforcing permits.

##### § 77.126. *Criteria for permit approval or denial*

Subsection (c) is being added to include the requirement that an applicant pay all fees before a permit application may be approved by the Department.

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

##### *Benefits*

The money generated by these fees will enhance environmental protection by assuring that the Department has the funds needed to review permit applications to prevent problems from occurring and administer the permits to assure compliance.

##### *Compliance costs*

The proposed rulemaking will impose increased compliance costs on the regulated community. There are about 1,500 noncoal mining permit holders in this Commonwealth. It is expected that the fees will cost the industry \$2.5 million per year.

##### *Compliance assistance plan*

The Department will revise forms used by the industry when the fees are finalized.

##### G. *Pollution Prevention*

The proposed rulemaking will not modify the pollution prevention approach by the regulated community and maintains the multimedia pollution prevention approach of existing requirements in Chapter 77.

##### H. *Sunset Review*

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

##### I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2010, the Department submitted a copy of this proposed rulemaking and a copy

of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

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

#### J. *Public Comments*

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board on or before September 27, 2010. 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 the Board on or before September 27, 2010. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic comments.* Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board on or before September 27, 2010. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JOHN HANGER,  
*Chairperson*

**Fiscal Note:** 7-460. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 25. ENVIRONMENTAL PROTECTION**

#### **PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

#### **Subpart C. PROTECTION OF NATURAL RESOURCES**

#### **ARTICLE I. LAND RESOURCES**

#### **CHAPTER 77. NONCOAL MINING**

#### **Subchapter A. GENERAL PROVISIONS**

##### **§ 77.1. Definitions.**

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

\* \* \* \* \*

***Annual administration fee*—A nonrefundable filing fee assessed on an annual basis for the cost to the Department of inspecting a permitted activity or facility in order to administer the permit.**

\* \* \* \* \*



**Large noncoal permit**—A mining permit that authorizes the extraction of greater than 10,000 tons per year of noncoal materials

**Major permit revision**—A revision to a permit that requires public notice.

\* \* \* \* \*

**Minor permit revision**—A revision to a permit that does not require public notice.

\* \* \* \* \*

**Permit application fee**—A nonrefundable filing fee due at the time of submission of an application. The permit application fee is required for an application to be considered complete.

\* \* \* \* \*

**Permit status**—An indicator of the level of progress of mining activity at a permitted facility. Permit statuses are as follows:

(i) **Not started.** Mine sites where the mining permit has been issued, but mining activities have not begun.

(ii) **Active.** Mine sites that do not qualify for inactive status, not started status or released status.

(iii) **Inactive.** Mine sites where mineral extraction activity has been completed but final bond release has not been completed.

(iv) **Released.** Mine sites where the final bond release has been completed.

\* \* \* \* \*

**Small noncoal permit**—A mining permit that authorizes the extraction of up to 10,000 tons of noncoal minerals per year.

\* \* \* \* \*

**Subchapter B. SURFACE MINING OPERATOR'S LICENSE**

**§ 77.51. License requirement.**

\* \* \* \* \*

(e) **Refusal to issue or renew license.** The Department will not issue a noncoal surface mining operator's license or renew or amend a license if it finds, after investigation and an opportunity for informal hearing, that a person, partner, associate, officer, parent corporation or subsidiary corporation has been subject to a bond forfeiture under the act and environmental acts or has failed to comply with an adjudicated proceeding, cessation order, consent order and agreement or decree under the act and environmental acts. The Department will not renew a license for an operator who uses the provisions for payment in lieu of bond unless the operator submits his annual payment with the license renewal application. **The Department will not renew a noncoal mining operator's license for an applicant who has not made full payment of the annual administration fee required under § 77.106(f) (relating to fees).** A person who opposes the Department's decision on issuance or renewal of a license has the burden of proof.

\* \* \* \* \*

**Subchapter C. PERMITS AND PERMIT APPLICATIONS**

**GENERAL**

**§ 77.106. [ Permit fees ] Fees.**

[ If required, a permit application for noncoal mining activities shall be accompanied by a check, payable to the "Commonwealth of Pennsylvania" in the amount set forth by the Department. The Department may require other fees set by the act, the environmental acts, this title or the Secretary. ]

(a) A permit application for noncoal mining activities shall be accompanied by a nonrefundable payment for the permit application fee payable to the "Commonwealth of Pennsylvania." The applicable permit application fee amount is specified in subsection (e). For purposes of this subsection, permit applications include all of the applications listed in subsection (e).

(b) The Department will assess an annual administration fee for each permitted activity and facility. For licensed mine operators, this annual administration fee will be assessed annually, will be collected as part of the mine operator's license renewal application and will include the appropriate annual administration fee for each of the licensee's permitted facilities. If the permittee is not required to maintain a mining license, a notice of the annual administration fee will be sent to the permittee for all of the permittee's permitted facilities and the fee must be paid within 30 days of receipt of the notice. The applicable fee amounts are specified in subsection (f).

(c) Fees collected under this section and all enforcement cost recovery funds will be deposited in the Noncoal Surface Mining Conservation and Reclamation Fund. The fees collected under this section will be used by the Department for the purposes specified by the act.

(d) At least every 3 years, the Department will recommend regulatory changes to the fees in this section to the EQB to address any disparity between the program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the program fees income and the Department's costs of administering the program.

(e) The permit application fee schedule is as follows:

(1) New Permits	Fee
Large Surface Mining Permit—Mining below water table.....	\$20,225
Large Surface Mining Permit—Not mining below water table.....	\$13,500
Small Surface Mining Permit.....	\$525
General Permit .....	\$525
Underground Mining Permit .....	\$20,225
(2) Major Amendments	Fee
Large Surface Mining Permit—Mining below water table.....	\$3,850
Large Surface Mining Permit—Not mining below water table.....	\$1,600



Underground Mining Permit .....	\$2,650
(3) Minor Amendments	Fee
Large Surface Mining Permit.....	\$700
Small Surface Mining Permit.....	\$175
(4) Transfers.....	Fee
Large Surface Mining Permit.....	\$900
Underground Mining Permit .....	\$900
Small Surface Mining Permit .....	\$175
(5) Other Actions	Fee
Bonding Increment .....	\$450
Completion Report Application.....	\$600
Blast Plan.....	\$475
Notice of Intent to Explore .....	\$60
Preapplications.....	\$3,375

(f) The annual administration fee schedule will be as follows:

<i>Permit Category—Permit Status</i>	<i>Annual Fee</i>
Large Surface Mining Permit—Active ....	\$1,450
Large Surface Mining Permit—Active with blasting.....	\$1,850
Small Surface Mining Permit—Active ....	\$200
Small Surface Mining Permit—Active with blasting.....	\$300
Underground Mining Permit—Active.....	\$1,450
General Permit—Short Term Construction.....	\$200
All Permits—Not Started.....	\$100
All Permits—Inactive .....	\$100

**REVIEW, PUBLIC PARTICIPATION, ITEMS AND CONDITIONS OF PERMIT APPLICATIONS**

**§ 77.126. Criteria for permit approval or denial.**

\* \* \* \* \*

(c) A permit, permit renewal or revised permit application will not be approved, unless the applicant has made full payment of the permit application fee required under § 77.106(e) (relating to fees) and the annual administration fee required under § 77.106(f) for all of the applicant's permitted mining facilities.

[Pa.B. Doc. No. 10-1584. Filed for public inspection August 27, 2010, 9:00 a.m.]

# INSURANCE DEPARTMENT

[ 31 PA. CODE CH. 118a ]

## Property and Casualty Actuarial Opinion

The Insurance Department (Department) proposes to add Chapter 118a (relating to property and casualty actuarial opinion) to read as set forth in Annex A. The rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929, regarding the general rulemaking authority of the Department; sections 320 and 655 of The Insurance Company Law of 1921 (40 P. S. §§ 443 and 815), regard-

ing the authority of the Insurance Commissioner (Commissioner) to require insurance companies, associations and exchanges to file statements concerning their affairs and financial condition; sections 205 and 206 of The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.205 and 1600.206), regarding the specific regulatory and rulemaking authority of the Department regarding financial reporting by the Pennsylvania Fair Plan; and section 731 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.731), regarding the Pennsylvania Professional Liability Joint Underwriting Association.

*Purpose*

The purpose of this proposed rulemaking is to establish by regulation the requirements for statements of actuarial opinion and related documents filed by property and casualty insurers with the Department. Establishing these requirements by regulation for property and casualty insurers is consistent with the approach used to establish similar requirements for actuarial review of the reserves of life and health insurers under Chapter 84b (relating to actuarial opinion and memorandum). Section 320(a)(1) of The Insurance Company Law of 1921 requires insurers to file annual financial statements with the Department and additional statements concerning their affairs and financial condition as the Commissioner may, in the Commissioner's discretion, require. Section 320(a)(2) of The Insurance Company Law of 1921 further requires insurers to adhere to the instructions and accounting practices and procedures prescribed by the National Association of Insurance Commissioners (NAIC) unless otherwise provided by law, regulation or order of the Commissioner. Under this authority, the Commissioner requires property and casualty insurers to include statements of actuarial opinion with annual financial statements filed on or before the first day of March and domestic property and casualty insurers to file an actuarial opinion summary on or before the 15th day of March each year. These filings must be prepared as prescribed by the NAIC's annual statement instructions and include the actuary's opinion with respect to the proper establishment and adequacy of the insurer's reserves. If requested by the Department, domestic insurers shall also submit the supporting actuarial report and workpapers on or before the 1st day of May each year. The Department reviews this information in conducting financial analyses and onsite financial examinations of domestic insurers.

Specifically, Chapter 118a will clarify requirements for the filing of the actuarial opinion summary, which became effective for financial statements reporting an insurer's condition as year-end 2005. The actuarial opinion summary provides the Department with information needed to quickly identify insurers with potential reserving problems and then focus heightened solvency monitoring efforts on those insurers. Therefore, Chapter 118a will strengthen the Department's financial regulation tools to the extent it clarifies and supplements the Department's statutory authority and related NAIC instructions for actuarial opinions and related documents filed by property and casualty insurers doing business in this Commonwealth.

*Background*

In 2006, the Department proposed a similar rulemaking at 36 Pa.B. 3276 (July 1, 2006). In response to comments on the proposed rulemaking regarding the statutory and legal foundations for the confidentiality of work product supporting the statement of actuarial opinion, the Department withdrew the initial rulemaking, pending enactment of a legislative initiative to address those concerns.

See section 1 of the act of March 22, 2010 (P. L. 145, No. 14) amending section 320 of The Insurance Company Law of 1921. The current proposed rulemaking includes updates consistent with the Department's strengthened statutory authority and other clarifications in response to comments submitted by the Independent Regulation Review Commission (IRRC) on the initial rulemaking published at 36 Pa.B. 5836 (September 16, 2006).

#### *Explanation of Regulatory Requirements*

Section 118a.1 (relating to purpose) declares that the purpose of this chapter is to set forth requirements regarding statements of actuarial opinion and related documents filed with the Commissioner by insurers licensed to transact property or casualty insurance, or both, in this Commonwealth.

Section 118a.2 (relating to definitions) defines terms for purposes of the chapter. The definitions of "domestic insurer," "insurer" and "foreign insurer" clarify the scope and application of the regulation with respect to the various types of insurers writing property and casualty insurance in this Commonwealth. The definitions of "appointed actuary" and "qualified actuary" describe the qualification requirements for individuals who prepare statements of actuarial opinion, actuarial opinion summaries and related documents required under the chapter.

Section 118a.3 (relating to statement of actuarial opinion and supporting documentation) establishes annual filing requirements, with required time frames, for statements of actuarial opinion and actuarial opinion summaries with respect to domestic and foreign insurers and requires the preparation, maintenance and availability of supporting actuarial reports and underlying work papers.

Section 118a.4 (relating to general requirements for domestic insurers) establishes the standards for qualified actuaries with regard to statements of actuarial opinion and actuarial opinion summaries. Specifically, subsection (a) establishes the procedure for requesting the Department's approval of an individual as a "qualified actuary" when the individual is not a member of the Casualty Actuarial Society or the American Academy of Actuaries. The Department included provisions for approval of these individuals to provide the flexibility that may be needed to meet the particular needs of smaller domestic insurers. Subsection (b) requires that the members of a domestic insurer's board of directors be provided with the annual filings made under this chapter and that the receipt of these documents be documented in the board meeting minutes. Subsection (c) establishes notification requirements when an actuary is replaced by a domestic insurer's board of directors, including notice to the Department of disagreements with the former actuary relating to the content of filings and other documents required under the chapter. Subsection (d) establishes notice requirements when an error is discovered after a filing is made with the Department and defines what types of errors must be reported. Subsection (e) establishes procedural requirements for reporting errors under subsection (d), including time frames for providing the required notice. Subsection (f) prescribes actions to be taken by an actuary and domestic insurer when an actuary learns that data or other information relied upon in preparing filings under the chapter were factually incorrect and the actuary cannot immediately determine whether changes must be made in filings required under the chapter.

Section 118a.5 (relating to confidentiality) clarifies the distinction between public filings and related confidential

work product and states the circumstances under which the Commissioner may share confidential information filed under the chapter.

Section 118a.6 (relating to exemptions) provides for exemptions consistent with the NAIC instructions.

Section 118a.7 (relating to penalties) refers to the imposition of penalties as provided by law for failure to comply with the chapter.

#### *Affected Parties*

The proposed rulemaking applies to insurers licensed to write property and casualty insurance in this Commonwealth as provided under the scope and definitions of the authorizing statutes.

#### *Fiscal Impact*

##### *State government*

The proposed rulemaking will clarify and strengthen existing requirements. Department costs in monitoring the financial condition of insurers will not increase as a result of this proposed rulemaking.

##### *General public*

The public will benefit to the extent the proposed rulemaking strengthens financial solvency requirements for property and casualty insurers, thereby promoting the ability of those insurers to meet obligations under insurance policies and the Department's ability to minimize the number and impact of insurer insolvencies.

##### *Political subdivisions*

The proposed rulemaking will not impose additional costs on political subdivisions.

##### *Private sector*

The strengthened filing requirements in this proposed rulemaking are consistent with NAIC standards that became effective for annual financial statements as of year-end 2005. The information needed for the actuarial opinion summary due March 15 should be known to the insurer's appointed actuary when preparing the statement of actuarial opinion due March 1. Therefore, the rulemaking should impose no significant additional costs on insurers in obtaining annual actuarial reviews and required supporting documentation.

##### *Paperwork*

The proposed rulemaking will not impose significant additional paperwork on the Department. Since the information required in the actuarial opinion summary should be included in the work done by actuaries in preparing actuarial reports and workpapers for statements of actuarial opinion already required to be filed with insurers' annual financial statements, additional paperwork requirements for affected insurers will be minimal.

##### *Effectiveness/Sunset Date*

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

nia Bulletin. Questions or comments also may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 16, 2010, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

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

JOEL SCOTT ARIO,  
Insurance Commissioner

**Fiscal Note:** 11-245. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 31. INSURANCE

#### PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

##### CHAPTER 118a. PROPERTY AND CASUALTY ACTUARIAL OPINION

Sec.	Purpose.
118a.1.	Definitions.
118a.2.	Statement of actuarial opinion and supporting documentation.
118a.3.	General requirements for domestic insurers.
118a.4.	Confidentiality.
118a.5.	Exemptions.
118a.6.	Penalties.

#### § 118a.1. Purpose.

This chapter sets forth requirements relating to statements of actuarial opinion and related documents filed under section 320 of The Insurance Company Law of 1921 (40 P. S. § 443) with the Commissioner by insurers licensed to transact property or casualty insurance, or both, in this Commonwealth.

#### § 118a.2. Definitions.

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

*Appointed actuary*—A qualified actuary appointed by an insurer in accordance with the property and casualty annual statement instructions relating to actuarial opinions prescribed by the NAIC.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Department*—The Insurance Department of the Commonwealth.

*Domestic insurer*—An insurer incorporated or organized under the laws of the Commonwealth.

*Insurer*—The term includes the following entities licensed to transact property or casualty insurance, or both, in this Commonwealth:

- (i) An insurance company, association or exchange.
- (ii) A reciprocal or interinsurance exchange.
- (iii) An employers' mutual liability insurance association.
- (iv) The Industry Placement Facility under The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.101—1600.502).
- (v) The Pennsylvania Professional Liability Joint Underwriting Association under section 731 of the Medical Care Availability and Reduction of Error (Mcare) Act (40 P. S. § 1303.731).

*Foreign insurer*—An insurer not incorporated or organized under the laws of the Commonwealth.

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

*Qualified actuary*—An individual who meets the following requirements:

- (i) Is one or more of the following:
  - (A) A member in good standing of the Casualty Actuarial Society.
  - (B) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.
  - (C) Approved by the Commissioner as otherwise having demonstrated competency in loss reserve evaluation for property or casualty insurance, or both, to the Commissioner's satisfaction under § 118a.4(a) (relating to general requirements for domestic insurers).

(ii) Has not been found by the Commissioner, following appropriate notice and hearing, to have done one or more of the following:

(A) Violated any provision of, or any obligation imposed by, this chapter or other laws or regulations in the course of the individual's dealings as a qualified actuary.

(B) Been found guilty of fraudulent or dishonest practices.

(C) Demonstrated incompetence, lack of cooperation or untrustworthiness to act as a qualified actuary.

(D) Prepared a statement of actuarial opinion or actuarial opinion summary that was submitted to the Commissioner during the past 5 years and rejected for failure to adhere to provisions of this chapter, including acceptable actuarial standards.

(E) Resigned or been removed as an actuary within the past 5 years as a result of acts or omissions identified in a report by the Department or other regulatory or law enforcement official of this Commonwealth or other jurisdiction pursuant to an investigation or examination, or as a result of failure to adhere to generally acceptable actuarial standards.

(iii) Has not failed to notify the Department of any action taken against the individual by a regulatory or law enforcement official of this Commonwealth or other jurisdiction relating to activities similar to those described in subparagraph (ii).

#### § 118a.3. Statement of actuarial opinion and supporting documentation.

(a) *Statement of actuarial opinion.* Unless exempted under § 118a.6 (relating to exemptions), an insurer shall annually file with the Department an opinion of an appointed actuary entitled "Statement of Actuarial Opinion." Under section 320 of The Insurance Company Law



of 1921 (40 P.S. § 443), the statement of actuarial opinion shall be prepared in accordance with the property and casualty annual statement instructions prescribed by the NAIC and filed as instructed by the Department on or before the first day of March.

(b) *Actuarial opinion summary.* A domestic insurer required to file a statement of actuarial opinion under subsection (a) shall annually file with the Department a document entitled "Actuarial Opinion Summary" written by the insurer's appointed actuary and supporting the statement of actuarial opinion. The actuarial opinion summary shall be prepared in accordance with the property and casualty annual statement instructions prescribed by the NAIC and filed as instructed by the Department on or before the 15th day of March. The Department may require a foreign insurer to file an actuarial opinion summary by providing 60 days' advance notice to the insurer.

(c) *Actuarial report and workpapers.* An actuarial report and underlying workpapers shall be prepared and maintained to support a statement of actuarial opinion as required by the property and casualty annual statement instructions prescribed by the NAIC and provided to the Department upon request.

**§ 118a.4. General requirements for domestic insurers.**

(a) The following requirements apply to a request by a domestic insurer for the Commissioner's approval of an individual under subparagraph (i)(C) of the definition of "qualified actuary" in § 118a.2 (relating to definitions):

(1) The domestic insurer shall file the request with the Department at least 90 days prior to the filing of the domestic insurer's annual financial statement.

(2) Requests filed under paragraph (1) must contain the following:

(i) A properly completed biographical affidavit in the form adopted by the NAIC. The NAIC biographical affidavit form is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov) or upon request from the Department.

(ii) A list of the loss reserve opinions for property or casualty insurance, or both, issued by the individual in the past 3 years.

(iii) Other information that the Commissioner in the Commissioner's discretion may require to determine the individual's qualifications. The Department will provide the domestic insurer with a written request for the information, describing the type of information required and why the information is needed.

(b) The appointed actuary shall annually provide the domestic insurer's board of directors with the statement of actuarial opinion and actuary opinion summary, and the receipt of these documents shall be recorded in the meeting minutes of the board of directors.

(c) If an actuary who was the appointed actuary for the immediately preceding filed statement of actuarial opinion is replaced by an action of the domestic insurer's board of directors, the domestic insurer shall:

(1) Notify the Department in writing within 5 business days of the board's action.

(2) Provide the Department with a separate written notice within 10 business days of providing notice under paragraph (1) stating whether, in the 24 months preced-

ing the appointed actuary's replacement, there were any disagreements with the former appointed actuary relating to the content of the statement of actuarial opinion, actuarial opinion summary, actuarial report or underlying workpapers on matters of the risk of material adverse deviation, required disclosures, scope, procedure, or data quality. The disagreements required to be reported include both those resolved to the former appointed actuary's satisfaction and those not resolved to the former appointed actuary's satisfaction. The notice must include a written letter addressed to the domestic insurer by the former appointed actuary stating whether the appointed actuary agrees with the statements in the domestic insurer's notice and, if not, stating the reasons why the appointed actuary does not agree.

(d) The domestic insurer shall require its appointed actuary to notify the domestic insurer's board of directors or audit committee in writing within 5 business days after a determination by the appointed actuary that the statement of actuarial opinion or actuarial opinion summary filed with the Department was in error if:

(1) The error is as a result of reliance on data or other information (other than assumptions) that, as of the balance sheet date, were factually incorrect.

(2) The determination is made between the date the statement of actuarial opinion is issued and the balance sheet date for which the next statement of actuarial opinion will be issued.

(3) The statement of actuarial opinion or actuarial opinion summary would not have been issued or would have been materially altered had the correct data or other information been used; except that the statement of actuarial opinion or actuarial opinion summary will not be considered to be in error if it would not have been issued or would have been materially altered solely because of data or information concerning events subsequent to the balance sheet date or because actual results differ from those projected.

(e) Notification provided by an appointed actuary to a domestic insurer under subsection (d) must include a summary of the appointed actuary's findings and an amended statement of actuarial opinion and actuarial opinion summary. The domestic insurer shall forward a copy of the summary and amended statement of actuarial opinion and actuarial opinion summary to the Commissioner within 5 business days of receipt and provide the appointed actuary with a copy of the information forwarded to the Commissioner. If the appointed actuary does not receive a copy of the information forwarded to the Commissioner within the 5 business day period, the appointed actuary shall provide the Commissioner with the information within the next 5 business days, including a statement whether the Department should rely upon the statement of actuarial opinion or actuarial opinion summary filed under this chapter.

(f) If an appointed actuary learns that data or other information relied upon in rendering a statement of actuarial opinion or actuarial opinion summary under this chapter were factually incorrect, but the appointed actuary cannot immediately determine what, if any, changes are needed in the statement of actuarial opinion or actuarial opinion summary, the appointed actuary and the domestic insurer shall take the actions necessary for the appointed actuary to make the determination. If the



domestic insurer does not provide the necessary data corrections and other support (including financial support) within 10 business days, the appointed actuary should provide the Commissioner with notice of the situation within the next 5 business days.

#### § 118a.5. Confidentiality.

(a) The statement of actuarial opinion shall be filed with an insurer's annual statement in accordance with the property and casualty annual statement instructions prescribed by the NAIC and shall be treated as a public document.

(b) The documents, materials or other information prepared or provided by an insurance company, association or exchange solely in support of the statement of actuarial opinion filed under this chapter, including actuarial reports, workpapers or actuarial opinion summaries and other material solely prepared by the insurance company, association or exchange for the purpose of providing it to the Department in connection with actuarial reports, workpapers or actuarial opinion summaries are treated as confidential and privileged as provided under section 420 of The Insurance Company Law of 1921 (40 P. S. § 443).

(c) The Commissioner may share confidential information received under this chapter with regulatory or law enforcement officials of this Commonwealth or other jurisdictions and the NAIC under sections 201-A and 202-A of The Insurance Department Act of 1921 (40 P. S. §§ 65.1-A and 65.2-A) and section 320 of The Insurance Company Law of 1921 (40 P. S. § 443), including the release of documents to the Actuarial Board for Counseling and Discipline (ABCD) if the material is required for the purpose of professional disciplinary proceedings and the ABCD establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents. A waiver of any applicable privilege or claim of confidentiality in the documents, materials or information will not occur as a result of sharing information under this subsection.

#### § 118a.6. Exemptions.

(a) A domestic insurer may annually submit a written request to the Commissioner for approval of an exemption from the requirement to file a statement of actuarial opinion in the manner set forth by the property and casualty annual statement instructions prescribed by the NAIC.

(b) A foreign insurer exempted from filing a statement of actuarial opinion by the chief insurance regulatory official in its domiciliary jurisdiction is exempt from filing a statement of actuarial opinion under this chapter if the foreign insurer files a copy of the approved exemption with the Commissioner in accordance with the property and casualty annual statement instructions prescribed by the NAIC.

#### § 118a.7. Penalties.

Failure to file the statement of actuarial opinion, actuarial opinion summary and additional statements, letters, workpapers or reports required under this chapter will subject the insurer to the penalties provided by law.

[Pa.B. Doc. No. 10-1585. Filed for public inspection August 27, 2010, 9:00 a.m.]

# STATE BOARD OF VETERINARY MEDICINE

[ 49 PA. CODE. CH. 31 ]

## Dental Procedures

The State Board of Veterinary Medicine (Board) proposes to amend §§ 31.1, 31.31 and 31.39 (relating to definitions; scope of practice; and grounds for disciplinary proceedings) and to add § 31.31a (related to performance of dental procedures on companion animals, excluding equines, by certified veterinary technicians, VTSs and veterinary assistants) to read as set forth in Annex A. The proposed rulemaking provides needed guidance regarding the dental procedures that may lawfully be performed by licensees and unlicensed assistants.

### *Effective Date*

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

### *Statutory Authority*

Section 11 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.11) requires the Board to promulgate by regulation the requirements for the regulation of veterinary technicians. Section 3(14) of the act (63 P. S. § 485.3(14)) defines a veterinary assistant as an individual who is not certified as a veterinary technician and who performs limited tasks involved in the care and treatment of animals as defined by regulation if requested to do so by the assistant's employing veterinarian. Section 21(22) of the act (63 P. S. § 485.21(22)) authorizes the Board to discipline a licensee who has in the licensee's employment an unlicensed person to practice veterinary medicine contrary to the act or the Board's regulations.

### *Background and Purpose*

The practice of veterinary technology includes, by definition in section 3 of the act, performing dental prophylaxis. This proposed rulemaking intends to clarify the procedures that constitute dental prophylaxis for certified veterinary technicians (CVTs), veterinary technician specialists (VTSs) and veterinary assistants. The Board began developing this proposed rulemaking in 2005. A public hearing was held on October 27, 2005, at which the Board sought the input of veterinarians and CVTs involved in dentistry. Six veterinarians and two CVTs participated; one dental technician who practices on humans also participated.

### *Description of Proposed Rulemaking*

To conform the regulations to amendments to the act made by the act of December 9, 2002 (P. L. 1370, No. 167), the Board proposes to replace the term "noncertified employee" with the term "veterinary assistant."

Section 31.31(a)(1)(ii) and (b)(1)(ii) allows both CVTs and veterinary assistants to "perform dental prophylaxis" under direct veterinary supervision. The term "dental prophylaxis" does not have a commonly accepted definition within the veterinary profession. The Board proposes to provide needed clarity through a new regulatory section that specifically describes the dental prophylactic procedures that may be performed by individuals. Proposed § 31.31a addresses the performance of dental procedures by CVTs, VTSs and veterinary assistants. The Board considered the education and training of CVTs and VTSs in developing the list of procedures that each group would be authorized to perform. The licensed veterinarian

employing the CVT, VTS or veterinary assistant would remain responsible for ensuring that these individuals are competent to perform the assigned tasks. The Board also proposes to amend § 31.31(c) to prohibit both CVTs and veterinary assistants from performing dental procedures that invades hard or soft oral tissue or that alters the shape, structure or position of teeth including malocclusions, except those procedures specifically authorized in § 31.31a.

In § 31.31a, the Board proposes to provide detailed description of the dental procedures that may be performed by CVTs, VTSs and veterinary assistants. Subsection (a) applies to CVTs, subsection (b) applies to veterinary assistants and subsection (c) applies to VTSs.

The proposed rulemaking would be the most restrictive for veterinary assistants because these individuals do not have formal training. Under § 31.31a(b)(1), a veterinary assistant whom the supervising veterinarian has determined is competent in providing dental care may perform supra- or subgingival tooth (root) scaling using manual, ultrasonic or high speed dental cleaning equipment, manual plaque removal, polishing and application of fluoride or other recognized topical agents to teeth that are to be retained. In addition, § 31.31a(b)(2) authorizes veterinary assistants to perform dental charting and dental radiographs. Finally, § 31.31a(b)(3) authorizes veterinary assistants to perform dental extractions of a single-rooted tooth that is loose, mobile or diseased using a gauze sponge. If instruments are needed to free the tooth, a veterinary assistant may only use an elevator or dental forceps after consulting with the supervising veterinarian and after the supervising veterinarian has examined the animal and instructed the veterinary assistant to proceed.

The proposed rulemaking permits CVTs, who have completed a 2- or 4-year educational program accredited by the American Veterinary Medical Association, taken a National examination and been certified by the Board, to perform the procedures permitted for a veterinary assistant. In addition, the proposed rulemaking permits CVTs to perform dental extractions of a single-rooted tooth that is loose, mobile or diseased using a gauze sponge and, if instruments are needed to free the tooth, use an elevator or dental forceps after consulting with the supervising veterinarian. The Board further proposes, in § 31.31a(4), to authorize CVTs to perform appropriate skin gingival closure after consultation with the supervising veterinarian.

The proposed rulemaking allows VTSs who hold current certification in dentistry to perform additional advanced procedures. Section 31.31a(c) authorizes a VTS to perform single or multiple-rooted tooth extractions that require dental instrumentation or sectioning; prepare dental impressions and models; assist with dental nerve blocks; identify normal dentition and eruption schedules; identify abnormal oral pathology; perform sub-gingival scaling, root planing and curettage; prepare instruments in sequence; prepare dental stone laboratory models; position for intra-oral radiology; maintain hand instruments, equipment and dental delivery systems; and assess and manage pain in consultation with the treating veterinarian.

*Fiscal Impact*

The proposed rulemaking should not have fiscal impact on the Commonwealth, the Board's licensees, the general public or political subdivisions.

*Paperwork Requirements*

The proposed rulemaking does not create additional paperwork for the Board, the Board's licensees or the general public.

*Sunset Date*

The Board continuously monitors its regulations. Therefore, a sunset date has not been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 17, 2010, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Michelle Roberts, Administrative Assistant, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-5718, Dental Procedures, when submitting comments.

ROBIN J. BERNSTEIN, Esq.,  
*Chairperson*

**Fiscal Note:** 16A-5718. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE  
GENERAL PROVISIONS**

**§ 31.1. Definitions.**

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

\* \* \* \* \*

[ *Noncertified employee*—An employee of a veterinarian who does not hold certification as a veterinary technician and whom the veterinarian deems competent to administer medication or render auxiliary or supporting assistance under direct veterinary supervision or immediate veterinary supervision. ]

\* \* \* \* \*

**Veterinary assistant**—An employee of a veterinarian who does not hold certification as a veterinary technician to whom the employing veterinarian assigns tasks in accordance with § 31.31 (relating to scope of practice).

**VETERINARY TECHNICIANS AND [ NONCERTIFIED EMPLOYEES ] VETERINARY ASSISTANTS**

**§ 31.31. Scope of practice.**

(a) *Certified veterinary technicians.* A certified veterinary technician may perform the duties enumerated in this subsection under direct veterinary supervision or indirect veterinary supervision as indicated. While some of the enumerated duties may be applicable primarily to small animal practices, the intended scope of this subsection is both large and small animal practices. This subsection does not prohibit the performance by a certified veterinary technician of a service which is not listed in this subsection if the service is within the certified veterinary technician's skills, forms a usual component of the veterinarian's scope of practice, and is requested by the supervising veterinarian. The veterinarian bears ultimate responsibility for assuring that the certified veterinary technician to whom a duty is assigned is competent to perform it.

(1) A certified veterinary technician may do the following only under direct veterinary supervision:

(i) Administer anesthesia[ — ] **ordered by the veterinarian**, including induction, intubation, maintenance, extubation and recovery and intravenous sedation.

(ii) Perform dental [ **prophylaxis** ] **procedures as set forth in § 31.31a(a) (relating to performing dental procedures on companion animals, excluding equines, by certified veterinary technicians, VTSS and veterinary assistants).**

\* \* \* \* \*

(b) [ **Noncertified employees** ] **Veterinary assistants.** [ **Noncertified employees** ] **Veterinary assistants** may perform the duties enumerated in this subsection under direct veterinary supervision or immediate veterinary supervision, as indicated. While some of the enumerated duties may be applicable primarily to small animal practices, the intended scope of this subsection is both large and small animal practices. This subsection does not prohibit a [ **noncertified employee** ] **veterinary assistant** from administering medication or rendering auxiliary or other supporting assistance which is not listed in this subsection if the service is within the [ **noncertified employee's** ] **veterinary assistant's** skills and is requested by the supervising veterinarian. The veterinarian bears ultimate responsibility for assuring that the [ **noncertified employee** ] **veterinary assistant** to whom a duty is assigned is competent to perform it.

(1) A [ **noncertified employee** ] **veterinary assistant** may do the following under direct veterinary supervision:

\* \* \* \* \*

(ii) Perform dental [ **prophylaxis** ] **procedures as set forth in § 31.31a(b).**

\* \* \* \* \*

(2) A [ **noncertified employee** ] **veterinary assistant** may do the following only under immediate veterinary supervision:

\* \* \* \* \*

(3) Emergency treatment by [ **noncertified employees** ] **veterinary assistants** is permitted without veterinary supervision when an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain the animal's life. The [ **noncertified employee** ] **veterinary assistant** shall immediately take steps to secure the direct supervision of a veterinarian. Emergency treatment may only consist of those duties enumerated under paragraphs (1) and (2)(i)—(iv).

(c) *Prohibited acts.* Neither certified veterinary technicians nor [ **noncertified employees** ] **veterinary assistants** may do the following:

\* \* \* \* \*

(6) **Perform any dental procedure that invades hard or soft oral tissue or that alters the shape, structure or position of teeth including malocclusions, except procedures authorized in § 31.31a.**

**§ 31.31a. Performance of dental procedures on companion animals, excluding equines, by certified veterinary technicians, VTSS and veterinary assistants.**

(a) *Certified veterinary technician.* In addition to the procedures in § 31.31 (relating to scope of practice), a certified veterinary technician may, under the direct supervision of a veterinarian perform the following procedures on companion animals, excluding equines:

(1) Supragingival or subgingival tooth (root) scaling using manual, ultrasonic or high speed dental cleaning equipment; manual plaque removal; polishing; and application of fluoride or other recognized topical agents to teeth that are to be retained.

(2) Dental charting and dental radiographs.

(3) Dental extractions of a single-rooted tooth that is loose, mobile or diseased using a gauze sponge. If instrumentation is needed to free the tooth from gingival attachments, a certified veterinary technician may use an elevator or dental forceps only after consulting with the supervising veterinarian.

(4) Appropriate skin gingival closure if authorized after consultation with the supervising veterinarian.

(b) *Veterinary assistant.* A veterinary assistant whom the supervising veterinarian has determined is competent in providing dental care may, under the direct supervision of a veterinarian, perform the following procedures on companion animals, excluding equines:

(1) Supragingival or subgingival tooth (root) scaling using manual, ultrasonic or high speed dental cleaning equipment; manual plaque removal; polishing; and application of fluoride or other recognized topical agents to teeth that are to be retained.

(2) Dental charting and dental radiographs.

(3) Dental extractions of a single-rooted tooth that is loose, mobile or diseased using a gauze sponge. If instrumentation is needed to free the



tooth from gingival attachments, a veterinary assistant may use an elevator or dental forceps only after consulting with the supervising veterinarian and after the supervising veterinarian has examined the animal and instructed the veterinary assistant to proceed.

(c) **VTS.** A certified veterinary technician who holds current certification as a VTS in dentistry may, under direct veterinary supervision, perform additional ancillary dental services or procedures on companion animals, excluding equines. Advanced procedures may include:

- (1) Performing single-rooted tooth extractions.
- (2) Performing multiple-rooted tooth extractions after consultation with and under the immediate supervision of a veterinarian.
- (3) Preparing dental impressions or models, including whole-mouth alginate impressions.
- (4) Assisting the supervising veterinarian with dental nerve blocks.
- (5) Identifying normal dentition and eruption schedules.
- (6) Identifying abnormal oral pathology.
- (7) Performing subgingival scaling, root planing and curettage.
- (8) Preparing instruments in sequence for use in pulpotomy, pulpectomy, surgical and nonsurgical extractions, periodontal surgery and oral surgery.
- (9) Preparing dental stone laboratory models.

(10) Positioning for intra-oral radiology.

(11) Maintaining hand instruments, equipment and dental delivery systems.

(12) Assessing and managing pain in consultation with the treating veterinarian.

§ 31.39. Grounds for disciplinary proceedings.

\* \* \* \* \*

(b) Certified veterinary technicians, **VTSs** and **[ noncertified employees ] veterinary assistants** who deviate from the permitted scope of practice as set forth in § 31.31 (relating to scope of practice) or § 31.31a (relating to performance of dental procedures on companion animals, excluding equines, by certified veterinary technicians, **VTSs** and **veterinary assistants**) will be subject to prosecution and the levying of a civil penalty by the Board under section 28(c) of the act (63 P. S. § 485.28(c)). Veterinarians who permit, order or direct certified veterinary technicians, **VTSs** or **[ noncertified employees ] veterinary assistants** to perform duties which are not authorized by § 31.31 or § 31.31a (relating to performance of dental procedures on companion animals, excluding equines, by certified veterinary technicians, **VTSs** and **veterinary assistants**) will be subject to disciplinary action by the Board under section 21 of the act (63 P. S. § 485.21).

\* \* \* \* \*

[Pa.B. Doc. No. 10-1586. Filed for public inspection August 27, 2010, 9:00 a.m.]

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# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CH. 2390 ]

#### Licensing Inspection Instrument

##### *Scope*

This statement of policy applies to the following: administrative entity directors and administrators; supports coordination organization directors and administrators; and providers licensed under Chapter 2390 (relating to vocational facilities).

##### *Purpose*

The purpose of this statement of policy is to rescind Chapter 2390, Appendix A (relating to licensing inspection instrument for vocational facilities—statement of policy).

##### *Background*

The Office of Developmental Programs (ODP) currently codifies the Licensing Inspection Instrument (LII) for vocational facilities in Chapter 2390, Appendix A. The Department of Public Welfare's (Department) licensing regulations in Chapters 2380, 6400 and 6500 (relating to adult training facilities; community homes for individuals with mental retardation; and family living homes) do not have codified LIIs. For consistency purposes, the Department no longer wishes to codify the LII for vocational facilities.

##### *Discussion*

For consistency purposes, the Department determined to similarly format its licensing regulations in Chapters 2380, 2390, 6400 and 6500. Therefore, since Chapters

2380, 6400 and 6500 do not have codified LIIs, the Department is no longer codifying the Chapter 2390 LII in the *Pennsylvania Code*. The current Chapter 2390 LII and other ODP LIIs are available at <http://www.dpw.state.pa.us/PartnersProviders/MentalRetardation/003679539.htm>.

##### *Effective Date*

This statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

##### *Contact*

Questions regarding this statement of policy should be directed to the appropriate regional ODP.

HARRIET DICHTER,  
*Secretary*

*(Editor's Note:* Title 55 of the Pa. Code is amended by rescinding a statement of policy in Chapter 2390, Appendix A to read as set forth in Annex A.)

*(Editor's Note:* For a final-form rulemaking relating to this statement of policy, see 40 Pa.B. 4935 (August 28, 2010).)

**Fiscal Note:** 14-BUL-091. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 55. PUBLIC WELFARE PART IV. ADULT SERVICES MANUAL**

#### **Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICE**

#### **CHAPTER 2390. VOCATIONAL FACILITIES**

#### **APPENDIX A. (Reserved).**

[Pa.B. Doc. No. 10-1587. Filed for public inspection August 27, 2010, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending August 10, 2010.

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

### BANKING INSTITUTIONS

#### Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
8-5-2010	United-American Savings Bank Pittsburgh Allegheny County  Conversion from a state-chartered mutual savings bank to a state-chartered stock savings bank.	Effective

#### Branch Applications

#### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-9-2010	First Priority Bank Malvern Chester County	1758 Allentown Road Lansdale Montgomery County	Filed
8-9-2010	New Century Bank Phoenixville Chester County	1015 Penn Avenue Wyomissing Berks County	Opened

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 10-1588. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Application of the University of South Florida of Tampa, Florida to Operate in Allentown, Pennsylv- vania

#### Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of the University of South Florida (USF) in Tampa, FL to have a Certificate of

Authority from the Department approving the operation of its College of Medicine in Allentown, PA in forming a branch campus by means of a partnership with the Lehigh Valley Health Network (LVHN). The operation would offer third and fourth year medical education as part of the Scholarly Excellence, Leadership, Experiences, Collaborative Training or SELECT program. While USF will offer the first and second year of the SELECT program starting 2011 in Florida, students will first come to this Commonwealth in 2013.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon this application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public

hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Carol M. D. Gisselquist, Higher Education Specialist, (717) 787-4448, 333 Market Street, Harrisburg, PA 17126-0333 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review.

Duplicate copies of the application are not available.

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

THOMAS E. GLUCK,  
*Acting Secretary*

[Pa.B. Doc. No. 10-1589. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

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

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

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

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

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

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

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

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

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



**I. NPDES Renewal Applications**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0086479 (IW)	Dairy Farmer's of America 100 McKinley Avenue Reading, PA 19605	Berks County Muhlenberg Township	Laurel Run 3-C	Y
PA0033553 (Sew)	Gehmans Mennonite School 650 Gehmans School Road Denver, PA 17517-8921	Lancaster County Brecknock Township	Little Muddy Creek 7-J	Y
PA0044911 (IW)	Land 'O Lakes, Inc. 405 Park Drive Carlisle, PA 17015-9270	Cumberland County South Middleton Township	Mountain Creek 7-E	Y

*Northcentral Regional Office: Water Management Program Manager, 208 West Third Street Suite 101, Williamsport, PA 17701-6448. Phone: 570-327-0532.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0228915 (Sewage)	Osceola Mills Region WWTP Route 970 Osceola Mills, PA 16666	Clearfield County Decatur Township	Moshannon Creek 8-D	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0104272 (Sewage)	North East Access and Marina 11950 East Lake Road Erie, PA 16428	Erie County North East Township	Unnamed tributary to Lake Erie Watershed 15	Y

**II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications**

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

**PA0054551**, Sewage, SIC Code 4952, **Jonathan D. Snyder**, 4 Fox Run Lane, Newtown Square, PA 19073-1004. Facility Name: Snyder SRSTP. This existing facility is located in Willistown Township, **Chester County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to Ridley Creek, is located in State Water Plan watershed 3-G and is classified for High Quality Waters-Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	3.0	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.2
CBOD <sub>5</sub>						
May 1 - Oct 31	XXX	XXX	XXX	10	XXX	20
Nov 1 - Apr 30	XXX	XXX	XXX	20	XXX	40
Total Suspended Solids	XXX	XXX	XXX	10	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	XXX	XXX	XXX	3.0	XXX	6.0
Nov 1 - Apr 30	XXX	XXX	XXX	9.0	XXX	18.0

In addition, the permit contains the following major special conditions:

1. AMR to DEP.
2. Abandon STP When Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change in Ownership.
7. Sludge Disposal.
8. Laboratory Certification.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect.

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

**Application No. PA 0024228**, Industrial Waste, SIC Code 2015, **BC Natural Chicken, LLC**, P. O. Box 70, Fredericksburg, PA 17026. This facility is located in Bethel Township, **Lebanon County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream, Deep Run, is in Watershed 7-D, and classified for warm water fishery, water supply, recreation and fish consumption. The nearest downstream public water supply intake is the Philadelphia Water Company located on the Swatara Creek, approximately 28 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim effluent limits for Outfall 001 based on a design flow of 0.60 MGD are:

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	Report	Report	16	26	40
Total Suspended Solids	Report	Report	20	30	50
Ammonia Nitrogen as N					
(5/1 to 10/31)	7.5	15	1.5	3.0	3.75
(11/1 to 4/30)	22.5	45	4.0	8.0	10
Total Residual Chlorine			0.1		0.2
Total Phosphorus	10	20	2.0	4.0	5.0
Oil and Grease	Report	Report	8.0	14	20
Dissolved Oxygen	Minimum of 5.0 at all times.				
pH	Within the range of 6 to 9 Standard Units at all time.				
Fecal Coliform	200/100 ml as a Geometric Average Value.				
(5/1 to 9/30)	400/100 ml as Geometric Average.				
(10/1 to 4/30)					

CHESAPEAKE BAY/ELIZABETH RUN TMDL REQUIREMENTS

Parameters	Mass (lbs)	
	Monthly	Annual
Total Suspended Solids	Report	Report
Total Phosphorus	Report	Report
TKN	Report	Report
NO <sub>2</sub> +NO <sub>3</sub> -N	Report	Report
Total Nitrogen	Report	Report
NH <sub>3</sub> -N	Report	Report

The proposed final effluent limits for Outfall 001 based on a design flow of 0.60 MGD are:

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	50	100	10	20	25
Total Suspended Solids	Report	Report	10	20	25
Ammonia Nitrogen as N					
(5/1 to 10/31)	7.5	15	1.5	3	3.75
(11/1 to 4/30)	20	40	4.0	8	11.25
Total Residual Chlorine			0.019		0.06

Parameter	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Maximum Daily	Minimum	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Phosphorus	2.5	5		0.5	1.0	1.25
Oil and Grease	Report	Report		8	14	20
Dissolved Oxygen	Minimum of 5.0 at all times.					
pH	Within the range of 6 to 9 Standard Units at all time.					
Fecal Coliform (5/1 to 9/30)	200/100 ml as a Geometric Average Value.					
(10/1 to 4/30)	400/100 ml as Geometric Average.					

CHESAPEAKE BAY/ELIZABETH RUN TMDL REQUIREMENTS

Parameters	Mass (lbs)	
	Monthly	Annual
Total Suspended Solids	Report	Report
Total Phosphorus	Report	Report
TKN	Report	Report
NO <sub>2</sub> +NO <sub>3</sub> -N	Report	Report
Total Nitrogen	Report	Report
NH <sub>3</sub> -N	Report	Report

You may make an appointment to review the Department of Environmental Protection’s files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is not in effect.

**PA803505**, Stormwater, SIC Code 5399, 5411, 5541, 5812, 7538, **HPT PSC Properties Trust**, 24601 Center Ridge Road, West Lake, OH 44145. Facility Name: All American Auto Truck Plaza Carlisle. This proposed facility is located in Middlesex Township, **Cumberland County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of stormwater and wastewater from oil/water separator.

The receiving stream(s), Letort Spring Run, is located in State Water Plan watershed 7-B and is classified for Migratory Fishes, High Quality Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
pH	XXX	XXX	XXX	6.0	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15	XXX	30
TRPH	XXX	XXX	XXX	Report	Report	XXX
Benzene	XXX	XXX	XXX	0.005	0.0010	0.0015
Naphthalene	XXX	XXX	XXX	Report	Report	XXX

In addition, the permit contains the following major special conditions: Best Management Practices

You may make an appointment to review the Department of Environmental Protection’s files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is in effect.

**PA0261564**, Sewage, SIC Code 6514, **John M. Lee**, 14547 Paxton Run Road, Shippensburg, PA 17527. Facility Name: Lee SFTF This proposed facility is located in Lurgan Township, **Franklin County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to Conodoguinet Creek, is located in State Water Plan watershed 7-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	Report	XXX	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	Instantaneous Maximum
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geometric Mean	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	XXX

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is in effect.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, Telephone: 570-327-0532.*

**PA0028738**, Sewage, SIC Code 4952, **Ralpho Township Municipal Authority Northumberland County**, 206 South Market Street, Suite 2, Elysburg, PA 17824. Facility Name: Ralpho Township Municipal Authority STP. This existing facility is located in Shamokin Township, **Northumberland County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Shamokin Creek, is located in State Water Plan watershed 6-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.716 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	Instantaneous Maximum
Flow (MGD)	Report	Report Daily Maximum	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	1.0	XXX	2.3
CBOD <sub>5</sub>	150	240	XXX	25	40	50
Total Suspended Solids	180	270	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geometric Mean	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	XXX

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	13,132			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	1,751			

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



\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 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 September 30, 2011.

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

In addition, the permit contains the following major special conditions:

- I. Compliance schedule for PART A I.
- II. Chesapeake Bay Nutrient Requirements.
- III. Other Requirements.
  - A. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.
  - B. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.
  - C. Requires proper disposal of sludge.
  - D. Requires no direct discharge of storm water to the sanitary sewers.
- IV. Requires management and reporting of biosolids within the treatment process.

You may make an appointment to review the Department's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

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

**PA0252620**, Industrial Waste, SIC, 4941, **West Carroll Township Water and Sewer Authority**, P. O. Box 328, Elmora, PA 15737. This application is for issuance of an NPDES permit to discharge treated process water from the water treatment plant in West Carroll Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Unnamed Tributary of Fox Run, classified as a cold water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Reliant Energy, located at Shawville, 51 miles below the discharge point.

*Outfall 001: new discharge, design flow of 0.0021 mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
TSS			30		60
Aluminum			4		8
Iron			2		4
Manganese			1		2
TRC			0.5		1.0
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.*

**PA0002674**, Industrial Waste, SIC Code 2911, **American Refining Group, Inc.**, 77 North Kendall Avenue, Bradford, PA 16701-1726. Facility Name: American Refining Group Bradford. This existing facility is located in Bradford City and Foster Township, **McKean County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Industrial Waste.

The receiving stream(s), Foster Brook and Tunungwant Creek, is located in State Water Plan watershed 16-C and are classified for Cold Water Fishes and Warm Water Fishes, respectively, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 002 are based on a design flow of 0.45 MGD (plant design flow) and 0.1978 MGD (long term average flow).

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
BOD <sub>5</sub>	189	355		Report	Report	286
Chemical Oxygen Demand	947	1,832		Report	Report	1,435
Total Suspended Solids	160	249		Report	Report	243
Oil and Grease	57	111		15		30
Ammonia-Nitrogen	20	44		Report	Report	30
Total Arsenic	Report	Report		Report	Report	
Hexavalent Chromium	0.16	0.36		Report	Report	0.24
Total Chromium	1.9	5.4		Report	Report	2.9
Total Sulfide	1.07	2.36		Report	Report	1.6
Total Phenolics	0.31	0.63		0.19	0.38	0.48
Fecal Coliform (Interim) (5/01-9/30)				Report as a Geometric Average		
Fecal Coliform (Final) (5/01-9/30)				200/100 ml as a Geometric Average		

The proposed effluent limits for Outfall 004 are based on a flow of 0.0159 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report				
pH (S.U.)			6.0			9.0
Total Suspended Solids	Report	Report		40	80	100
Oil and Grease	Report			15		30
Total Organic Carbon		Report			110	138

The proposed effluent limits for Outfall 005 are based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 007 are based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 008 are based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 009 are based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 010 are based on a design flow of n/a MGD.

The proposed effluent limits for Outfall 012 are based on a design flow of n/a MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report					
pH			6.0			9.0
Total Suspended Solids				Report		Report
Oil and Grease				15		30
Total Organic Carbon					110	138

In addition, the permit contains the following major special conditions:

- Stormwater Treatment Waiver and Sampling Required.
- Stormwater Allowance Factors.
- Chemical Additives.
- Requirements Applicable to Stormwater Outfalls.
- Effluent Limitations for Discharge of Hydrostatic Testing Water.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA waiver is not in effect.

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

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

**WQM Permit No. 1505426**, Sewerage, **Amendment, New London Township**, 902 State Road, P. O. Box 1002, New London, PA 19360. This proposed facility is located in New London Township, **Chester County**.

Description of Action/Activity: Installation of a new WWTP that includes an influent screen/EQ tank, UV disinfection system and a sludge holding tank.

**WQM Permit No. WQG02461008**, Sewerage, **Salford Township**, 139 Ridge Road, P. O. Box 54, Tylersport, PA 18971. This proposed facility is located in Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a low pressure sanitary sewer to serve 124 EDU's, flow will be conveyed from properties to the common LPS system by means of individual grinder pumps.

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

**WQM Permit No. 1110409**, Sewerage, **Johnstown Redevelopment Authority**, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901-2874. This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer system.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 6372404-A2**, Sewerage, **Carroll Township Authority**, P. O. Box 661, Donora, PA 15033. This existing facility is located in Carroll Township, **Washington County**.

Description of Proposed Action/Activity: Application for permit amendment.

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

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

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

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

*Wayne County Conservation District: 648 Park Street, Honesdale, PA 18431, 570-253-0930.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026410004	Association of Property Owners of The Hideout 640 The Hideout Lake Ariel, PA 18436	Wayne	Salem Township	Ariel Creek HQ-CWF, MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI036705001-R	Thomas H. Gemmill 21577 Barrens Road South Stewartstown, PA 17363	York	Hopewell Township	UNT to Leibs Creek HQ-CWF

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

*Union County Conservation District: Union County Government Center, 155 North 15th Street, Lewisburg, PA 17837, (570) 524-3860.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI046010001	Ken Martin 3370 Forest Hill Road Mifflinburg, PA 17844	Union	West Buffalo Township	Rapid Run HQ-CWF

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

*Washington County Conservation District, 100 West Beau Street, Suite 105, Washington, PA 15301 (724-228-6774).*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056310007	Metz Development 524 Waterdam Road McMurray, PA 15317	Washington	North Strabane Township	Unnamed Tributary to Little Chartiers Creek HQ-WWF
PAI056310009	Summerbrooke, LLC 204 Commerce Building P. O. Box 603 Lawrence, PA 15212	Washington	North Strabane Township	Unnamed Tributary to Little Chartiers Creek HQ-WWF

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


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

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

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent 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.

Persons aggrieved by any action may appeal under section 517 of Act 38, 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, Rachael 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 at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. 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.

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

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

**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Mike Buckwalter 350 Rock Point Road Marietta, PA 17547	Lancaster	281.4	486.1	Swine/Beef	NA	Renewal
Galen Nolt Westview Farm 222 Little Britain Church Road Peach Bottom, PA 17563	Lancaster	350.0	522.8	Swine/Dairy	SQ	Renewal
Lamar Lehman 161 Manbeck Road Bernville, PA 19506	Berks	158.6	432.53	Broilers	None	Renewal
Calvin Zerbe 296 Manbeck Road Bernville, PA 19506	Berks	165.4	151.87	Pullets	None	New
Jo Ann L. and Earl G. Ebling 761 Airport Road Bethel, PA 19507	Berks	148.7	125.12	Pullets	None	Renewal

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**PUBLIC WATER SUPPLY (PWS)  
PERMIT**

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice.

Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.



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

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

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

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

*Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.*

**Permit No. 9996436**, Public Water Supply.

Applicant **Monadnock Mountain Spring Water**  
 Township or Borough Wilton, NH  
 Responsible Official Kevin McGonigle, VP  
 Type of Facility Out-of-State Bottled Water System  
 Application Received Date August 13, 2010  
 Description of Action Applicant requesting Department approval to sell bottled water in Pennsylvania under the brand name: Monadnock Mountain Spring Water.

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

**Permit No. 1109505, Resubmittal**, Public Water Supply.

Applicant **Greater Johnstown Water Authority**  
 640 Franklin Street  
 P. O. Box 1407  
 Johnstown, PA 15907  
 Township or Borough East Taylor Township  
 Responsible Official Edward Cernic  
 Chairperson  
 Greater Johnstown Water Authority  
 640 Franklin Street  
 P. O. Box 1407  
 Johnstown, PA 15907  
 Type of Facility Water treatment plant  
 Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P. O. Box 853  
 Latrobe, PA 15650

Application Received Date July 9, 2010  
 Description of Action Installation of a mixing system in the 1 MG water storage tank.

**Permit No. 1109506, Resubmittal**, Public Water Supply.

Applicant **Greater Johnstown Water Authority**  
 640 Franklin Street  
 P. O. Box 1407  
 Johnstown, PA 15907  
 Township or Borough East Taylor Township  
 Responsible Official Edward Cernic  
 Chairperson  
 Greater Johnstown Water Authority  
 640 Franklin Street  
 P. O. Box 1407  
 Johnstown, PA 15907  
 Type of Facility Water treatment plant  
 Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P. O. Box 853  
 Latrobe, PA 15650

Application Received Date July 9, 2010  
 Description of Action Installation of a mixing system in the 1 MG water storage tank.

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

**Application No. 1010505**, Public Water Supply.

Applicant **Bonetti Health Care Center, Inc., d/b/a Autumn Grove Care Center**  
 Township or Borough Harrisville  
**Butler County**  
 Responsible Official Frank L. Bonetti  
 Administrator  
 Consulting Engineer William P. Deemer, P. E.  
 S & G Gas & Oil, Inc., d/b/a  
 William P. Deemer & Associates  
 205B South Duffy Road  
 Butler, PA 16001  
 Application Received Date 08/09/2010  
 Description of Action System and facility upgrades to include additional source (Well No. 3) and meet current 4-log treatment.

## 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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Haverford Middle School**, Haverford Township, **Delaware County**. Sean Cheluis. SSM Group, Inc., 1047 North Park Road, Reading, PA 19610 on behalf of Charles Inman, School District of Haverford Township, 1701 Darby Road, Havertown, PA 19083 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of diesel fuel. The area of concern is planned to be used as a new kitchen for the school.

**Vengrofski Residence**, Falls Township, **Bucks County**. Chris Miceli, VERTEX, 15 South Main Street, Marlboro, NJ 07746, Thomas P. Schultz, Lewis Environmental, 155, Railroad Plaza, Royersford, PA 19468 on behalf of Frank Vengrofski, 102 Burgess Avenue, Falls Township, PA 19067 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted the release of No. 2 fuel oil. The future use of the property is residential use.

**Ryan Marsh Property**, Northampton Township, **Bucks County**. Michael P. Raffoni, Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602, Mark E. Zunich, Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602 on behalf of Ryan Marsh, 39 Briarwood Drive, Holland, PA 18966 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the site will remain the same.

**Foamex Facility**, Eddystone Borough, **Delaware County**. Michael A. Christie, P. G., Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440, Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Cynthia McKeown, Camden Iron & Metal, LLC, 1500 East 2nd Street, Eddystone, PA 19022 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of PAH, chlorinated solvents. The proposed future use of the property will be nonresidential for a metals recycling facility. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on July 31, 2010.

**PECO Oregon Maintenance Shop**, City of Philadelphia, **Philadelphia County**. Bruce Middleman, Stantec Consulting Services, Inc., 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462, Katie Kelly, Stantec Consulting Services, Inc., 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462 on behalf of George Horvat, PECO Energy Company, 2301 Market Street, P. O. Box 13778, Philadelphia, PA 19101-3778 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted with the release of unleaded gasoline and lead. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on July 19, 2010.

*Northeast Region: Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Former Techneglas Property (Interstate Distribution Center)**, 140 Industrial Drive, Jenkins Township, **Luzerne County**. Kenneth G. Robbins, HDR, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 has submitted a Notice of Intent to Remediate (on behalf of his client, Pittston Industrial, LLC, Interstate Distribution Center, 140 Industrial Drive, Pittston, PA 18640), concerning the remediation of soil found to have been impacted by VOCs, SVOCs, and metals as a result of historical operations at the site. The intended future use of the site is for industrial and/or warehousing purposes. The applicant proposes to remediate the site to meet the Nonresidential Statewide Health Standard for soil, covering VOCs, SVOCs, and metals; and also to meet the Site-Specific Standard, covering metals. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

**OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

**Application(s) accepted 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit Application No. 101568. University Area Joint Authority**, 1576 Spring Valley Road, State College, PA, College and Benner Townships, **Centre County**. Processing municipal waste by composting to produce a Class A biosolids product. The application was received by Northcentral Regional Office on July 16, 2010 and administratively complete on August 9, 2010.

Comments concerning the application should be directed to Lisa D. Houser, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the permit application may contact the Williamsport Regional Office, (570) 327-3740. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

**Application received, under the Solid Waste Management Act of July 7, 1980, P. L. 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 a Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Telephone 412-442-4000.*

**Permit ID No. 101565. Waste Management of Pennsylvania, Inc.**, 625 Cherrington Parkway, Moon Township, PA 15108. Ambridge Hauling and Transfer Station, 2197 Duss Avenue, Ambridge, PA 15003. An application for the permit renewal of a municipal waste transfer facility, in the Borough of Ambridge, **Beaver County** was received in the Regional Office on August 11, 2010.

**Permit ID No. 300876. RRI Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. Conemaugh Power Plant, 14421 Power Plant Road, New Florence, PA 15944-9154. An application for permit modification to add a low volume waste (cooling tower blowdown treatment system sludge) to the existing permit in West Wheatfield Township, **Indiana County** was received in the Regional Office on August 11, 2010.

**Permit ID No. 100419. Veolia ES Chestnut Valley Landfill, Inc.**, 1184 McClellandtown Road, McClellandtown, PA 15458. Veolia ES Chestnut Valley Landfill, 1184 McClellandtown Road, McClellandtown, PA 15458. An application for the permit renewal of a municipal waste landfill in German Township, **Fayette County** was received in the Regional Office on August 16, 2010.

**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. Contact: M. Gorog and B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*



**30-00194: EQT Gathering, LLC** (EQT Plaza, 625 Liberty Avenue, Suite 1700, Pittsburgh, PA 15222) for construction and operation of Callisto Compressor Station in Morris Township, **Greene County**.

**30-00195: Equitrans, LP** (EQT Plaza, 625 Liberty Avenue, Suite 1700, Pittsburgh, PA 15222) for construction and operation of Jefferson Compressor Station in Jefferson Borough, **Greene County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**62-163B: IA Construction—Garland Mine** (P. O. Box 290, Homer City, PA 15748) for modification of Plan Approval 62-163A for their Garland Aggregate Plant, along Route 27 in Pittsfield Township, **Warren County**. This modification includes the addition of a cone crusher, screen and conveyor extension and modifying the language used in Plan Approval 62-163A, Section D, Source ID: 301, condition No. 002(1).

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**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.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**36-05079D: Chester County Solid Waste Authority** (722 Division Highway, Narvon, PA 17555) for expansion of the Lanchester landfill to accommodate approximately 6,363,504 cubic yards of additional municipal solid waste in Caernarvon Township, **Lancaster County**. The modification has the potential to increase facility emissions of CO by 53.4 tpy, NOx by 22.9 tpy, PM10 by 39.5 tpy, SOx by 6.5 tpy, NMOCs by 16.3 tpy and VOCs by 13.1 tpy. The landfill is a major Title V facility subject to 40 CFR Part 60, Subpart WWW—Standards of Performance for Municipal Waste Landfills, 40 CFR Part 61, Subpart M, 61.154—National Emission Standard for Asbestos: Standard for Active Waste Disposal Sites and 40 CFR Part 63, Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills. The plan approval and operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received an application for and intends to issue a Plan Approval to the above mentioned company for the above mentioned project. This plan approval may be incorporated into the company's facility-wide permit by means of an administrative amendment at a later date.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

A person may oppose the proposed plan approval, or may provide the Department with additional information to consider in its review, by filing a written protest or

comment with the Department at the address listed. Each written protest or comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit by the permit number listed previously.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A 30-day comment period, from the date of publication of this notice in the *Pennsylvania Bulletin*, will exist for the submission of comments or protests, or for requests for a public hearing. A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received.

For additional information or for the submission of comments, protests, or requests for a public hearing, contact Thomas J. Hanlon, P. E. at 717-705-4862, or at the Department's Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan approvals issues to sources identified in 25 Pa. Code § 127.44(b)(1)—(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP, and will be submitted to Environmental Protection Agency for review and approval.

**06-05024C: RRI Energy Mid-Atlantic Power Holdings, LLC** (121 Champion Way, Canonsburg, PA 15317) for a minor modification to their plan approval to install an activated carbon injection system to control mercury emissions from the three power boilers at the Titus Generating Station in Cumru Township, **Berks County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-313-004J: Global Tungsten & Powders, Corp.** (Hawes Street, Towanda, PA 18848-0504) for the proposed construction of two new process tanks (CTL-2 and CTL-3, Source ID P212) at their facility in North Towanda Township, **Bradford County**. This is a State-only facility.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by GTP indicates that the tanks controlled by the proposed scrubber will comply with applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed construction.

The emissions from the proposed process tanks will not exceed 0.2453 ton of hydrogen sulfide per year. In addition to a minimum control efficiency of 99% for the scrubber, the following is a summary of the types of conditions the Department intends to place in the plan approval to ensure compliance with applicable regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Work practice requirements to install and operate the sources and control devices with good air pollution control practices.

Monitoring and Recordkeeping conditions to verify compliance with the applicable requirements and good air pollution control practices.



A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at 570-327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Environmental Program Manager, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3648.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: B. Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**32-00055G: EME Homer City Generation, LP** (1750 Power Plant Road, Homer City, PA 15748) for construction and initial operation of activated carbon injection (ACI) systems to control mercury emissions at the EME Homer City Generating Station in Black Lick and Center Townships, **Indiana County**.

In accordance with 25 Pa. Code §§ 127.44—127.46, the Department of Environmental Protection (Department) intends to issue Air Quality Plan Approval: PA-32-00055G to allow the construction and initial operation of activated carbon injection (ACI) systems to control mercury emissions at the EME Homer City Generating Station located in Black Lick and Center Townships, **Indiana County**. ACI systems are to be installed upstream of the existing ESP's in the Boiler Units 1 and 2 exhaust streams. Air contamination sources proposed at the facility include two powdered activated carbon (PAC) storage silos and increased vehicle traffic within the plant from truck deliveries of PAC. Best available technology (BAT) for the proposed sources includes installation of bin vent filters on the silos and existing vehicle and roadway emission reduction practices in effect at the facility. BAT also includes the incorporation of opacity and fugitive emission limits, testing, monitoring, recordkeeping, and reporting requirements, and work practice standards from Title 25 of the Pennsylvania Code and as recommended by the ACI system manufacturer.

Potential emissions from the ACI system installation are calculated to be 1.43 tons of particulate matter (PM) and 0.40 tons of particulate matter less than 10/2.5 microns (PM10/PM2.5) per year. Once compliance with the Plan Approval is demonstrated, the applicant will subsequently revise their Title V Operating Permit (TVOP) renewal application if it is still pending or submit a TVOP administrative amendment application in accordance with 25 Pa. Code Subchapters F and G.

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 Alan Binder, 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 (PA-32-00055G).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

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

For additional information you may contact Alan Binder at 412-442-4168.

### OPERATING PERMITS

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**23-00037: Sunoco Partners Marketing & Terminals, LP—Fort Mifflin Terminal** (1801 Market Street, Philadelphia, PA 19103-1699) for renewal of the Title V Operating Permit in Tincicum Township, **Delaware County**. The current permit expires October 31, 2010. The facility is a marine terminal for loading and unloading tankers and barges containing various petroleum products. No changes have taken place at this facility that were not previously permitted. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The sources at this facility are not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**67-05042: Hanover Foods Corp.** (P. O. Box 334, Hanover, PA 17331) for their vegetable canning facility in Penn and Heidelberg Townships, **York County**. This is a renewal of a Title V Operating Permit issued in 2005 and amended in 2006.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00003: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Towanda, PA 18848-0311) for modification of a Title V Operating Permit, Inc. for their engineered wood products manufacturing facility in Wysox Township, **Bradford County**.

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (Department) intends to issue a significant modification of Title V Operating Permit to CraftMaster Manufacturing, Inc. for their engineered wood products manufacturing facility located in Wysox Township, Bradford County. The facility's major sources include a 273.2 mmBtu/hr natural gas/wood fired boiler, two lines of first and second stage fiber dryers, three hardboard presses, two natural gas fired tempering kilns, five coating lines, numerous woodworking operations (that is, sawing, sanding, planning, hogging, and the like) and wood fuel handling operations. The sources at the facility have the potential to emit major quantities of carbon monoxide (CO), particulate matter with an effective aerodynamic diameter less than 10 micrometers (PM10), nitrogen oxides (NOx), volatile organic compounds (VOCs) and hazardous air pollutants (HAPs). The facility emits sulfur oxides (SOx) below the major emission thresholds. The Title V operating permit includes compliance assurance monitoring (CAM) conditions as required in 40 CFR Part 64 and applicability conditions

for two maximum achievable control technology (MACT) rules, including, 40 CFR Part 63, Subpart QQQQ and 40 CFR Part 63, Subpart DDDD. Numerous compliance assurance monitoring CAM (40 CFR Part 64) conditions were revised for clarification and administrative purposes. The proposed Title V operating permit modification contains applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

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

**23-00092: Abbonizio Recycling Corp.** (2900 West Front Street, Chester, PA 19013) for renewal of a non-Title V, State-only Operating Permit in Chester Township, **Delaware County**. Abbonizio Recycling Corporation operates a 125 ton per hour, portable nonmetallic mineral crushing plant. There are no engines associated with the crusher. The only pollutant of concern is particulate matter (PM/PM10/PM2.5). This facility is categorized as a natural minor facility. The permit includes monitoring, recordkeeping and reporting requirements to address all applicable air quality requirements.

**46-00250: Parker Hannifin Corp.** (245 Township Line Road, Hatfield, PA 19440) for operation of a precision dental, medical, and industrial application manufacturing facility in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The major source of air emissions is one batch vapor degreaser that uses 1,1,2-Trichloroethylene as its solvent. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00110: Riverside Construction Materials, Inc.** (7900 North Radcliffe Street, Bristol, PA 19007) for renewal of the natural minor operating permit no. 09-00110 for the continued operation of their cement and bulk material handling processes in Bristol Township, **Bucks County**. There are no proposed changes to equipment or operating conditions. The Natural Minor Operating Permit will continue to contain monitoring, recordkeeping and operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

**54-00080: Hexcel Corp.** (P. O. Box 179, Pottsville, PA 17901-0179) for operation of a machined and heat treated parts cleaner at their facility in East Norwegian Township, **Schuylkill County**. This is a new State-only Operating Permit.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**06-05094: Reading Alloys, Inc.** (P. O. Box 53, Robesonia, PA 19551) for their specialty alloy manufacturing facility in South Heidelberg Township, **Berks County**. This is a renewal of a non-Title V (State-only) operating permit issued in 2005.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**49-00042: Catawissa Wood & Component, Inc.** (1015 West Valley Avenue, Elysburg, PA 17824) for their hardwood dimension mill in Ralpho Township, **Northumberland County**. The facility's main sources include two wood fired boilers, eight steam heated lumber drying kilns and wood working operation. The facility has the potential to emit sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), particulate matter with an aerodynamic diameter of 10 microns or less (PM10), volatile organic compounds (VOCs), and hazardous air pollutants (HAPs) below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

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

**11-00521: Fuel Recovery, Inc.** (254 Interpower Drive, Coler, PA 15927) to operate a portable vibrating screen and associated equipment to process coal refuse at Lilly Coal Refuse site in Washington Township, **Cambria County**.

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

**10-00319: Main Steel Polishing Co., Inc.** (6 Whiting Drive, Harmony, PA 16037) for re-issuance of a Natural Minor operating permit for the slitting and polishing of stainless steel coils in the Borough of Harmony, **Butler County**.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the applica-

tion is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

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

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

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

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

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated

with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

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

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

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

*Coal Applications Received*

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

<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 <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> The parameter is applicable at all times.



A settleable solids instantaneous maximum limit of 0.5 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.*

**30841316 and NPDES Permit No. PA0213535, Consol PA Coal Company, LLC**, (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill and Morris Townships, **Greene County** to amend 2,538.59 subsidence control plan area acres from development mining to longwall mining. Stream restoration will be performed, if necessary, due to impacts from longwall mining, to UNT 40565 to Browns Creek, UNT 40561 to Patterson Creek, and Patterson Creek. No additional discharges. Application received: June 4, 2010.

**32991301 and NPDES Permit No. PA0215228, AMFIRE Mining Company**, (One Energy Place, Latrobe, PA 15650), to revise the permit and related NPDES permit for the Nolo Deep Mine in Buffington Township, **Indiana County** for a new water treatment facility, dewatering borehole, and underground sludge disposal borehole, and new discharge point. Surface Acres Proposed 8.9. Receiving stream: Unnamed Tributary to Laurel Run, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Central Indiana Water Authority and intake Yellow Creek. Application received: May 6, 2010.

**56841612 and NPDES Permit No. PA0588491, Svonavec, Inc.**, (150 West Union Street, Suite 201, Somerset, PA 15501), to revise the permit for the Coal Preparation Plant No. 2 in Black Township, **Somerset County** to add blasting to the existing permit area. No additional discharges. Application received: July 22, 2010.

**30831303 and NPDES Permit No. PA0013511, Cumberland Coal Resources, LP**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit and related NPDES permit for the Cumberland Mine in Wayne Township, **Greene County** to install the No. 10 airshaft site and add NPDES Point 033. Surface Acres Proposed 17.3. Receiving stream: unnamed tributary to Roberts Run, classified for the following use: WWF. Application received: May 7, 2010.

**30831303 and NPDES Permit No. PA0588491, Cumberland Coal Resources, LP**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County** to install the No. 6 shaft dewatering pipeline. Surface Acres Proposed 2.9. No additional discharges. Application received: April 12, 2010.

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

**26040102 and NPDES Permit No. PA0250571, Amerikohl Mining, Inc.** (1384 SR 711, Stahlstown, PA 15687). Renewal application for reclamation only of a bituminous surface mine, located in Springfield Township, **Fayette County**, affecting 103 acres. Receiving streams: unnamed tributary to Indian Creek and Stony Run, classified for the following use: CWF. The potable water supply intake within 10 miles downstream from the point

of discharge: Indian Creek Valley Water Authority. Renewal application received: August 6, 2010.

**65890104 and NPDES Permit No. PA0591734, Coal Loaders, Inc.** (210 East Main Street, Ligonier, PA 15658). Application received for transfer of permit currently issued to Gary Gioia Coal Company for continued operation and reclamation of a bituminous surface/auger mining site located in South Huntingdon Township, **Westmoreland County**, affecting 92.5 acres. Receiving stream: unnamed tributary to Barren Run, classified for the following use: warm water fishes. There are no potable water supplies located within 10 miles downstream of the discharge from the site. Transfer application received: July 22, 2010.

**26000104 and NPDES Permit No. PA0202886, Patterson Coal Company** (20 Elizabeth Drive, Smithfield, PA 15478). Renewal application for reclamation only of an existing bituminous surface mine, located in German, Georges and South Union Townships, **Fayette County**, affecting 183.7 acres. Receiving streams: unnamed tributary to North Branch of Browns and Jennings Runs, classified for the following use: WWF. The potable water supply intake within 10 miles downstream from the point of discharge: Southwestern PA Water Authority. Renewal application received: August 9, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17990118 and NPDES No. PA0242730, Swisher Contracting, Inc.** (P. O. Box 1223, Clearfield, PA 16830). Renewal for reclamation only of an existing bituminous surface and auger permit located in Lawrence Township, **Clearfield County** affecting 121.4 acres. Receiving stream: Moose Creek classified for High Quality Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: July 30, 2010.

**17100110 and NPDES No. PA0257427, Allegheny Enterprises, Inc.** (P. O. Box 333, Curwensville, PA 16833). Commencement, operation and restoration of a bituminous surface mine located in Brady Township, **Clearfield County** affecting 28.0 acres. Receiving streams: Stump Creek to Mahoning Creek to the Allegheny River classified for cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: July 27, 2010.

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

**54733020T2 and NPDES Permit No. PA0012360, BET Associates IV, LLC** (P. O. Box 150, Tamaqua, PA 18252), transfer of an existing anthracite surface mine, coal refuse reprocessing, refuse disposal and coal preparation operation from Lehigh Coal and Navigation Company in Tamaqua, Coaldale, Lansford, Nesquehoning and Summit Hill Boroughs, **Schuylkill and Carbon Counties** affecting 7,596.4 acres, receiving stream: Little Schuylkill River. Application received: July 28, 2010.

#### *Noncoal Applications Received*

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



Parameter	Table 2 30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 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.

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

**26950401 and NPDES Permit No. PA0201294. Amerikohl Aggregates, Inc.** (202 Sunset Drive, Butler, PA 16001). NPDES renewal application for continued mining of a large noncoal surface mine, located in Springfield Township, **Fayette County**, affecting 570 acres. Receiving streams: unnamed tributaries to Clay and Buck Runs, classified for the following use: HQ-CWF. The potable water supply intake within 10 miles downstream from the point of discharge: Municipal Authority of Westmoreland County. Renewal application received: August 6, 2010.

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

**37050302. Quality Aggregates, Inc.** (4955 Steubenville Pike, Suite 245, Pittsburgh, PA 15205) Renewal of NPDES Permit No. PA0242632 in Slippery Rock Township, **Lawrence County**. Receiving streams: Unnamed tributaries to Slippery Rock Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Camp Allegheny. Application received: August 12, 2010.

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

**58920801. Flo Wester-Simon**, (R. R. 3, Box 82, Montrose, PA 18801), Stages I and II bond release of a quarry operation in Franklin Township, **Susquehanna County** affecting 5.0 acres on property owned by Flo Wester-Simon. Application received: August 9, 2010.

**58990815. PA Quarried Bluestone Company**, (8702 SR 92, South Gibson, PA 18842), Stages I and II bond release of a quarry operation in Franklin Township, **Susquehanna County** affecting 1.0 acre on property owned by Dennis Nota. Application received: August 9, 2010.

**58000824. Joseph M. Kovitch**, (P. O. Box 720, Hallstead, PA 18822), Stages I and II bond release of a quarry operation in Great Bend Township, **Susquehanna County** affecting 2.0 acres on property owned by Joseph M. Kovitch. Application received: August 11, 2010.

## 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 Depart-

ment 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: Watershed Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E09-947. Michael Amery**, 518 Lurgan Road, New Hope, PA 18938, New Hope Borough, **Bucks County**, ACOE Philadelphia District.

To modify, and maintain the existing structure within the 100-year floodplain of Delaware River (WWF, MF) by installation of two cantilevered decks which extend over the Canal.

The site is located approximately 2,000 feet southeast of South Main Street (SR 0032) and Windy Bush Road (Lambertville, PA USGS Quadrangle, N: 19.3 inches; W: 10.4 inches).

**E23-485. Agnes Irwin School**, South Ithan and Conestoga Roads, Rosemont, PA 19010, Radnor Township, **Delaware County**, ACOE Philadelphia District.

To construct and maintain a 7-foot wide by 2.3-foot rise concrete box culvert stream enclosure in and along the 100-year floodplain of Kirks Run associated with the Anger Irwin School's building expansion.

The site is located near the intersection of Ithan and Conestoga Roads (Norristown, PA USGS Quadrangle N: 5 inches; W: 14 inches).

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

**E48-410. Department of Transportation, Engineering District 5-0**, 1002 Hamilton Street, Allentown, PA 18103-1013, in City Bethlehem and Hellertown Borough, **Northampton County**, U.S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure; to construct and maintain a four-span, pre-stressed concrete, spread box beam bridge having a total normal span of 106 feet and a minimum underclearance of 11.3 feet over Saucon Creek (HQ-CWF, MF); and to construct and maintain various stormwater facilities within Saucon Creek. The project is associated with the SR 0412, Section 001 Improvement Project which includes the proposed widening and reconstruction of SR 0412 from the intersection of SR 0412 and High Street (Hellertown, PA Quadrangle Latitude: 40° 35' 25" N; Longitude: 75° 20' 24" W) in Hellertown Borough, Northampton County to the intersection of SR 0412 and Daley Street (Hellertown, PA Quadrangle Latitude: 40° 36' 42" N; Longitude: 75° 21' 09" W) in the City of Bethlehem, Northampton County.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E08-462. Appalachia Midstream Services, LLC**, 100 IST Center, Horseheads, NY 14845-1015. Welles No. 1 Gathering Line, in Terry Township, **Bradford County**, ACOE Baltimore District (Wyalusing, PA Quadrangle N: 41° 39' 13.5"; W: -76° 18' 38.4").

To construct and maintain: 1) six temporary stream crossings; 2) four utility line crossings of watercourses; and 3) 14 utility line crossings of wetlands, for streams and wetlands associated with North Branch Sugar Run, unnamed tributaries to Sugar and North Branch Sugar Runs with the western end of this linear project starting at the intersection of Scrib Meadow and Cross Roads. This project proposes to temporarily impact 33.42 linear feet of streams with temporary bridges, temporarily impact 0.641 acre of wetlands and permanently impact 0.554 acre of wetlands with utility line crossings in Cold Water Fishery streams and wetlands.

**E08-465. East Resources, Inc.**, 301 Brush Creek Road, Warrendale, PA 15086. Water Obstruction and Encroachment Joint Application, T-C Palmer/Castle Gathering Pipeline, in Canton Township, **Bradford County**, ACOE Baltimore District (Grover, PA Quadrangle N: 41° 37' 22.6"; W: 76° 50' 29.6").

To construct, operate and maintain 1.9 miles of 8" natural gas pipeline within the Towanda Creek watershed (Cold Water Fishery). Construction of the pipeline will require one stream and five wetland crossings. The project is centered south of SR 0154 approximately 2 miles southeast of the Village of Canton, in Bradford County.

**E41-611. Pennsylvania General Energy Company, LLC**, 120 Market Street, Warren, PA 16365. PGE Pine Creek Intake Project, in Watson Township, **Lycoming County**, ACOE Baltimore District (Waterville, PA Quadrangle N: 41° 15' 16"; W: -77° 19' 50").

To construct and maintain: 1) a temporary cofferdam; 2) one submerged wedge wire screen intake and bollards encased in 300 cubic feet of concrete within the streambed of Pine Creek; 3) 60 linear feet of 10-inch diameter pipe from the intake to the pump station; 4) one sunken 10-foot diameter pump station in the left 100-year floodplain of Pine Creek; 5) 110 linear feet of 8-inch diameter pipe from the pump station to the air burst building with temporary wetland impacts; 6) 410 linear feet of 8-inch diameter pipe from the metering chamber to the transfer station with temporary wetland impacts; 7) one 8-inch water pipeline under stream 1 by means of directional drilling; 8) one 8-inch water pipeline under stream 2 by means of directional drilling, with the intake located 2,266 feet west-northwest of the SR 44 / SR 973 intersection. The project proposes to result in: 1) 60 linear feet of temporary stream impacts; 2) 11 feet of permanent stream impacts; and 3) 0.28 acre of temporary wetland impacts in High Quality-Trout Stocked Fisheries.

**E41-612. Anadarko E & P Company, LP**, P. O. Box 1330, Houston, TX 77251. Source Water Withdrawal number PC-1N on Pine Creek, in Watson Township, **Lycoming County**, ACOE Baltimore District (Jersey Shore, PA Quadrangle Latitude: 41° 14' 51.1"; Longitude: 77° 19' 43.9").

The applicant is proposing a water withdrawal location on Pine Creek, which carries a water quality designation of High Quality-Trout Stocked Fishery. The proposed structure is intended to have the following associated structures: a submerged 72 inch diameter concrete manhole set 8.5 feet below grade along the stream bank, a 16 inch steel pipe extending from the bottom of the manhole 60 feet toward the center of the channel and attaching to an 18 inch steel pipe placed perpendicular to the 16 inch line and parallel to the flow. The pipe will have a length of 50 inches and submerged below the bed of the stream along with the 16 inch steel pipe, with the exception of 4 inches above bed on the 18 inch pipe and 2 inches above bed on the 16 inch pipe. The upstream end of the 18 inch pipe will have wedge wire screen attached to it to minimize fish impingement. The entire structure will be set in a bed of rip-rap that surrounds the steel pipes a minimum distance of 18 inches from the outside of the casing and shall replace the bed material with ASHTO number 1 rock. The permanent impact of the stream channel for the installation of the steel pipe structures is measured at 325 square feet and the proposed temporary impact is estimated at 8,990 square feet. Included with this application is the proposed 527 square feet of temporary wetland impacts associated with the access road for construction activities and installation of the 6 inch HDPE waterline that extends to the pump station located outside the floodplain.

**E49-311. Mount Carmel Area School District**, 600 West 5th Street, Mount Carmel, PA 17851. Field House, in Mount Carmel Township, **Northumberland County**, ACOE Baltimore District (Mount Carmel, PA Quadrangle Latitude: 40° 47' 43"; Longitude: 76° 25' 22").

The application proposes to construct a new field house, ticket booths, and an ADA ticket booth in the floodplain of Shamokin Creek. The total project proposes to impact 5, 425 square feet to replace the existing facilities. The existing facilities will remain in place and be utilized for

other needs by the School District. This project is located along the southeastern end of the existing track at the Mount Carmel High School.

**E59-498. Ultra Resources, Inc.**, 304 Inverness Way South, Englewood, CO 80112-5828. Water Obstruction and Encroachment Joint Application, PL-130 Marshlands Play Pipeline, in Gaines Township, **Tioga County**, ACOE Baltimore District (Marshlands, PA Quadrangle N: 41° 42' 31.4"; W: 77° 35' 48.3").

To construct, operate and maintain approximately 6,000 linear feet of 8" natural gas pipeline within the Babylon Run watershed (Exceptional Value Fishery, MF-Wild Trout). Construction of the pipeline will require one stream and two wetland crossings. The project is located along Babylon Road approximately 1 mile west of the intersection with SR 3001 outside the Village of Marshlands, Tioga County.

**E59-502. East Resources Management, LLC**, 190 Thorn Hill Road, Warrendale, PA 15086-7528. Lopatofsky Unit No. 287 Catlin Hollow, in Charleston Township, **Tioga County**, ACOE Baltimore District (Crooked Creek, PA Quadrangle Latitude: 41° 46' 25.1"; Longitude: 77° 14' 36").

The applicant proposes to construct two stream crossings. Crossing one is a bridge crossing on Catlin Hollow and crossing two is a Culvert crossing on an unnamed tributary to Catlin Hollow. Both streams carry a water quality designation of Trout Stocked Fishery. This project does not propose any wetland impacts.

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

**E33-242. Brockway Borough Municipal Authority**, 501 Main Street, Brockway, PA 15824, Rattlesnake WTP Wetland Crossing, in Snyder Township, **Jefferson County**, ACOE Pittsburgh District (Sabula, PA Quadrangle N: 41° 13' 36"; W: -78° 43' 34").

This project includes three water line crossings of a portion of wetlands hydraulically linked to Rattlesnake Creek which is designated HQ-CWF from source to Brockway Municipal Authority Dam and CWF from that point to mouth.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D15-414EA. Natural Lands Trust**, 449 Lucky Hill Road, West Chester, PA 19382. East Bradford Township, **Chester County**, ACOE Philadelphia District.

Project proposes to breach and remove Stroud Preserve Dam across a tributary to East Branch Brandywine Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 700 feet of stream channel. The dam is located approximately 3,650 feet southwest of the intersection of Strasburg (SR 162) and Brandywine Creek Roads (T550) (Unionville, PA Quadrangle Latitude: 39° 56' 53"; Longitude: -75° 39' 16").

**D55-044EA. Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. Shamokin Dam Borough, **Snyder County**, ACOE Baltimore District.

To construct and maintain a nature-like fish passage facility at the west abutment of the Adam T. Bower Memorial Dam located across the Susquehanna River (WWF) at a point approximately 400-feet south of SR 61 (Sunbury, PA Quadrangle N: 18.1"; W: 8.5", Latitude: 40° 51' 00"; Longitude: -76° 48' 40"). The project will permanently impact 1.80 acres of riverine habitat and temporarily impact 2.76 acres of riverine habitat.

## ACTIONS

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

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

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

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



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

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

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

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0021199 (Sewage)	Beaver Meadows Sewer Authority WWTP Plane Street Beaver Meadows, PA 18216-0247	Carbon County Banks Township	Beaver Creek 2-B CWF	Y
PA0064386 (Industrial Waste)	Permittee: Allentown Terminals Corporation P. O. Box 2621 Harrisburg, PA 17105-2621  Facility location: Allentown Petroleum Storage Terminal 1134 North Quebec Street Allentown, PA 18103-1609	Lehigh County Allentown City	Lehigh River 02C	Y
PA0061450 (Sewage)	Elmhurst Township Sewer Authority P. O. Box 204 Elmhurst, PA 18416-0204	Lackawanna County Elmhurst Township	Roaring Brook 05A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0063061 (Industrial Waste)	Ashland Area Municipal Authority 18 South 17th Street Ashland, PA 17921	Schuylkill County Butler Township	Unnamed Tributary to Little Mahanoy Creek 06B	N
PA0062201 Sewage	Schuylkill County Municipal Authority 221 South Centre Street Pottsville, PA 17901-3506	Gordon Borough Schuylkill County	Mahanoy Creek 06B	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0082864 (Sew)	Jesus Ministries, Inc. R. R. 1 Box 58-B Shirleysburg, PA 17260	Huntingdon County Cromwell Township	Brown's Gap Run 12-C	Y
PA0087793 (Sew)	United Water PA, Inc. 4211 East Park Circle Harrisburg, PA 17111-0151	Cumberland County Mechanicsburg Borough	Drainage swale to Trindle Spring Run 7-B	Y



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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PAS226103 Industrial Waste	Whetsell Lumber Company 118 Academy Drive Addison, PA 15411	Somerset County Addison Borough	UNT to Youghiogheny River	Y
PA0098396 Sewage	Oak Estates, Inc. 600 Laurelview Drive Mt. Pleasant, PA 15666	Fayette County Bullskin Township	UNT of Jacobs Creek	Y
PA0096903 Sewage	G & G Mobile Home Sales 23 Oakridge Heights Drive Oakdale, PA 15071	Washington County Robinson Township	UNT of Little Raccoon Creek	Y
PA0216470 Sewage	Children's Bible Ministries P. O. Box 378 Carmichaels, PA 15320-0378	Greene County Jefferson Township	UNT of Pumpkin Run	Y
PA0024589 Sewage	Leetsdale Borough Municipal Authority 5 Sixth Street Leetsdale, PA 15056	Allegheny County Leetsdale Borough	Ohio River	Y

**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**

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

**NPDES Permit No. PA0057720**, Industrial Waste, **Sunny Dell Foods, Inc.**, 214 South Mill Road, Kennett Square, PA 19348-3260. This proposed facility is located in Kennett Township, **Chester County**.

Description of Proposed Action/Activity: Approval for an NPDES permit renewal to discharge 0.072 mgd of process water from mushroom washing, blanching and cleanup from outfall 001 and 0.09 mgd of cooling water from can cooling from outfall 002 to an Unnamed Tributary to East Branch Red Clay Creek and West Branch Red Clay Creek in Watershed(s) 3-I.

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

**NPDES Permit No. PA 0020915**, Sewage, **Pine Grove Joint Treatment Authority**, 115 Mifflin Street, Pine Grove, PA 17963. This proposed facility is located in Pine Grove Township, **Schuylkill County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for the discharge of treated sewage.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3664.*

**PA0010031**, Industrial Waste, SIC 4911, **RRI Energy Mid Atlantic Power Holdings, LLC**, 121 Champion Way, Canonsburg, PA 15317-5817. This existing facility is located in Bradford Township, **Clearfield County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for existing discharges of noncontact cooling water, stormwater, stormwater induced overflows, treated sewage effluent and treated industrial wastewater.

The receiving stream, West Branch Susquehanna River, is in the State Water Plan watershed 8C and classified for: Warm Water Fishes, Migratory Fishes (WWF, MF). The nearest downstream public water supply intake for PA American Water Company is located on West Branch Susquehanna River is 150 miles below the point of discharge.

The proposed effluent limits for stormwater Outfalls 001—003, 010 and 012 based on a design flow of N/A MGD.

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH						Report
TSS						Report
Total Copper						Report
Total Nickel						Report
Total Zinc						Report
Dissolved Iron						Report
Oil and Grease						Report

The proposed effluent limits for coal pile runoff from greater than or equal to 10 year 24 hour storm event Outfall 009 based on a design flow of N/A MGD.

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
pH			6.0			9.0
TSS						Report

Parameter	Mass (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
Total Copper						Report
Total Nickel						Report
Total Zinc						Report
Dissolved Iron						Report
Oil and Grease						Report

The proposed effluent limits for stormwater induced overflows Outfalls 101, 102, and 201 based on a design flow of N/A MGD.

Parameter	Mass (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
pH			Report			Report
TSS				Report	Report	
Total Iron				Report	Report	
Total Manganese				Report	Report	
Total Aluminum				Report	Report	
Total Zinc				Report	Report	

The proposed effluent limits for treated sewage effluent Outfall 205 based on a design flow of 0.009 MGD.

Parameter	Mass (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
pH			6.0			9.0
CBOD <sub>5</sub>	1.9			25		50
TSS	2.3			30		60
Fecal Coliforms (5/1-9/30)				200		
(10/1-4/30)				2,000		
Total Residual Chlorine				1.0		3.3

The proposed effluent limits for treated industrial wastewater effluent Outfall 405 based on a design flow of 1.3 MGD.

Parameter	Mass Units (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
pH			6.0			9.0
TSS	325			30		50
Oil and Grease	163	217		15	20	30
Total Iron	20	39		1.8	3.6	4.5
Total Manganese	23	46		2.1	4.2	5.3
Total Aluminum	40	80		3.7	7.4	9.3
Total Zinc	3.3	6.5		0.3	0.6	0.8

The proposed effluent limits for noncontact cooling water Outfall 008 based on a design flow of 426 MGD permit effective date to permit effective date plus 3 years.

Parameter	Mass Units (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
Total Residual Chlorine						0.2
Temperature Intake F				Report	Report	
Temperature Discharge F				Report	Report	
Heat mmBtu/day*		Report				

The proposed effluent limits for noncontact cooling water Outfall 008 based on a design flow of 426 MGD permit effective date plus 3 years through permit expiration 25 Pa. Code § 92.55.

Parameter	Mass Units (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
Total Residual Chlorine						0.2
Temperature Intake F				Report	Report	
Temperature Discharge F				Report	Report	
Heat mmBtu/day* 1/1-1/31		11,039				
Heat mmBtu/day* 2/1-2/29		12,074				
Heat mmBtu/day* 3/1-3/31		28,977				
Heat mmBtu/day* 4/1-4/30		32,081				

Parameter	Mass Units (lbs/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily		Average Monthly	Daily Maximum	
Heat mmBtu/day* 5/1-5/15		21,112				
Heat mmBtu/day* 5/16-5/31		35,186				
Heat mmBtu/day* 6/1-6/30		26,907				
Heat mmBtu/day* 7/1-7/31		14,074				
Heat mmBtu/day* 8/1-8/31		12,557				
Heat mmBtu/day* 9/1-9/30		9,866				
Heat mmBtu/day* 10/1-10/31		9,935				
Heat mmBtu/day* 11/1-11/15		11,039				
Heat mmBtu/day* 11/16-11/30		8,831				
Heat mmBtu/day* 12/1-12/31		8,279				

\* MGD×8.34×(Average Daily Discharge Temperature F—Average Daily Intake Temperature F)

Part C Other Requirements:

I. Implementation Schedule for compliance with effluent limits and heated discharge limits: Million British Thermal Units per day (mmBtu/day), Maximum 110° F and the heated discharge can not raise the stream temperature 2° F in any 2 hour period.

II. Requires installation of closed cycle recirculating cooling or perform 316(b) intake physical and biological monitoring.

III. Defines stormwater outfalls.

IV. Regulates outfalls 004 and 011 and internal monitoring point 505 as spills.

V. Requires debris collected at the intake not to be returned to the waterways.

VI. Imposes no limitations for outfall 005.

VII. Requires no discharge of PCB.

VIII. Requires Department approval of chemical additives.

IX. Limits chlorination for 2 hour in any 24 hour period.

X. Stormwater requirements.

**PA0028681**, Sewage, SIC Code 4952, **Kelly Township Municipal Authority Union County**, 405 Winter Farm Lane, Lewisburg, PA 17837-6358. Facility Name: Kelly Township Municipal Authority Sewer System. This existing facility is located in Kelly Township, **Union County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to West Branch Susquehanna River, is located in State Water Plan watershed 10-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.75 MGD.

Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report Daily Maximum				
pH (S.U.)			6.0			9.0
Total Residual Chlorine				0.5		1.6
CBOD <sub>5</sub>	782	1,251		25	40	50
Total Suspended Solids	938	1,407		30	45	60
Fecal Coliform (CFU/100 ml)						
May 1-Sep 30				200		
Oct 1-Apr 30				Geometric Mean		
				2,000		
				Geometric Mean		

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.



<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Monthly</i>	<i>Annual</i>	<i>Minimum</i>	<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	68,492			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	9,132			

In addition, the permit contains the following major special conditions:

- I. Compliance schedule for PART A I.
- II. Chesapeake Bay Nutrient Requirements.
- III. Other Requirements:
  - A. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.
  - B. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.
  - C. Requires proper disposal of sludge.
  - D. Requires no direct discharge of storm water to the sanitary sewers.
  - E. Requires whole effluent toxicity test submission with next renewal application.
- IV. Requires operation and maintenance of a pretreatment program.
- V. Stormwater Requirements.
- VI. Requires management and reporting of biosolids within the treatment process.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

**PA0021881**, Sewage, SIC Code 4952, **Westfield Borough**, 429 East Main Street, Westfield, PA 16950-1610. Facility Name: Westfield Borough Wastewater Treatment Plant. This existing facility is located in Westfield Borough, **Tioga County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Cowanesque River, is located in State Water Plan watershed 4-A and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.247 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>			<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Maximum	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine	XXX	XXX	XXX	0.5	XXX	1.17
CBOD <sub>5</sub>						
May 1-Oct 31	21	31	XXX	10	15	20
Nov 1-Apr 30	41	62	XXX	20	30	40
Total Suspended Solids	62	93	XXX	30	45	60
Fecal Coliform (CFU/100 ml)						
May 1-Sep 30			200/100 ml as a Geometric Mean, nor greater than 1,000/100 ml in more than 10% of the samples tested			
Oct 1-Apr 30			2,000/100 ml as a Geometric Mean			
Ammonia-Nitrogen						
May 1-Oct 31	6.0	9.0	XXX	3.0	4.5	6.0
Nov 1-Apr 30	19	30	XXX	9.0	13.5	18
Total Phosphorus	4.1	6.2	XXX	2.0	3.0	4.0

The proposed effluent limits, identified as follows, are based on a design flow of 0.46 MGD. The proposed monitoring requirements and effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report	XXX	Report	XXX
Kjeldahl-N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen (Interim)	Report	Report	XXX	XXX	XXX
Net Total Nitrogen (Final)	Report	8,402	XXX	XXX	XXX
Net Total Phosphorus (Interim)	Report	Report	XXX	XXX	XXX
Net Total Phosphorus (Final)	Report	1,120	XXX	XXX	XXX

In addition, the permit contains the following major special conditions:

- I. Chesapeake Bay Schedule.
- II. Chesapeake Bay Nutrient Requirements.
- III. Other Requirements.
- IV. Solids Management.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

**PA0034576**, Sewage, SIC Code 4952, **Towanda Borough Municipal Authority Bradford County**, 724 Main Street, Towanda, PA 18848-1616. Facility Name: Towanda Municipal Authority. This existing facility is located in Towanda Borough, **Bradford County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Susquehanna River, is located in State Water Plan watershed 4-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.16 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report Daily Maximum				
pH (S.U.)			6.0			9.0
CBOD <sub>5</sub>	242	387		25	40	50
Total Suspended Solids	290	435		30	45	60
Fecal Coliform (CFU/100 ml)				200		
May 1-Sep 30				Geometric Mean		
Oct 1-Apr 30				2,000		
				Geometric Mean		
UV Intensity (%)			Report			
Total Copper					Report Daily Maximum	

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Minimum</i>	<i>Concentration (mg/l)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>
Ammonia-N	Report	Report		Report	
Kjeldahl-N	Report			Report	
Nitrate-Nitrite as N	Report			Report	
Total Nitrogen	Report	Report		Report	
Total Phosphorus	Report	Report		Report	
Net Total Nitrogen (Interim)	Report	Report			
Net Total Nitrogen (Final)	Report	21,187			
Net Total Phosphorus (Interim)	Report	Report			
Net Total Phosphorus (Final)	Report	2,825			

In addition, the permit contains the following major special conditions:

VII. Compliance schedule for PART A I.

VIII. Chesapeake Bay Nutrient Requirements.

IX. Other Requirements:

A. Requires the permittee to acquire easements to maintain and operate the sanitary sewers.

B. The right to require operation and/or construction changes, when necessary, to produce an acceptable discharge.

C. Requires proper disposal of sludge.

D. Requires no direct discharge of storm water to the sanitary sewers.

E. Requires whole effluent toxicity test submission with next renewal application.

X. Stormwater Requirements.

XI. Requires management and reporting of biosolids within the treatment process.

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA waiver is not in effect.

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

**NPDES Permit No. PA0263737**, Sewage, **Adam Shaw**, 260 Railway Lane, Clarendon, PA 16313. This proposed facility is located in Cherry Grove Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

### III. WQM Industrial Waste and Sewerage Actions 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. 0910201**, CAFO, **Operation Philadelphia Park**, 3001 Street Road, Bensalem, PA 19020. This proposed facility is located in Bensalem Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a manure storage facility for a 1,500 Animal Equivalent Unit.

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

**WQM Permit No. 2889426 (96-1)**, Sewage, **Snow Time, Inc., d/b/a Whitetail Mountain Operating Corp.**, 13805 Blairs Valley Road, Mercersburg, PA 17236. This proposed facility is located in Montgomery Township, **Franklin County**.

Description of Proposed Action/Activity: Permit approval for the transfer of sewerage facilities consisting of sewage treatment facilities for the Whitetail Resort, including a 0.1 MGD lagoon treatment unit and 2.6 MG storage lagoon; effluent is combined with fresh water at a 10:1 ratio of fresh water to effluent and used for snow making operations.

**WQM Permit No. 3609201**, CAFO, **Bion PA 1, LLC**, 1035 South Gaylord Street, Denver, CO 80209. This proposed facility is located in Penn Township, **Lancaster County**.

Description of Proposed Action/Activity: This experimental permit approves the construction/operation of manure treatment facilities using the Bion biological process consisting of a Waste Reception Basin for influent mixing, screw press for coarse solids separation, Bion bioreactor for nutrient/organic removal, decanter centrifuge and disc centrifuge for effluent polishing, and associated pumps, wet wells, heat exchange, and support buildings.

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

**WQM Permit No. WQG018761**, Sewerage, **Patricia Benninger**, 751 Saxonburg Road, Butler, PA 16002-0961. This proposed facility is located in Jefferson Township, **Butler County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility to serve this single family residence and apartment on about 1.5 acres and replaces a malfunctioning onlot system.

**WQM Permit No. 6210401**, Sewerage, **Adam Shaw**, 260 Railway Lane, Clarendon, PA 16313. This proposed facility is located in Cherry Grove Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

### IV. NPDES Stormwater Discharges from MS4 Permit Actions

### V. NPDES Waiver Stormwater Discharges from MS4 Actions

### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030608016-1	UGI LNG, Inc. One Meridian Boulevard Suite 2C01 Wyomissing, PA 19610	Berks	Ontelaunee Township	Willow Creek HQ-CWF
PAI030610001	Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18101	Berks	Ontelaunee Township	Willow Creek HQ-CWF

## VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

#### General Permit Type—PAG-2

##### Facility Location:

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Mahoning Township Carbon County	PAG2001304007R	Wal-Mart Real Estate Business Trust SWDC 2001 South East 10th Street Bentonville, AR 72716-0550	Mahoning Creek CWF, MF Lehigh River TSF, MF	Carbon County Conservation District 610-377-4894
Jenkins Township Luzerne County	PAG02004010004	Charles Manganiello 138 South Highland Drive Pittston, PA 18640	Gardner Creek CWF, MF	Luzerne County Conservation District 570-674-7991
Silver Spring Township Cumberland County	PAG2002110003	Mike Green Potters Mill Development, LP 4075 Market Street Camp Hill, PA 17011	Trindle Spring Run—Hogestown Run CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 717-240-7812



<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Greene Township Franklin County	PAG2002810017	Dale Welke SA Properties Rally Capital Services 350 North LaSalle Suite 100 Chicago, IL 60654	East Branch Conococheague Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 717-264-5499
Windsor Township York County	PAG2006703145-R	Dale Hevesey Gemcraft Homes 2205 Commerce Road Suite B Forrest Hill, MD 21050	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Hanover Borough York County	PAG2006710022	Richard J. Musselman 403 Moul Avenue Hanover, PA 17331	Oil Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402-8984 717-840-7430
Gettysburg Borough Adams County	PAG2000110014	Craig Long Gettysburg Hospital 2595 South George Street Suite 1 York, PA 17403	Stevens Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Newport Borough Perry County	PAG2035010008	Newport Borough Water Authority 231 Market Street Newport, PA 17074	Juniata River WWF	Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 717-582-5119
Franklin Township Columbia County	PAG2001910003	Michael Stauffer 335 Reiners School Road Tower City, PA 17980	Susquehanna River WWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310 Ext. 102
Town of Bloomsburg Columbia County	PAG2001910005	Rodney Fenstemacher Hill Bloomsburg Senior Care, Inc. One Trinity Drive East Suite 201 Dillsburg, PA 17019	UNTs of Fishing Creek CWF MF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310 Ext. 102
Lewisburg Borough Union County	PAG2006010006	Lewisburg Area Recreation Authority 629 Fairground Road Lewisburg, PA 17837	Limestone Run WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Beaver County Conway Borough	PAG02000410005	R. P. Russell, System Director Norfolk Southern Railway Company 1200 Peachtree Street North East Box 13 Atlanta, GA 30309	Ohio River WWF, N	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 724-378-1701

## NOTICES

5005

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Cambria County City of Johnstown	PAG02001110004	Johnstown Area Heritage Association 201 Sixth Street Johnstown, PA 15906	Little Conemaugh and Conemaugh Rivers WWF	Cambria County Conservation District 401 Candlelight Drive Suite 221 Ebensburg, PA 15931 814-472-2120
Greene County Perry and Dunkard Townships	PAG02003010005	AMD Reclamation, Inc. 306 Denis Run Road Morgantown, WV 26501	2 UNTs to Glade Run WWF	Greene County Conservation District 19 South Washington Street Waynesburg, PA 15370-2053 724-852-5278
Greene County Perry Township	PAG02003010006	AMD Reclamation, Inc. 306 Denis Run Road Morgantown, WV 26501	UNT to North Branch of Calvin Run, North Branch of Calvin Run and Watkins Run WWF	Greene County Conservation District 19 South Washington Street Waynesburg, PA 15370-2053 724-852-5278
Somerset County Summit Township	PAG02005610004	Ashland Construction Company 4601 Atlantic Avenue Raleigh, NC 27604	Miller Run CWF	Somerset County Conservation District 6024 Glade Pike Suite 103 Somerset, PA 15501 814-445-4352
Somerset County Stonycreek Township	PAG02005610005	PBS Coals, Inc. 1576 Stoystown Road Friedens, PA 15541	Miller Run CWF	Somerset County Conservation District 6024 Glade Pike Suite 103 Somerset, PA 15501 814-445-4352
Sandycreek Township Venango County	PAG02 0061 10 002	Game Commission 2001 Elmerton Avenue Harrisburg, PA 17110	Morrison Run WWF	Venango County Conservation District 814-676-2832
Foster Township Luzerne County	PAG2-1140-10-001	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790	Oley Creek CWF	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790 (570) 826-2371

*General Permit Type—PAG-4**Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Jefferson Township Butler County	PAG049593	Patricia Benninger 751 Saxonburg Road Butler, PA 16002-0961	Unnamed tributary of Thorn Creek 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-8*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Upper Allen Township Cumberland County	PAG083592	Upper Allen Township Wastewater Treatment Plant 100 Gettysburg Pike Mechanicsburg, PA 17055	Upper Allen Township Wastewater Treatment Plant	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
Lancaster Township Lancaster County	PAG083605	City of Lancaster Wastewater Treatment Plant 1220 New Danville Pike Lancaster, PA 17603	City of Lancaster Wastewater Treatment Plant	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
Broad Top Township Huntingdon County	PAG083593	Broad Top City Borough Sewage Treatment Plant P. O. Box 220 Broad Top City, PA 16621	Broad Top City Borough Sewage Treatment Plant	Broad Top City Borough Sewage Treatment Plant P. O. Box 220
Mahaffey Borough Waste Water Treatment Plant SR 219 Clearfield County Mahaffey Borough	PAG 08 4841	Mahaffey Borough Municipal Authority P. O. Box 202 Mahaffey, PA 15757	Mahaffey Borough Waste Water Treatment Plant SR 219 Mahaffey Borough Clearfield County	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
East Hanover Township Lebanon County East Hanover Township Dauphin County	PAG083519	West Hanover Township Authority 7901 Jonestown Road Harrisburg, PA 17112	Oellig Homestead Farm	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
East Hanover Township Dauphin County	PAG083519	West Hanover Township Authority 7901 Jonestown Road Harrisburg, PA 17112	Oellig Farmstead Farm	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707

*General Permit Type—PAG-9*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Southampton Township Franklin County	PAG093532T	Superior Septic Services, Inc., d/b/a Rosenberry's Septic Services 8885 Pineville Road Shippensburg, PA 17257	Southampton Township Franklin County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
Montgomery Township Franklin County	PAG093531	S.R. Daley Sons Septic Service P. O. Box 670 Greencastle, PA 17225	Montgomery Township Franklin County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707

General Permit Type-PAG-10

Facility Location:

Municipality & County	Permit No.	Applicant Name & Address	Receiving Water/Use	Contact Office & Phone No.
Cranberry Township Venango County	PAG108312	Tennessee Gas Pipeline Co. 1001 Louisiana Street Houston, TX 77002	Halls Run CWF	DEP—NWRO 230 Chestnut Street Meadville, PA 16335 814-332-6860

**STATE CONSERVATION COMMISSION**

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

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under the act of July 6, 2005 (Act 38 of 2005, 3 Pa.C.S. §§ 501—522) (hereinafter referred to as Act 38), for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits, or Notices of Intent 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.

Persons aggrieved by any action may appeal under section 517 of Act 38, 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 at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

**CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Paul Ebersol 4970 Sunset Pike Chambersburg, PA 17202	Franklin	234.6	93.5	Duck	NA	Approved

**PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may

be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

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



**Permit No. 4610513**, Public Water Supply.  
 Applicant **Aqua Pennsylvania, Inc.**  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Township Abington  
 County **Montgomery**  
 Type of Facility PWS  
 Consulting Engineer Aqua Pennsylvania, Inc.  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Permit to Construct Issued: May 20, 2010

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

**Permit No. 3610501**, Public Water Supply.  
 Applicant **Paul Lantz Builders, Inc.**  
 Municipality Bart Township  
 County **Lancaster**  
 Responsible Official Paul L. Lantz, President  
 140 Strubel Road  
 Strasburg, PA 17579  
 Type of Facility New Community Water System  
 for Villas at Georgetown  
 Consulting Engineer Charles A. Kehew, II, P. E.  
 James A. Holley &  
 Associates, Inc.  
 18 South George Street  
 York, PA 17401  
 Permit to Construct Issued: 8/13/2010

**Permit No. 6710505 MA, Minor Amendment**, Public Water Supply.

Applicant **United Water Pennsylvania**  
 Municipality Newberry Township  
 County **York**  
 Responsible Official John D. Hollenbach  
 Vice President  
 4211 East Park Circle  
 Harrisburg, PA 17111-0151  
 Type of Facility Installation of a chlorine contact  
 tank for 4-log virus inactivation.  
 Consulting Engineer Steven Metzler, P. E.  
 United Water Pennsylvania  
 4211 East Park Circle  
 Harrisburg, PA 17111  
 Permit to Construct Issued: 8/13/2010

**Permit No. 3610523 MA, Minor Amendment**, Public Water Supply.

Applicant **Municipal Authority of the  
 Township of East Hempfield**  
 Municipality East Hempfield Township  
 County **Lancaster**  
 Responsible Official Steve Gohn, Superintendent  
 920 Church Street  
 P. O. Box 97  
 Landisville, PA 17538-0097

Type of Facility Installation of chlorine contact  
 piping and demonstration of  
 4-log treatment of viruses.  
 Consulting Engineer Peng Chen, P. E.  
 ARRO Consulting, Inc.  
 270 Granite Run Drive  
 Lancaster, PA 17601-6804  
 Permit to Construct Issued: 8/13/2010

**Operations Permit** issued to **Mount Joy Borough Authority**, 7360091, Mount Joy and East Donegal Townships, **Lancaster County** on 8/10/2010 for the operation of facilities approved under Construction Permit No. 3603507.

**Operations Permit** issued to **Western Heights Water Authority**, 7360132, Earl Township, **Lancaster County** on 8/11/2010 for the operation of facilities approved under Construction Permit No. 3610525 MA.

**Operations Permit** issued to **West Earl Water Authority**, 7360143, West Earl Township, **Lancaster County** on 8/11/2010 for the operation of facilities approved under Construction Permit No. 3610529 MA.

**Operations Permit** issued to **United Water Pennsylvania**, 7670061, Newberry Township, **York County** on 8/13/2010 for the operation of facilities approved under Construction Permit No. 6710509 MA.

**Operations Permit** issued to **View Mountain Park, LLC**, 7210061, Silver Spring Township, **Cumberland County** on 8/13/2010 for the operation of facilities approved under Construction Permit No. 7210060.

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

**Permit No. MA (5989508-T1)—Construction**, Public Water Supply.

Applicant **Pleasant Village Mobile Home Park**  
 Township or Borough Putnam Township  
 County **Tioga**  
 Responsible Official Michael S. Geiser, Member  
 Effective MHP, LLC  
 Pleasant Village  
 Mobile Home Park  
 3215 Stein Lane  
 Lewisburg, PA 17837  
 Type of Facility Public Water Supply—  
 Construction  
 Consulting Engineer William S. Bray, P. E.  
 P. O. Box 535  
 Wellsboro, PA 16901

Permit Issued Date August 12, 2010  
 Description of Action Installation of the proposed  
 2,500 gallon finished water  
 storage tank and booster pump  
 at the Pleasant Village MHP,  
 along with construction of the  
 new overall building to contain  
 and protect the water treatment  
 and storage equipment.

**Permit No. Minor Amendment—Operation, Public Water Supply.**

Applicant **Muncy Borough Municipal Authority**

Township or Borough Muncy Borough

County **Lycoming**

Responsible Official Gary L. Saam  
Muncy Borough  
Municipal Authority  
P. O. Box 201  
Muncy, PA 17756

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date August 12, 2010

Description of Action 4-log inactivation of viruses at Entry Point 101 (Well No. 5-Springman), Entry Point 102 (Well No. 6-Agler), Entry Point 103 (Well No. 7-Cemetery), and Entry Point 104 (Well No. 8-Pfleegor).

Responsible Official Christopher D. Landes  
Roulett Township  
80 Railroad Avenue  
P. O. Box 253  
Roulette, PA 16746

Type of Facility Public Water Supply—Operation

Consulting Engineer Dale Sorensen, P. E.  
Northwest Engineering, Inc.  
P. O. Box Q  
Tidioute, PA 16351

Permit Issued Date August 13, 2010

Description of Action Installation of 144 feet of 24-inch detention piping to provide 4-log treatment of viruses of Well No. 4 water. Verification of existing 4-log treatment of viruses of Well No. 7 water.

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

**Permit No. 5604502A1, Public Water Supply.****Permit No. Minor Amendment—Operation, Public Water Supply.**

Applicant **New Berlin Municipal Authority**

Township or Borough New Berlin Borough

County **Union**

Responsible Official Todd M. Mace  
New Berlin Municipal Authority  
710 Water Street  
P. O. Box 473  
New Berlin, PA 17855

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date August 13, 2010

Description of Action 4-log inactivation of viruses at Entry Point 101 (Well Nos. 6 and 7).

Applicant **Somerset County General Authority**  
146 West Main Street  
Somerset, PA 15501

Borough or Township Jenner Township

County **Somerset**

Type of Facility Water treatment system

Consulting Engineer CME Management, LP  
165 East Union Street  
Suite 100  
Somerset, PA 15501

Permit to Construct Issued August 13, 2010

**Operations Permit** issued to **H2O To Go**, 12 East Elizabeth Street, P. O. Box 661, Maytown, PA 17550, (PWSID No. 5326575) **Indiana County** on August 13, 2010, for the operation of facilities approved under Permit No. 5326575.

**Operations Permit** issued to **Wilksburg-Penn Joint Water Authority**, 2200 Robinson Boulevard, Pittsburgh, PA 15221, (PWSID No. 5020056) Wilksburg Borough, **Allegheny County** on August 13, 2010, for the operation of facilities approved under Permit No. 0298501C3.

**Operations Permit** issued to **East Taylor Municipal Authority**, 403 Donruth Lane, Johnstown, PA 15909, (PWSID No. 4110043) **Indiana County** on August 13, 2010, for the operation of facilities approved under Construction Permit No. 1108501.

**Operations Permit** issued to **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Suite 200, Moon Township, PA 15108, (PWSID No. 5020011) Moon Township, **Allegheny County** on August 16, 2010, for the operation of facilities approved under Construction Permit No. 0209509.

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

**Permit No. 3709504, Public Water Supply.****Permit No. Minor Amendment—Operation, Public Water Supply.**

Applicant **PA American Water Company**

Township or Borough Walker Township

County **Centre**

Responsible Official Scott L. Sharp  
PA American Water Company  
P. O. Box 707  
Philipsburg, PA 16866

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date August 13, 2010

Description of Action 4-log inactivation of viruses at Entry Point 101 (Well No. 1).

**Permit No. Minor Amendment—Construction, Public Water Supply.**

Applicant **Roulett Township**

Township or Borough Roulett Township

County **Potter**

Applicant	<b>PA American Water Company Ellwood</b>
Township or Borough	Wayne Township
County	<b>Lawrence County</b>
Type of Facility	Public Water Supply
Consulting Engineer	Scott Armbrust
Permit to Construct Issued	08/13/2010

## **HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988**

### **Notice of Prompt Interim Response**

#### **Port Richmond Gate Site, Philadelphia County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act, 35 P. S. §§ 6020.101—6020.1305 (HSCA), is proposing a Prompt Interim Response at the Port Richmond Gate Site (Site) in Philadelphia County, PA.

The Department, under the authority of HSCA, is conducting an investigation of the Site. The Site is the former location of a railroad car staging area that has since been developed and consists of 58 homes bounded by E. Tioga, Edgemont, Venango and Thompson Streets in the Port Richmond section of Philadelphia. This investigation consists of soil sampling over the entire Site along with a Human Health Risk Assessment.

To address the hazardous substances at the Site, and potential threats to human health and the environment, the Department proposes a response action that may include limited soil removal and/or capping, and environmental covenants to restrict certain future land uses of the properties under Sections 501(a) of HSCA, 35 P. S. § 6020.501(a). This proposed alternative complies with Applicable, Relevant and Appropriate Requirements (ARARs) and is feasible and cost-effective. Another possible alternative is no action.

An Administrative Record, which contains more detailed information concerning this proposed response action, is available for public inspection. The Administrative Record may be examined from 8 a.m. until 4 p.m. at the Department's office at 2 East Main Street, Norristown PA 19401. Those interested in examining the Administrative Record should contact Charles Clark at (484) 250-5731 or chaclark@state.pa.us to arrange for an appointment. An additional copy of the Administrative Record is available for review at Philadelphia Free Library—Richmond Branch, 2987 Almond Street, Philadelphia, PA 19134-4955, (215) 685-9992.

Under section 506(d) of HSCA, 35 P. S. § 6020.506(d), the Department shall conduct a public hearing on October 6, 2010, at 7 p.m. at the Grace Church and the Incarnation, 2645 East Venango Street, Philadelphia, PA 19134. Anyone who would like to present formal oral comments regarding this Prompt Interim Response may do so by registering with Department's Community Relations Coordinator Lynda Rebarchak, at (484) 250-5820.

Any person with a disability who wishes to attend the public hearing and will require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Lynda Rebarchak at the telephone number listed above or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs. The public

may also submit written comments regarding the Department's proposed Interim Response action during the period of public comment. In accordance with section 506(c) of HSCA, 35 P. S. § 6020.506(c), the Department has established a period for public comment that is now open until close of business November 12, 2010. Written comments should be addressed to Charles Clark, Project Officer, Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

Anyone with questions regarding this notice should contact Charles Clark at (484) 250-5731 or chaclark@state.pa.us.

## **LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

### **UNDER ACT 2, 1995**

#### **PREAMBLE 2**

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**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Pottstown Industrial Complex—Lot 10**, Borough of Pottstown, **Montgomery County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, Walter H. Hungarter, III, RT Environ-



mental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Jay Bown, Pottstown Industrial Complex, LP, P. O. Box 128, Amber, PA 19002 has submitted a Remedial Investigation/Cleanup Plan Report concerning remediation of site groundwater and soil contaminated with chlorinated solvents. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

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

**SICO—Mount Joy Upper Rack**, Mount Joy Borough, Lancaster County. Onesky Engineering, Inc., 444 Creamery Way, Suite 300, Exton, PA 19341, on behalf of The SICO Company/The Clarence Schock Foundation, 15 Mount Joy Street, P. O. Box 127, Mount Joy, PA 17552, submitted a Final Report concerning remediation of site soils and groundwater contaminated with petroleum products. The Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

**Matthew Gartside Property**, Rapho Township, Lancaster County. GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543, on behalf of Matthew Gartside, 238 Fairview Road, Manheim, PA 17545, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil released from an aboveground storage tank. The Report, which was submitted within 90 days of the release, 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.*

**Bolton Metal Products formerly Cerro Metal Products—Plant 1**, Spring Township, Centre County. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of The Marmon Group, LLC, 181 West Madison Street, Chicago, IL 60602 has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with trichloroethylene (TCE) that contained polychlorinated biphenyls (PCBs) Aroclor 1248. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Ralph Moyle, Inc. Accident**. Hemlock Township, Columbia County. Minuteman Spill Response, Inc., P. O. Box 10, Mifflinville, PA 18631 on behalf of Ralph Moyle, Ralph Moyle Trucking, P. O. Box 248, Mattawan, MI 47071 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Hoyt's Fuel Service Petroleum Release/Geffken Residence**, Sugarloaf Township, Columbia County. Global Environmental Management, 416 Anthony Street, Carnegie, PA 15106 on behalf of Hoyt's Fuel Service, 965 Broadway Road, Shickshinny, PA 18655-3839 has submitted a Final Report concerning Remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Pennzoil Rouseville Refinery—Plant 2**, Cornplanter Township, Venango County. URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, MD 20878

has submitted a Risk Assessment and Final Report concerning remediation of site soil contaminated with 1,1,2,2-Tetrachloroethane, 1,2,3-Trichloropropane, 1,2,4-Trimethylbenzene, 1,2-Dichloroethene (total), 1,3,5-Trimethylbenzene, 2-Butanone (MEK), 4-Isopropyltoluene, 4-Methyl-2-pentanone, Acetone, Benzene, Chlorobenzene, cis-1,3-Dichloropropene, Cumene, Methyl tert-butyl ether, Methylene chloride, Naphthalene, n-Butylbenzene, n-propylbenzene, tert-Butylbenzene, Toluene, trans-1,3-Dichloropropene, Total Xylenes, 2,4-Dimethylphenol, 2,4-Dinitrophenol, 2-Methylnaphthalene, 2-Methylphenol, 3 and 4-Methylphenol, Acenaphthene, Acenaphthylene, Anthracene, Benz[a]anthracene, Benz[a]pyrene, Benzo[b]fluoranthene, Benzo[g,h,i]perylene, Benzo[k]fluoranthene, Benzoic Acid, Bis[2-ethylexyl]phthalate, Butyl benzyl phthalate, Chrysene, Dibenz[a,h]anthracene, Dibenzofuran, Di-n-butyl phthalate, Fluoroanthene, Fluorene, Indeno[1,2,3-cd]pyrene, Naphthalene, Nitrobenzene, N-Nitrosodiphenylamine, Phenanthrene, Phenol, Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cobalt, Copper, Iron, Lead, Mercury, Nickel, Selenium, Silver, Tin, Vanadium, and Zinc; site groundwater contaminated with 1,2,3-Trichloropropane, 1,2,4-Trimethylbenzene, 1,2-Dichloroethane, 1,2-Dichloroethene (total), 1,3,5-Trimethylbenzene, 2-Butanone (MEK), 2-Hexanone, 4-Isopropyltoluene, 4-Methyl-2-pentanone, Acetone, Benzene, Carbon disulfide, Chloroethane, Chloromethane, cis-1,2-Dichloroethene, Cumene, Ethylbenzene, Methylene chloride, Methyl tert-butyl ether, Naphthalene, n-Butylbenzene, sec-Butylbenzene, Styrene, tert-Butylbenzene, Toluene, Total Xylenes, 2,4-Dimethylphenol, 2-Methylnaphthalene, 2-Methylphenol, 3 and 4-Methylphenol, Acenaphthene, Acenaphthylene, Anthracene, Benzo[a]anthracene, Benzo[a]pyrene, Benzo[b]fluoranthene, Benzo[g,h,i]perylene, Benzo[k]fluoranthene, Benzoic Acid, Bis[2-ethylhexyl]phthalate, Chrysene, Dibenz[a,h]anthracene, Dibenzofuran, Di-n-octyl phthalate, Fluoroanthene, Fluorene, Indeno[1,2,3-cd]pyrene, Pentachlorophenol, Phenanthrene, Phenol, Pyrene, and Dissolved and Totals for the following metals: Antimony, Arsenic, Barium, Beryllium, Boron, Cadmium, Chromium, Cobalt, Copper, Iron, Lead, Manganese, Mercury, Nickel, Selenium, Silver, Thallium, Tin, Vanadium, and Zinc. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of



concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**2501 South Street**, City of Philadelphia, **Philadelphia County**. Jeremy W. Boly, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 on behalf of Charles Loomis, The Philadelphia School, 2501 Lombard Street, Philadelphia, PA 19146 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 3, 2010.

**15 Red Rose Drive**, Middletown Township **Bucks County**. Staci Cottone, J&J Spill Service Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 3, 2010.

**Goodwin Residence**, Bristol Township **Bucks County**. Charles Burger, Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Dorothy Goodwin, 26 Ring Lane, Levittown, PA 19055 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report

demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 30, 2010.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**LTV Southside Parcel D3**, City of Pittsburgh, **Allegheny County**. Martin C. Knuth, Civil and Environmental Consultants, Inc. on behalf of the Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA and Hot Metal Street Hospitality Assoc., LP, has submitted a Final Report concerning remediation of site soils on Parcel E2a of the Southside Works mixed use development that is contaminated with metals, volatiles and semi-volatiles. The Report Final was noticed in the *Pittsburgh Post-Gazette* on July 15, 2010.

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

**BEO Services Group, Inc.** I80 MM 194 Accident, Green Township, **Clinton County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of BEO Services Group, Inc., 5700 Glen Rose Highway, Granbury, TX 76048 has submitted within 90 days of the release a Final Report concerning remediation of site soil contaminated with motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 12, 2010.

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

**ITT Water & Wastewater—Leopold (Former F. B. Leopold Company, Inc.)**, Zelenople Borough, **Butler County**. AECOM, 4 Neshaminy Interplex, Suite 300, Trevoise, PA 19053 on behalf of ITT Water and Wastewater, 227 South Division Street, Zelenople, PA 16063 has submitted a Final Report concerning the remediation of site soil contaminated with mercury. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 13, 2010.

**New Castle Refractories**, City of New Castle, **Lawrence County**. INTEX Environmental Group, Inc., 6205 Easton Road, Pipersville, PA 18947 on behalf of Dixon Ticonderoga Company, 195 International Parkway, Heathrow, FL 32746 has submitted a Final Report concerning the remediation of site soils contaminated with Lead and site groundwater contaminated with Arsenic, Bis[2-ethylhexyl] phthalate, Lead, and Thallium. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 13, 2010.

#### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Determination of Applicability for General Permit issued 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.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR081D022. AAA Recycle Management, LLC**, 40 Third Street, Walnutport, PA 18088.

The general permit WMGR081D022 is for the processing (that is, sizing, shaping, separating, and volume reduction only) of e-waste (that is, damaged, obsolete, and/or reusable electronic devices) prior to reuse or recycling. The processing operation will be conducted at the AAA Recycle Management, LLC facility, located in Walnutport Borough, **Northampton County**. Central Office approved the determination of applicability on August 13, 2010.

Persons interested in reviewing the general permit may contact C. D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

**General Permit No. WMGR028D018A. Wilson Paving, Inc.**, 480 West Old York Road, Carlisle, PA 17013-7503.

General Permit Number WMGR028D018A is for the beneficial use of baghouse fines and scrubber pond precipitates, generated at Wilson Paving Batch Asphalt plant, located in South Middleton Township, **Cumberland County**, PA, as: (1) a soil additive; (2) a soil conditioner; (3) a component or ingredient in the manufacturing of construction products; and (4) an aggregate in roadway construction. Central Office approved the determination of applicability on August 13, 2010.

Persons interested in reviewing the general permit may contact C. D. Vu, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit No. 101549. Bucks County Resource Recovery, Inc.**, 701 Penn Avenue, Marcus Hook, PA 19061, Marcus Hook Borough, **Delaware County**. This permit was issued to allow for the short-term, continued operation of the Bucks County Resource Recovery, an infectious waste processing facility, during the review of the facility's 10-year renewal application. The permit was issued by the Southeast Regional Office on August 10, 2010.

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. 100329. Lake View Landfill**, 851 Robison Road East, Erie, PA 16509, Summit Township, **Erie County**. The application was for a major

permit modification increasing the amount of disposal area, known as the Southern Expansion, at Lake View Landfill. The permit was issued by the Northwest Regional Office on August 13, 2010.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP3-46-0087: Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skippack, PA 19474) On August 12, 2010, to operate a portable nonmetallic mineral processing plant in East Norriton Township, **Montgomery County**.

**GP9-46-0043: Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skippack, PA 19474) On August 12, 2010, to operate diesel-fired internal combustion engines in East Norriton Township, **Montgomery County**.

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

**58-310-034GP3: Powers Stone, Inc.** (R. R. 5, Box 124, Montrose, PA 18801) on July 7, 2010, to construct and operate a portable crushing operation with watersprays at their Montrose Quarry site in Bridgewater Township, **Susquehanna County**.

**54-399-048GP19: Fabcon East, LLC** (1200 Morea Road, Mahanoy City, PA 17984) on August 12, 2010, to install and operate a Dry Abrasive Blasting Operation at their site in Mahanoy City, **Schuylkill County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**GP9-2-21-03051: Valley Quarries, Inc.** (P. O. Box 2009, Chambersburg, PA 17201) on August 10, 2010, for a diesel internal combustion engine at their Mt. Cydonia III Quarry in Southampton Township, **Cumberland County**. This is a renewal of the General Permit.

**GP3-2-21-03051: Valley Quarries, Inc.** (P. O. Box 2009, Chambersburg, PA 17201) on August 10, 2010, for an Extec 56 portable screen at their Mt. Cydonia III Quarry in Southampton Township, **Cumberland County**. This is a renewal of the General Permit.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact: Barb Hatch, Environmental Engineer Managers—Telephone: 412-442-4163/5226.*

**GP5-30-00193: CNX Gas Co., LLC** (200 Evergreen Drive, Waynesburg, PA 15370) on August 11, 2010, to construct and operate three natural gas compressor engines (1,340 bhp) at their Lightner Run Compressor Station located in Center Township, **Greene County**.



**GP5-30-00180A: CNX Gas Co., LLC** (200 Evergreen Drive, Waynesburg, PA 15370) on August 11, 2010, to install and operate three Caterpillar G3516 LE compressor engines each rated at 1,340 bhp-hr equipped with catalyst at their GH6/Rush Run Compressor Station at Center Township, **Greene County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**GP2-42-004D: American Refining Group, Inc.** (77 North Kendall Avenue, Bradford, PA 16701) on August 5, 2010, for storage tanks for volatile organic liquids (BAQ-GPA/GP-2) in City of Bradford, **McKean County**.

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**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**18-315-001E: First Quality Tissue, LLC** (904 Woods Avenue, Lock Haven, PA 17745-3348) on July 21, 2010, to modify a paper towel and tissue manufacturing operation to lower the facility's carbon monoxide emission limitations at the Castanea Township, **Clinton County** facility.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**25-920D: Waste Management of Pennsylvania, Inc.—Lakeview Landfill** (851 Robison Road East, Erie, PA 16509) on August 12, 2010, to construct a landfill expansion and to increase carbon monoxide emissions limits associated with existing landfill gas-fired engines at their facility in Summit Township, **Erie County**. This is a Title V facility.

**33-055C: Glen-Gery Corp.** (P. O. Box 68, Route 28, Summerville, PA 15864) on July 27, 2010, to modify emission limits from the tunnel kiln at the Hanley facility on Route 28 in Summerville Borough, **Jefferson County**. This is a Title V facility.

**42-028B: Saint-Gobain** (1 Railroad Avenue, Port Allegany, PA 16743) on August 10, 2010, to rebrick and install an Oxygen Enriched Air Staging System on Furnace No. 1 at their container glass manufacturing facility in Port Allegany Borough, **McKean County**. This is a Title V facility, Permit No. 42-00028.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**09-0206: Samax Enterprises—Morrisville** (1001 New Ford Mill Road, Morrisville, PA 19067) on August 5, 2010, to operate a paint remover manufacturing process in Falls Township, **Bucks County**.

**09-0024F: Waste Management of PA, Inc.** (1000 New Ford Mill Road, Morrisville, PA 19067) on August 11, 2010, to operate a landfill gas collection and treatment system in Falls Township, **Bucks County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00003H: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on August 3, 2010, to extend the authorization to exhaust the cavity steam from the Line 2 Press (Source ID 172P) to regenerative thermal oxidizer (RTO, ID C142) on a temporary basis to February 16, 2011, at the facility in Wysox Township, **Bradford County**. The plan approval has been extended.

**49-00060A: Corson Asphalt, Inc.** (26 Beaver Street, Cogan Station, PA 17728) on August 10, 2010, to extend the authorization to operate a batch mix asphalt plant on a temporary basis until January 2, 2011, and to extend the required nitrogen oxides, carbon monoxide, particulate matter, and volatile organic compound stack testing until January 2, 2011, at their facility located in Ralpho Township, **Northumberland County**. The plan approval has been extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**10-359A: Keystone Midstream Services, LLC—Sarsen Plant** (476 Rolling Ridge Drive, Suite 300, State College, PA 16801) on July 31, 2010, to install a natural gas stripping plant at their facility in Forward Township, **Butler County**.

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

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**36-05026: R. R. Donnelley & Sons Co.—West** (1375 Harrisburg Pike, Lancaster, PA 17601-2612) on August 10, 2010, for their Lancaster West printing facility in Lancaster City, **Lancaster County**. This is a renewal of the Title V Operating Permit.

**36-05027: R. R. Donnelley & Sons Co.—East** (216 Greenfield Road, Lancaster, PA 17601-5885) on August 10, 2010, for their Lancaster East printing facility in Lancaster City, **Lancaster County**. This is a renewal of the Title V Operating Permit.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**23-00098: SAP America, Inc.** (3999 West Chester Pike, Newtown Square, PA 19073) on August 16, 2010, to operate boilers, emergency generators, and a water heater at the Newtown Square office building in Newtown Township, **Delaware County**. The renewal permit is for a non-Title V (State-only) facility. NOx emissions are electively capped to less than 25 tons per year; therefore the facility is a Synthetic Minor. The renewal incorporates the applicable requirements of New Source Performance Standards 40 CFR Part 60, Subpart IV for the 600-kW emergency generator (Source ID 102) and also updates the permit contact to James Dodd, Facilities Manager (from James Clark, VO Global Facility Management). The renewal permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**39-00020: Lehigh Valley Hospital—South Cedar Crest** (1628 West Chew Street, School of Nursing, Allentown, PA 18102) on August 12, 2010, for a General Medical and Surgical Hospitals facility in Salisbury Township, **Lehigh County**. This is a new State-only Synthetic Minor operating permit for this facility. The State-only operating permit includes emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00032: Talisman Energy USA, Inc.** (337 Daniel Zenker Drive, Horseheads, NY 14845) on August 13, 2010, for operation of their Thomas Compressor Station in Troy Township, **Bradford County**. The State-only (Synthetic Minor) operating permit contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulatory requirements.

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

**03-00148: Altmeyer Stable and Farm—Kittanning** (119 Altmeyer Drive, Kittanning, PA 16201) on August 16, 2010, to re-issue the Natural Minor Operating Permit for operation of the facility's air contamination source consisting of one 120 lb/hr animal crematory incinerator, Shenandoah P25-2G natural gas-fired rated at 425 mBtu/hr primary chamber and 800 mBtu/hr secondary chamber in Plumcreek Township, **Armstrong County**. The facility is limited to 0.1 gr/dcsf particulate matter corrected to 12% oxygen and 500 ppmv sulfur oxides per requirements of the SIP. The permit includes emission, restrictions, operation requirements, monitoring requirements, and recordkeeping requirements for the facility and is a State-only Renewal.

**04-00673: Lacock Cremation Service, Inc.—Rochester** (2 Chester Way, Rochester, PA 15074) on August 16, 2010, to re-issue the Natural Minor Operating Permit for operation of the facility's air contamination source consisting of one 100 lb/hr human crematory incinerator, Power-Pak II natural gas-fired rated at 750 mBtu/hr primary chamber and 1.2 mmBtu/hr secondary chamber in East Rochester Borough, **Beaver County**. The facility is limited to 0.08 gr/dcsf particulate matter corrected to 7% oxygen and 500 ppmv sulfur oxides. The permit includes emission, restrictions, operation requirements, monitoring requirements, and recordkeeping requirements for the facility and is a State-only Renewal.

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**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.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact: Thomas J. Hanlon, Chief, East Permitting Section—Telephone: 717-705-4862 or Daniel Husted, Chief, West Permitting Section—Telephone: 814-949-7935.*

**22-05034: Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17104-1645) on August 10, 2010, for the pulverized mineral processing operation and batch asphalt plant at their Hummelstown Quarry in South Hanover Township, **Dauphin County**. This is an administrative amendment of the permit to incorporate Plan Approval Nos. 22-05034C, 22-05034E and 22-05034F.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-313-042C: Global Tungsten & Powders, Corp.** (Hawes Street, Towanda, PA 18848-0504) issued minor modification operating permit on August 10, 2010, for their facility located in North Towanda Township, **Bradford County**. This operating permit revision is for the construction and operation of new equipment for the production of refractory powders used in the manufacturing of well drill bits and the particulate matter emissions from the new equipment will be controlled by an existing Farr-Tenkay Model 30L cartridge collector followed by an existing absolute filter. The emissions from these sources are considered insignificant. The operating permit contains applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**08-00019: Orograin Bakeries Manufacturing, Inc.** (P. O. Box 158, Sayre, PA 18840) issued a revised State-only (Synthetic Minor) operating permit on August 11, 2010, for a change in ownership of the Sayre facility from Stroehmann Bakeries, LC to Orograin Bakeries Manufacturing, Inc. This facility is located in Sayre Borough, **Bradford County**. This revised State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.



## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company, LLC**, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in East Finley Township, **Washington County** and related NPDES permit to add surface acreage to construct the Oak Spring Slope and Supply Yard. In conjunction with this approval, the Department of Environmental Protection is granting 401 Water Quality Certification certifying that the approved activities will comply with the applicable provisions of Sections 301—303, 306 and 307 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341) and will not violate applicable Federal and State Water Quality Standards. Surface Acres Proposed 55.0. Receiving stream: Unnamed tributary 32722 to Rocky Run, classified for the following use: TSF. Application received: June 9, 2008. Permit issued: August 12, 2010.

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

**32950201 and NPDES No. PA0213004 and General Permit GP-12-32950201, Cambria Reclamation Corporation**, 2929 Allen Parkway, Suite 2200, Houston, TX 77019, revision of an existing bituminous coal refuse site to obtain coverage for coal refuse reprocessing under air quality general permit GP-12 in White and Rayne Townships, **Indiana County**, affecting 256 acres. Receiving stream(s): unnamed tributary to/and McKee Run classified for the following use(s): Cold Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 14, 2010. Permit issued: July 28, 2010.

**32050103 and NPDES Permit No. PA0249734, Amerikohl Mining, Inc.**, 1384 SR 711, Stahlstown, PA 15687, permit renewal for reclamation only of a bituminous surface mine, in Center Township, **Indiana County**, affecting 79.8 acres. Receiving stream(s): unnamed tributaries to/and Two Lick Creek classified for the following use(s): Cold Water Fishery, Trout Stocked Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: June 9, 2010. Permit issued: August 3, 2010.

**32040104 and NPDES No. PA0249629, KMP Associates, Inc.**, 1094 Lantz Road, Avonmore, PA 15618, permit renewal for reclamation only of a bituminous surface mine in Young Township, **Indiana County**, affecting 40.5 acres. Receiving stream(s): unnamed tributaries to/and Whisky Run to Blacklegs Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: April 16, 2010. Permit issued: August 12, 2010.

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

**03060101 and NPDES Permit No. PA0250848, State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Permit revision issued to revise the mining area for a road variance for SR-3128 at an existing bituminous surface mining site located in South Buffalo Township, **Armstrong County**, affecting 175.9 acres. Receiving stream: Nicholson Run. Revision application received: June 15, 2010. Permit revision issued: August 11, 2010.

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

**10040102 and NPDES Permit No. PA0242501, Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous strip operation in Concord Township, **Butler County** affecting 179.0 acres. Receiving streams: unnamed tributary to Bear Creek. This renewal is issued for reclamation only. Application received: June 1, 2010. Permit Issued: August 11, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**14743007 and NPDES No. PA0610691, Keystone Coal Co.** (1375 Jackson Street, Suite 400, Fort Myers, FL 33901). Renewal of an existing bituminous surface mine operation located in Snow Shoe Township, **Centre County** affecting 344.7 acres. Receiving streams: unnamed tributaries to Beech Creek and Logway Run and Council Run to Beech Creek classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: May 21, 2010. Permit issued: August 6, 2010.

**14860103 and NPDES No. PA0115576, Keystone Coal Co.** (1375 Jackson Street, Suite 401, Fort Myers, FL 33901). Renewal of an existing bituminous surface mine operation located in Curtin Township, **Centre County** affecting 199.0 acres. Receiving streams: unnamed tributary to Beech Creek (Cold Water Fishery) and Beech Creek to Bald Eagle Creek classified for Trout Stocked Warm Water Fishery. There are no potable water supply intakes within 10 miles downstream. Application received: May 21, 2010. Permit issued: August 6, 2010.

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

**35840205R5, Ransom Quarry Company, Inc.**, (1001 Underwood Road, Olyphant, PA 18447), renewal of an existing anthracite coal refuse reprocessing, surface mine and refuse disposal operation in Olyphant and Throop Boroughs, **Lackawanna County** affecting 161.0 acres, receiving stream: none. Application received: August 20, 2009. Renewal issued: August 10, 2010.

**54040102R, Neumeister Coal Company**, (28 Frank Street, Ashland, PA 17921), renewal of an existing anthracite surface mine and coal refuse disposal operation in Foster and Reilly Townships, **Schuylkill County**

affecting 23.0 acres, receiving stream: none. Application received: March 3, 2009. Renewal issued: August 12, 2010.

*Noncoal Permits Actions*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**59102801 Wesley J. Cole** (343 Jess Drive, Middlebury, PA 16935), commencement, operation and restoration of a small noncoal (topsoil, sand and gravel) operation in Middlebury Township, **Tioga County** affecting 3.0 acres. Receiving stream(s): Crooked Creek and North Ives Run. Application received: February 17, 2010. Permit issued: August 6, 2010.

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

**09070301C. Haines & Kibblehouse, Inc.**, (P. O. Box 196, Skippack, PA 19474), correction to an existing quarry operation and is given authorization to mine through 0.887 acres of Non-Jurisdictional, man-made wetlands within the Neshaminy Creek (warm water fishes) watershed at approximately Latitude: 40° 19' 36"; Longitude: 75° 13' 49". The operator has made appropriate payment to the PA Wetland Replacement Fund for mitigation of the wetlands. Application received: April 5, 2010. Correction issued: August 12, 2010.

**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*

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

**20104001. Appalachian Geophysical Services, LLC** (2659 SR 60, P. O. Box 426, Killbuck, OH 44637) Blasting Activity Permit for seismic exploration in Beaver and Conneaut Townships, **Crawford County**. This blasting activity permit will expire on October 31, 2010. Permit Issued: August 9, 2010.

**24104017. Dynamic Drilling, LLC** (10373 Taylor Hawks Road, Herron, MI 46744) Blasting Activity Permit for seismic exploration in the City of St. Marys, **Elk County**. This blasting activity permit will expire on August 1, 2011. Permit Issued: August 11, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08104116. Austin Powder Northeast, LLC** (25800 Science Park Drive, Beachwood, OH 44122). Blasting for a natural gas well pad located in LeRoy Township, **Bradford County**. Permit issued: August 12, 2010. Permit expires: August 10, 2011.

**14104006. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for a truck runaway ramp, Pine Grove Mountain, located in Ferguson Township, **Centre County**. Permit issued: August 12, 2010. Permit expires: August 10, 2011.

**17094007C. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Blasting on the HDL GFCC#-17-08-15 located in Girard Township, **Clearfield**

**County**. Permit issued: June 24, 2009. (Correction to the expiration date). Permit expires: May 31, 2012.

**17104010. Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866). Blasting on GFCC #17-07-12—Welker Job Site—located in Decatur Township, **Clearfield County**. Permit issued: August 9, 2010. Permit expires: August 5, 2011.

**57104001. John Brainard** (3978 SR 2023, Kingsley, PA 18826). Blasting for a well pad located in Davidson Township, **Sullivan County**. Permit issued: August 12, 2010. Permit expires: December 31, 2010.

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

**36104148. Maine Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Route 322 Storm Sewer in Elizabeth and Clay Townships, **Lancaster County** with an expiration date of July 31, 2011. Permit issued: August 9, 2010.

**66104002. John Brainard**, (3978 SR 2073, Kingsley, PA 18826), construction blasting for the Shaw Well Pad in Windham Township, **Wyoming County** with an expiration date of September 30, 2010. Permit issued: August 9, 2010.

**15104105. Maine Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Ewing Tract Development in West Vincent Township, **Chester County** with an expiration date of August 9, 2011. Permit issued: August 13, 2010.

**FEDERAL WATER POLLUTION CONTROL ACT SECTION 401**

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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



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

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

#### **WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E15-801. Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, Schuylkill Township, **Chester County**, ACOE Philadelphia District.

To modify and maintain the existing concrete floodwall by raising its height approximately 2 feet along the perimeter of the Pickering Creek Waste Water Treatment Plant in the floodplain of the Pickering Creek (WWF, MF).

The project commences approximately 110 feet from the edge of the plant's property line on Valley Forge Road (SR 0023) and ends at the northern corner of the property. The site is located in Schuylkill Township, Chester County (Valley Forge, PA USGS Quadrangle N: 22.09 inches; W: 16.43 inches).

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)).

**E23-373. Tinicum Township**, 2 LaGrange Road, **Delaware County**. ACOE Philadelphia District.

To amend Permit No. E23-373 which authorized the construction, operation and maintenance of the floating dock facility located along the northern bank of the Delaware River at Rosse Boat Repair and Storage Yard, Inc. This amendment authorizes the mechanically dredging of approximately 3,900 cubic yards of sediment from open waters of the Delaware River.

This project site is located approximately southeast of the intersection of LaGrange Avenue and Front Street in Tinicum Township, Delaware County (Bridgeport, PA USGS Quadrangle N: 19.75-inches; W: 6.75-inches).

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)).

**E09-946. U.S. Army Corps of Engineers, Philadelphia District**, 100 Penn Square East, Wanamaker Building, Philadelphia, PA 19002, Upper Southampton Township, **Bucks County**, ACOE Philadelphia district.

To restore and realign approximately 6,100 linear feet of Southampton Creek by utilizing fluvial geomorphology based stream restoration techniques. This work includes Log Vanes, Mud Sills and Rock Cross Vanes.

The project starts at the intersection of Street and Davisville Roads, and terminates at County Line Road bridge (Hatboro, PA USGS Quadrangle N: 4.00 inches; W: 3:00 inches).

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)).

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

**E45-533A. Pocono Township**, P. O. Box 197, Tannersville, PA 18372. Stroud Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To amend Permit No. E45-533 to include the construction and maintenance of the following water obstructions and encroachments associated with the Stroud Township and Stroudsburg Borough portions of the Pocono and Hamilton Townships Sewerage System Project. This portion of the project begins 0.6 mile northwest of the intersection of I-80 and SR 33 (Mount Pocono, PA Quadrangle Latitude: 41° 0' 7"; Longitude: -75° 16' 33") in Hamilton Township, Monroe County, continues approximately 5 miles east, and ends 1.1 miles north of the intersection of I-80 and SR 191 (Mount Pocono, PA Quadrangle Latitude: 40° 59' 41"; Longitude: -75° 11' 39") in Stroud Township, Monroe County.

1. (38) A 20" diameter PVC sanitary sewer force main crossing of a Tributary to Pocono Creek (HQ-CWF) (Latitude: 41° 0' 12"; Longitude: -75° 16' 04") in Stroud Township.

2. (38A) A 20" diameter PVC sanitary sewer force main crossing of a Tributary to Pocono Creek (HQ-CWF) (Latitude: 41° 6' 12"; Longitude: -75° 16' 04") in Stroud Township.

3. (39) A 20" diameter PVC sanitary sewer force main crossing of a Tributary to Pocono Creek (HQ-CWF) (Latitude: 41° 0' 9"; Longitude: -75° 15' 56") in Stroud Township.

4. (40) A 20" diameter concrete encased PVC sanitary sewer force main crossing of Wigwam Run (HQ-CWF) with temporary stream impacts of 0.01 acre (Latitude: 40° 59' 57"; Longitude: -75° 15' 28") in Stroud Township.

5. (41) A 20" diameter concrete encased PVC sanitary sewer force main crossing of Flagler Run (HQ-CWF) and approximately 51' of EV, PFO wetlands with temporary wetland impacts of 0.02 acre and temporary stream impacts of 0.02 acre (Latitude: 40° 59' 45"; Longitude: -75° 14' 1") in Stroud Township.

6. (42) A 20" diameter PVC sanitary sewer force main crossing of Big Meadow Run (HQ-CWF) (Latitude: 40° 59' 36"; Longitude: -75° 12' 40") in Stroud Township.

7. (43) A 20" diameter PVC sanitary sewer force main crossing of a Tributary to Brodhead Creek (TS-MF, CWF) (Latitude: 40° 59' 50"; Longitude: -75° 12' 8") in Stroud Township.

8. (44) A 20" diameter PVC sanitary sewer force main crossing of a Tributary to Brodhead Creek (TS-MF, CWF) (Latitude: 40° 59' 41"; Longitude: -75° 11' 39") in Stroud Township.

Permit E45-533 authorized water obstructions and encroachments associated with the Pocono and Hamilton Townships portions of the project. Subbasin: 1E.

**E66-149. Department of Transportation, Engineering District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512. Clinton Township, **Wyoming County**, Army Corps of Engineers Baltimore District.

To place fill in a de minimis area of PEM wetlands equal to 0.01 acre; to remove the existing structure; and to construct and maintain a single-span, pre-stressed concrete bulb-tee beam bridge having a normal clear span of 78 feet and an underclearance of 13 feet over South Branch Tunkhannock Creek (TSF, MF). The project is located at SR 2012 (Lithia Valley Road), Segment 0010, Offset 1625, approximately 0.3 mile south of the intersection of SR 2012 and SR 0006 (Factoryville, PA Quadrangle Latitude: 41°33'14"; Longitude: -75°50'00").

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

**E02-1639. Department of Transportation, District 11-0**, 45 Thoms Run Road, Bridgeville, PA 15017-2834. For bridge rehabilitation in Marshall Township, **Allegheny County**, Pittsburgh ACOE District. The applicant proposes to:

1. clean and repair the existing 520 ft long, 6 ft by 10 ft box culvert under SR 79, carrying the East Branch of Big Sewickley Creek (TSF) with a drainage area of 340 acres (Emsworth, PA Quadrangle North 22.4 inches; West 13.5 inches, Latitude: 40° 37' 25"; Longitude: 80° 05' 48").

2. construct and maintain approximately 800 ft of stream relocation in East Branch of Big Sewickley Creek (TSF) with a drainage area of 450 acres (Emsworth, PA Quadrangle North 22.4 inches; West 14 inches, Latitude: 40° 37' 25"; Longitude: 80° 06' 01").

3. excavate a total of 0.636 acre of PEM/PSS/PFO/POW wetland. Wetland creation, to compensate for wetland impacts, will be onsite (Emsworth, PA Quadrangle North 22.4 inches; West 14 inches, Latitude: 40° 37' 25"; Longitude: 80° 06' 01").

This project is associated with the SR 79, Section A49 bridge rehabilitation project which begins at I-79 Exit 73 and extends approximately 3 miles north to I-79 Exit 76 in Marshall Township, Allegheny County (beginning from Emsworth, PA Quadrangle North 22.1 inches; West 13.4 inches, Latitude: 40° 37' 18"; Longitude: 80° 05' 50"; and ending North 7.2 inches; West 13.2 inches, Latitude: 40° 39' 55"; Longitude: 80° 05' 37").

**E63-620. Department of Transportation, District 12-0**, 825 North Gallatin Avenue Ext., Uniontown, PA 15401. To construct and maintain culverts in Peters Township, **Washington County**, Pittsburgh ACOE District (Canonsburg, PA Quadrangle N: 7.3 inches; W: 15.2 inches, Latitude: 40° 17' 13.5"; Longitude: 80° 6' 19.1"). The applicant proposes to construct and maintain:

1. a 150 ft long, 36 ft wide by 11 ft high concrete open bottom culvert in an unnamed tributary to Brush Run (WWF).

2. 61 ft downstream of the above, a 84 ft long, 36 ft wide by 11 ft high concrete open bottom culvert in an unnamed tributary to Brush Run (WWF) with a drainage area of 2.7 square miles to replace the existing Valley Brook Road (SR 1010) bridge near the confluence with Brush Run.

3. a 61 ft long 20 ft high retaining wall between the above box culverts.

4. a replacement sewer line crossing conflicting with the above.

5. a 229.3 ft long retaining wall along the adjoining section of Brush Run varying in height from 9.3 ft to 17.5 ft.

In addition associated causeways, stream diversions, and stormwater outfalls for the purpose of improving the SR 19 and SR 1010 (Valley Brook Road) intersection and approach roads. Stream mitigation is intended to be provided at the site.

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

**E24-251. Robert Yoder, Joelcole Development Corporation**, 5960 Susquehanna Trail, Turbortville, PA 17772, City of St. Mary's, **Elk County**, ACOE Pittsburgh District.

To construct a commercial development and municipal park and parking garage adjacent to Elk Creek approximately 400 feet NE of the intersection of St. Michaels and Brussels Streets (St. Marys, PA Quadrangle N: 41° 25' 48.4"; W: 78° 33' 22.1") in the City of St. Marys, Elk County including: 1) to remove existing structures within the FEMA floodway and floodplain; 2) to construct and maintain a parking garage, commercial structures and a park within the FEMA floodway and floodplain; 3) to construct and maintain a pedestrian bridge over Elk Creek; and 4) to construct and maintain associated stormwater outfalls and utility line installation.

#### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

*Greene County Conservation District: 93 East High Street, Room 215, Waynesburg, PA 15370, (724-852-5278).*



<i>ESCGP-1 No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
OG30 09 030R	Equitrans, LP Attn: Hanna E. McCoy 625 Liberty Avenue Suite 1700 Pittsburgh, PA 15222	Greene	Wayne, Perry, Franklin, Morgan and Whiteley Townships	UNT to Whiteley Creek TSF UNT to Mt. Phoebe Run TSF UNT to Dyers Fork TSF UNT Laurel Run WWF UNT to South Fork Ten Mile Creek WWF South Fork Tenmile Creek WWF Smith Creek WWF UNT to Smith Creek WWF UNT to Dunkard Creek WWF
OG30 10 001	Equitrans, LP Attn: Hanna E. McCoy 625 Liberty Avenue Suite 1700 Pittsburgh, PA 15222	Greene	Center Township	South Fork Ten Mile Creek HQ

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## SPECIAL NOTICES

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### **Plan Revision Approval under the Municipal Waste Planning, Recycling and Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101**

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

The Department of Environmental Protection (Department) approved the Lancaster County Municipal Waste Management Plan Revision on August 10, 2010.

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 may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

The plan revision is a public document and may be viewed at the Department Regional Office previously noted.

Questions concerning this approval should be directed to Larry Holley, Section Chief, Department of Environmental Protection, Bureau Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472 or to Tony Rathfon, Environmental Program Manager, Waste Management at the previous Regional Office.

[Pa.B. Doc. No. 10-1590. Filed for public inspection August 27, 2010, 9:00 a.m.]

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### **Availability of Technical Guidance**

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2010.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications.

Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Notice of Intent to Rescind Technical Guidance*

DEP ID: 362-2000-007. Title: Policy for Conducting Technical Reviews of Water Quality Management (Part II) Permit Applications to Construct and Operate Sewerage Works, and Industrial Wastewater Treatment Facilities. Description: Effective immediately, the Department is rescinding Technical Guidance Document 362-2000-007, relating to Part II Water Quality Management (WQM) permit reviews. The procedures outlined in the guidance are not consistent with the Department's obligations for reviewing Part II WQM permits.

Effective Date: August 28, 2010.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1591. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Bid Opportunity

**BOGM 09-12, Cleaning out and plugging 11 abandoned and orphan oil wells (David W. Lorenz, Warren County Shrine Club, c/o Bruce Swanson, Jaspal Singh, R. Tim Fields, James Mead and Connie Onoratti), Mead, Conewango and Brokenstraw Townships, Warren County.** The principal items of work include cleaning out and plugging 11 abandoned and orphan oil wells, estimated to be 800 feet and 1,200 feet in depth, to Department of Environmental Protection specifications, preparing and restoring well site and mobilizing and demobilizing plugging equipment. This project issues on August 27, 2010, and bids will be opened on September 30, 2010, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on the prebid and this bid.

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1592. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Nutrient and Sediment Reduction Credit Trading Program; Notice of Actions

The Department of Environmental Protection (Department) provides notice of the following action under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). This action was taken under The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID#

392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)).

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 permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

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

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

For further information about this certification or the Trading Program, contact Ann Roda, Water Planning Office, Department of Environmental Protection, 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](http://www.depweb.state.pa.us) (DEP Programs: "Nutrient Trading").

The following proposal has been certified by the Department. This certification is considered a final action of the Department.

**ElectroCell** (330 Broadlake Road, Suite 110, Colchester, VT 05446). This certification is applicable to the operation of the Patz® OZy™ unit on a farm located in Lancaster County. This certification includes a verification plan and authorizes the generation of nitrogen and phosphorous credits. Notice of the proposal for this certification was published for comment at 39 Pa.B. 5205 (August 29, 2009).

JOHN HANGER,  
Secretary

[Pa.B. Doc. No. 10-1593. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Nutrient and Sediment Reduction Credit Trading Program; Notice of Proposals

The Department of Environmental Protection (Department) provides notice of the following proposals that have been submitted under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These proposals were submitted under The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID# 392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)).

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 proposals described in this notice relate to the submitted proposals through August 6, 2010.

#### Background

Before a credit can be used by an NPDES permittee, a three-step process is followed: (1) the credit or offset proposal must be approved; (2) it must be verified; and (3) it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of a nutrient reduction activity to generate credits. Certifications are based on at least: (1) a credit proposal describing the qualifying nutrient reduction activity 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 activity has taken place. The proposals described in this notice apply to the Chesapeake Bay Watershed.

Once the credits are certified, they must be verified to be applied towards an NPDES permit for compliance with effluent limits. Verification means implementation of the verification plan contained in a certification, as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activity has taken place for the applicable compliance year.

The credits also need to be registered by the Department before they can be used to meet effluent limits in an NPDES permit. Registration occurs only after credits have been certified and verified. For the Chesapeake Bay Watershed, the Department will register credits for use during the compliance year in which the qualifying pollutant reduction activity has taken place. The Depart-

ment will provide the credits with an annual registry number for reporting and tracking purposes.

#### Proposals

The following new proposals are being reviewed by the Department. The Department will accept written comments on these proposed projects for 30 days.

<i>Proposal Applicant</i>	<i>Proposal Description</i>
Park the Plow	Nitrogen and phosphorous credits generated by the implementation of no-till in Bradford County.
American Farmland Trust	Nitrogen credits generated through the BMP Challenge for Planned Nutrient Reduction Project by Client PA10-008.
American Farmland Trust	Nitrogen credits generated through the BMP Challenge for Planned Nutrient Reduction Project by Client PA10-014.
American Farmland Trust	Nitrogen credits generated through the BMP Challenge for Planned Nutrient Reduction Project by Client PA10-016.
American Farmland Trust	Nitrogen credits generated through the BMP Challenge for Planned Nutrient Reduction Project by Client PA10-017.
American Farmland Trust	Nitrogen credits generated through the BMP Challenge for Planned Nutrient Reduction Project by Client PA10-018.
Lycoming County Conservation District	Nitrogen credits to be generated through the implementation of BMPs, such as streambank fencing, off-stream watering, riparian buffers and continuous no-till.

For further information about these proposals or the Trading Program, or to submit comments, contact Ann Roda, Water Planning Office, Department of Environmental Protection, 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](http://www.depweb.state.pa.us) (DEP Programs: "Nutrient Trading").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1594. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Nutrient and Sediment Reduction Credit Trading Program; Notice of Registration

The Department of Environmental Protection (Department) provides notice of the following credit registration recorded under the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). The request for registration was submitted under The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID# 392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)).

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 permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

This notice relates to the registration of credits through August 6, 2010. For background information regarding these credits, see the Department's certification published at 38 Pa.B. 1887 (April 19, 2008).

The Department has registered the following credits.

<i>Generator</i>	<i>Location of Use</i>	<i>Credits Registered</i>	<i>Credit Generating Activity</i>	<i>Compliance Year</i>
Red Barn Trading Company, LLC	PPL—Brunner Island Power Plant York Haven, PA	22,460 Nitrogen and 2,808 Phosphorous	Poultry manure export out of Chesapeake Bay Watershed	October 2009— September 2010

For further information about this registration or the Trading Program, contact Ann Roda, Water Planning Office, Department of Environmental Protection, 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](http://www.depweb.state.pa.us) (DEP Programs: "Nutrient Trading").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1595. Filed for public inspection August 27, 2010, 9:00 a.m.]

### **Pennsylvania Sewage Advisory Committee Meeting Cancellation**

The Pennsylvania Sewage Advisory Committee meeting scheduled for Wednesday, September 15, 2010, has been canceled. The next meeting is scheduled for Wednesday, November 10, 2010, in Room 105 of the Rachel Carson State Office Building at 10:30 a.m. For information, contact John McHale at (717) 783-2290 or [jomchale@state.pa.us](mailto:jomchale@state.pa.us). The agenda and meeting materials for the November 10, 2010, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 772-5551 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1596. Filed for public inspection August 27, 2010, 9:00 a.m.]

### **State Board for Certification of Water and Wastewater Systems Operators Rescheduled Meeting**

The State Board for Certification of Water and Wastewater Systems Operators (Board) conference call meeting on Friday, September 24, 2010, meeting in the 8th Floor Conference Room has been rescheduled as a regular Board meeting at 10 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101.

Questions concerning the Board meeting can be directed to Cheri Sansoni at (717) 772-5158 or [csansoni@state.pa.us](mailto:csansoni@state.pa.us). The agenda and meeting materials for the previously listed meeting date will be available through the Public Participation Center on the Department of

Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Cheri Sansoni at (717) 772-5158, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users), to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1597. Filed for public inspection August 27, 2010, 9:00 a.m.]

### **Storage Tank Advisory Committee Meeting Cancellation**

The September 14, 2010, meeting of the Storage Tank Advisory Committee (Committee) is cancelled. The next meeting is scheduled for December 7, 2010, at 10 a.m. in the 14th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the next scheduled meeting of the Committee can be directed to Charles M. Swokel at (717) 772-5806 or [cswokel@state.pa.us](mailto:cswokel@state.pa.us). The agenda and meeting materials for the December 7, 2010, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Department at (717) 772-5551 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1598. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Real Estate for Sale Crawford County

The Department of General Services (Department) will accept bids for the purchase of 0.3297 acre  $\pm$  of land and building formerly known as the Meadville National Guard Armory located at 894 Diamond Park, City of Meadville, Crawford County. Bids are due Thursday, November 18, 2010. Interested parties wishing to receive a copy of Solicitation No. 94381 should view the Department's web site at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,  
*Secretary*

[Pa.B. Doc. No. 10-1599. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Meeting

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, September 15, 2010, from 9 a.m. until 2:30 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should also contact Kenneth McGarvey at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1600. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Integrated Human Immunodeficiency Virus (HIV) Planning Council Public Meeting

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under

sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, September 14, 2010, from 9 a.m. to 2 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA, 17050.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Division of HIV/AIDS, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should also contact Joseph Pease at the previously listed number, or at V/TT (717) 783-6514 for speech and/or hearing impaired persons, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1601. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

Highland Center, Genesis Eldercare Network  
1050 Broadview Boulevard  
Brackenridge, PA 15014

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Heritage Towers  
200 Veterans Lane  
Doylestown, PA 18901  
FAC ID 085502

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, [ra-paexcept@state.pa.us](mailto:ra-paexcept@state.pa.us).

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT (717) 783-6514 for

speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1602. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Pennsylvania Cancer Control, Prevention and Research Advisory Board Meeting

The Pennsylvania Cancer Control, Prevention and Research Advisory Board, established under section 3 of the Pennsylvania Cancer Control, Prevention and Research Act (35 P. S. § 5633), will hold a meeting on Wednesday, September 22, 2010, from 9 a.m. to 12 p.m. at the Department of Health, Bureau of Health Promotion and Risk Reduction, Bureau Conference Room 1000, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

For additional information, contact Kathleen A. Zitka, Chief, Department of Health, Comprehensive Cancer Control Section, Room 1011, Health and Welfare Building, 625 Forster Street, Harrisburg, PA, (717) 787-5251.

Persons with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to do so, contact Kathleen A. Zitka at the telephone number listed previously, for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1603. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Pennsylvania Colorectal Cancer Advisory Committee Meeting

The Pennsylvania Colorectal Cancer Advisory Committee (a subcommittee of the Pennsylvania Cancer Control, Prevention and Research Advisory Board), established under section 3 of the Pennsylvania Cancer Control, Prevention and Research Act (35 P. S. § 5633), will hold a meeting (Webinar) on Thursday, September 30, 2010, from 10:30 a.m. to 12 p.m. at the Department of Health, Bureau of Health Promotion and Risk Reduction, Conference Room 1000, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

For additional information, contact April Barry, Public Health Program Administrator, Department of Health, Comprehensive Cancer Control Section, Room 1011, Health and Welfare Building, 625 Forster Street, Harrisburg, PA, (717) 787-5251.

Persons with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to do so, contact April Barry at the telephone number listed previously, for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1604. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
Wadsworth Electric, Inc. and Alton M. Swanson, Ind. EIN # 23-2944253	110 Conewango Avenue Warren, PA 16365	8/11/2010

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 10-1605. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Determination of the Average Wholesale Price of Prescription Drugs by the Department

Under 34 Pa. Code § 127.131(b) (relating to payments for prescription drugs and pharmaceuticals—generally) the Department of Labor and Industry, Bureau of Workers' Compensation, gives notice that it utilizes the *Red Book*, published by Thomson Reuters, to determine the average wholesale price of prescription drugs.

SANDI VITO,  
*Secretary*

[Pa.B. Doc. No. 10-1606. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Bonus Block 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 Bonus Block Bingo.

2. *Price:* The price of a Pennsylvania Bonus Block Bingo instant lottery game ticket is \$3.

3. *Play Symbols:*

(a) Each Pennsylvania Bonus Block Bingo instant lottery game ticket will contain six play areas designated as



“Card 1,” “Card 2,” “Card 3,” “Card 4,” “Card 5” and “Card 6.” The 77 play symbols located in the six “Card” play areas are: The numbers 1 through 75, “FREE” symbol and a “BONUS BLOCK” symbol. The “FREE” symbol is a free space. The “BONUS BLOCK” symbol is a free space, and when it appears in a winning pattern, the prize triples.

(b) Each ticket will also contain a “CALLER’S CARD” area. The “CALLER’S CARD” area will consist of 30 spaces on a 10 by 3 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.

4. *Prizes:* The prizes that can be won in this game are: \$3, \$6, \$9, \$10, \$18, \$20, \$30, \$60, \$90, \$100, \$150, \$300, \$1,000, \$3,000, \$30,000 and \$60,000. The player can win up to four times on each ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 8,400,000 tickets will be printed for the Pennsylvania Bonus Block Bingo instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching eight “CALLER’S CARD” play symbols in an “X” pattern, extending through the “FREE” space and through to each of the four corner spaces, on “Card 6,” shall be entitled to a prize of \$60,000.

(b) Holders of tickets matching eight “CALLER’S CARD” play symbols in an “X” pattern, extending through the “FREE” space and through to each of the four corner spaces, on “Card 5,” shall be entitled to a prize of \$30,000.

(c) Holders of tickets matching eight “CALLER’S CARD” play symbols in an “X” pattern, extending through the “FREE” space and through to each of the four corner spaces, on “Card 4,” shall be entitled to a prize of \$3,000.

(d) Holders of tickets matching eight “CALLER’S CARD” play symbols in an “X” pattern, extending through the “FREE” space and through to each of the four corner spaces, on “Card 3,” shall be entitled to a prize of \$1,000.

(e) Holders of tickets matching four “CALLER’S CARD” play symbols in a diamond pattern, matching one space in the midpoint in each of the four outside rows and columns, on “Card 6,” shall be entitled to a prize of \$1,000.

(f) Holders of tickets matching eight “CALLER’S CARD” play symbols in an “X” pattern, extending through the “FREE” space and through to each of the four corner spaces, on “Card 2,” shall be entitled to a prize of \$300.

(g) Holders of tickets matching four “CALLER’S CARD” play symbols in a diamond pattern, matching one space in the midpoint in each of the four outside rows and columns, on “Card 5,” shall be entitled to a prize of \$300.

(h) Holders of tickets matching eight “CALLER’S CARD” play symbols in an “X” pattern, extending through the “FREE” space and through to each of the four corner spaces, on “Card 1,” shall be entitled to a prize of \$150.

(i) Holders of tickets matching four “CALLER’S CARD” play symbols in a diamond pattern, matching one space in the midpoint in each of the four outside rows and columns, on “Card 3” or “Card 4,” shall be entitled to a prize of \$150.

(j) Holders of tickets matching four “CALLER’S CARD” play symbols in the red-outlined corner of “Card 6,”

matching the symbols in the spaces appearing in the fourth horizontal row from the top in the “G” and “O” columns and the spaces appearing in the fifth horizontal row from the top in the “G” and “O” columns, shall be entitled to a prize of \$150.

(k) Holders of tickets matching four “CALLER’S CARD” play symbols in the red-outlined corner of “Card 5,” matching the symbols in the spaces appearing in the fourth horizontal row from the top in the “B” and “I” columns and the spaces appearing in the fifth horizontal row from the top in the “B” and “I” columns, shall be entitled to a prize of \$100.

(l) Holders of tickets matching four “CALLER’S CARD” play symbols, one in each of the four corners on “Card 5” or “Card 6,” shall be entitled to a prize of \$90.

(m) Holders of tickets matching four “CALLER’S CARD” play symbols in a diamond pattern, matching one space in the midpoint in each of the four outside rows and columns, on “Card 2,” shall be entitled to a prize of \$60.

(n) Holders of tickets matching four “CALLER’S CARD” play symbols, one in each of the four corners on “Card 3” or “Card 4,” shall be entitled to a prize of \$60.

(o) Holders of tickets matching four “CALLER’S CARD” play symbols in the red-outlined corner of “Card 4,” matching the symbols in the spaces appearing in the first horizontal row from the top in the “B” and “I” columns and the spaces appearing in the second horizontal row from the top in the “B” and “I” columns, shall be entitled to a prize of \$60.

(p) Holders of tickets matching four “CALLER’S CARD” play symbols in a diamond pattern, matching one space in the midpoint in each of the four outside rows and columns, on “Card 1,” shall be entitled to a prize of \$30.

(q) Holders of tickets matching four “CALLER’S CARD” play symbols, one in each of the four corners on “Card 2,” shall be entitled to a prize of \$30.

(r) Holders of tickets matching four “CALLER’S CARD” play symbols in the red-outlined corner of “Card 3,” matching the symbols in the spaces appearing in the fourth horizontal row from the top in the “G” and “O” columns and the spaces appearing in the fifth horizontal row from the top in the “G” and “O” columns, shall be entitled to a prize of \$30.

(s) Holders of tickets matching three or four “CALLER’S CARD” play symbols completing a five-space horizontal or vertical line, including a “BONUS BLOCK” symbol in one space of that horizontal or vertical line, on “Card 5” or “Card 6,” shall be entitled to a prize of \$30.

(t) Holders of tickets matching four “CALLER’S CARD” play symbols in the red-outlined corner of “Card 2,” matching the symbols in the spaces appearing in the first horizontal row from the top in the “G” and “O” columns and the spaces appearing in the second horizontal row from the top in the “G” and “O” columns, shall be entitled to a prize of \$20.

(u) Holders of tickets matching three or four “CALLER’S CARD” play symbols completing a five-space horizontal or vertical line, including a “BONUS BLOCK” symbol in one space of that horizontal or vertical line, on “Card 4,” shall be entitled to a prize of \$18.

(v) Holders of tickets matching four “CALLER’S CARD” play symbols, one in each of the four corners on “Card 1,” shall be entitled to a prize of \$10.

(w) Holders of tickets matching four or five "CALLER'S CARD" play symbols completing a five-space horizontal, vertical or diagonal line on "Card 5" or "Card 6," shall be entitled to a prize of \$10.

(x) Holders of tickets matching four "CALLER'S CARD" play symbols in the red-outlined corner of "Card 1," matching the symbols in the spaces appearing in the first horizontal row from the top in the "B" and "I" columns and the spaces appearing in the second horizontal row from the top in the "B" and "I" columns, shall be entitled to a prize of \$10.

(y) Holders of tickets matching three or four "CALLER'S CARD" play symbols completing a five-space horizontal or vertical line, including a "BONUS BLOCK" symbol in one space of that horizontal or vertical, line on "Card 1" or "Card 2" or "Card 3," shall be entitled to a prize of \$9.

(z) Holders of tickets matching four or five "CALLER'S CARD" play symbols completing a five-space horizontal, vertical or diagonal line on "Card 4," shall be entitled to a prize of \$6.

(aa) Holders of tickets matching four or five "CALLER'S CARD" play symbols completing a five-space horizontal, vertical or diagonal line on "Card 1" or "Card 2" or "Card 3," shall be entitled to a prize of \$3.

(bb) A player may win more than one prize on a ticket; however, the player cannot win more than one prize on each "Card."

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>Get:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 8,400,000 Tickets</i>
LINE CARD 1	\$3	23.81	352,800
LINE CARD 2	\$3	23.81	352,800
LINE CARD 3	\$3	23.81	352,800
(LINE CARD 2) + (LINE CARD 3)	\$6	24.39	344,400
LINE CARD 4	\$6	25	336,000
LINE CARD 1 w/BONUS BLOCK	\$9	500	16,800
LINE CARD 2 w/BONUS BLOCK	\$9	500	16,800
LINE CARD 3 w/BONUS BLOCK	\$9	500	16,800
(LINE CARD 1) + (LINE CARD 2) + (LINE CARD 3)	\$9	500	16,800
RED-OUTLINED CORNER CARD 1	\$10	500	16,800
4 CORNERS CARD 1	\$10	500	16,800
LINE CARD 5	\$10	500	16,800
LINE CARD 6	\$10	500	16,800
(LINE CARD 1 w/BONUS BLOCK) + (LINE CARD 2 w/BONUS BLOCK)	\$18	500	16,800
(LINE CARD 1 w/BONUS BLOCK) + (LINE CARD 3 w/BONUS BLOCK)	\$18	500	16,800
(LINE CARD 2 w/BONUS BLOCK) + (LINE CARD 3 w/BONUS BLOCK)	\$18	500	16,800
LINE CARD 4 w/BONUS BLOCK	\$18	500	16,800
RED-OUTLINED CORNER CARD 2	\$20	333.33	25,200
(RED-OUTLINED CORNER CARD 1) + (LINE CARD 5)	\$20	333.33	25,200
(RED-OUTLINED CORNER CARD 1) + (LINE CARD 6)	\$20	333.33	25,200
(LINE CARD 5) + (LINE CARD 6)	\$20	500	16,800
LINE CARD 5 w/BONUS BLOCK	\$30	2,400	3,500
LINE CARD 6 w/BONUS BLOCK	\$30	2,400	3,500
(RED-OUTLINED CORNER CARD 1) + (RED-OUTLINED CORNER CARD 2)	\$30	2,400	3,500
RED-OUTLINED CORNER CARD 3	\$30	2,400	3,500
DIAMOND CARD 1	\$30	2,400	3,500
4 CORNERS CARD 2	\$30	2,400	3,500
(4 CORNERS CARD 1) + (LINE CARD 5) + (LINE CARD 6)	\$30	2,400	3,500
(LINE CARD 5 w/BONUS BLOCK) + (LINE CARD 6 w/BONUS BLOCK)	\$60	8,571	980
RED-OUTLINED CORNER CARD 4	\$60	8,571	980
(RED-OUTLINED CORNER CARD 3) + (DIAMOND CARD 1)	\$60	8,571	980
(RED-OUTLINED CORNER CARD 3) + (4 CORNERS CARD 2)	\$60	9,231	910
4 CORNERS CARD 3	\$60	9,231	910
4 CORNERS CARD 4	\$60	9,231	910
DIAMOND CARD 2	\$60	9,231	910

<i>Get:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 8,400,000 Tickets</i>
(DIAMOND CARD 1) + (4 CORNERS CARD 2)	\$60	9,231	910
(4 CORNERS CARD 1) + (4 CORNERS CARD 2) + (LINE CARD 5) + (LINE CARD 6)	\$60	9,231	910
(RED-OUTLINED CORNER CARD 3) + (RED-OUTLINED CORNER CARD 4)	\$90	6,316	1,330
(RED-OUTLINED CORNER CARD 3) + (LINE CARD 5 w/BONUS BLOCK) + (LINE CARD 6 w/ BONUS BLOCK)	\$90	6,667	1,260
4 CORNERS CARD 5	\$90	6,667	1,260
4 CORNERS CARD 6	\$90	6,667	1,260
(4 CORNERS CARD 2) + (4 CORNERS CARD 4)	\$90	6,667	1,260
(DIAMOND CARD 1) + (4 CORNERS CARD 3)	\$90	6,316	1,330
(DIAMOND CARD 1) + (4 CORNERS CARD 4)	\$90	6,316	1,330
RED-OUTLINED CORNER CARD 5	\$100	4,000	2,100
(RED-OUTLINED CORNER CARD 1) + (RED-OUTLINED CORNER CARD 3) + (RED-OUTLINED CORNER CARD 4)	\$100	4,000	2,100
(4 CORNERS CARD 1) + (4 CORNERS CARD 2) + (4 CORNERS CARD 3)	\$100	4,800	1,750
RED-OUTLINED CORNER CARD 6	\$150	24,000	350
"X" CARD 1	\$150	24,000	350
DIAMOND CARD 3	\$150	24,000	350
DIAMOND CARD 4	\$150	24,000	350
(4 CORNERS CARD 3) + (4 CORNERS CARD 5)	\$150	24,000	350
(RED-OUTLINED CORNER CARD 2) + (RED-OUTLINED CORNER CARD 3) + (RED-OUTLINED CORNER CARD 5) + (RED-OUTLINED CORNER CARD 6)	\$300	24,000	350
"X" CARD 2	\$300	24,000	350
(DIAMOND CARD 3) + (RED-OUTLINED CORNER CARD 6)	\$300	24,000	350
("X" CARD 1) + (DIAMOND CARD 3)	\$300	24,000	350
(DIAMOND CARD 3) + (DIAMOND CARD 4)	\$300	24,000	350
DIAMOND CARD 5	\$300	24,000	350
"X" CARD 3	\$1,000	20,000	420
DIAMOND CARD 6	\$1,000	20,000	420
"X" CARD 4	\$3,000	120,000	70
"X" CARD 5	\$30,000	1,680,000	5
"X" CARD 6	\$60,000	1,680,000	5

Match all four numbers in the RED-OUTLINED CORNER in: Card 1 = Win \$10; Card 2 = Win \$20; Card 3 = Win \$30; Card 4 = Win \$60; Card 5 = Win \$100; and Card 6 = Win \$150  
Triple your win when a "BONUS BLOCK" appears in any winning pattern.

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 Bonus Block 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 Bonus Block Bingo, prize money from winning Pennsylvania Bonus Block 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 Bonus Block 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 Bonus Block Bingo or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1607. Filed for public inspection August 27, 2010, 9:00 a.m.]

### **Pennsylvania Diamond Doubler 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 Diamond Doubler.

2. *Price*: The price of a Pennsylvania Diamond Doubler instant lottery game ticket is \$1.

3. *Play Symbols*: Each Pennsylvania Diamond Doubler instant lottery game ticket will contain one play area. The play symbols and their captions located in the play area are: Banana (BAN) symbol, Bar (BAR) symbol, Bell (BEL) symbol, Crown (CRN) symbol, Grapes (GRPS) symbol, Mellon (MEL) symbol, Moneybag (MBAG) symbol, Peach (PCH) symbol, Pineapple (PNA) symbol, Horseshoe (SHO) symbol, Strawberry (STRA) symbol, Sun (SUN) symbol, 7 (SVN) symbol, Diamond (DIAMOND) and a Double Diamond (DBL DMND) symbol.

4. *Prize Symbols*: The prize symbols and their captions located in the play area are: Free (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$1,000 (ONE THO).

5. *Prizes*: The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$5, \$10, \$20, \$40, \$50, \$100, \$500 and \$1,000. A player can win up to 5 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game*: Approximately 12,000,000 tickets will be printed for the Pennsylvania Diamond Doubler instant lottery game.

#### *7. Determination of Prize Winners:*

(a) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$1,000 (ONE THO) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(b) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$500 (FIV HUN) appears in the “Prize” area under that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$500 (FIV HUN) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$100 (ONE HUN) appears in the “Prize” area under

that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$200.

(e) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$100 (ONE HUN) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the “Prize” area under that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$40<sup>00</sup> (FORTY) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$40.

(h) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the “Prize” area under that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the “Prize” area under that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the “Prize” area under that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$2<sup>00</sup> (TWO DOL) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$2.

(o) Holders of tickets with a Double Diamond (DBL DMND) play symbol in the play area, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the “Prize” area under that Double Diamond (DBL DMND) play symbol, on a single ticket, shall be entitled to a prize of \$2.

(p) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in the “Prize” area under that Diamond (DIAMOND) play symbol, on a single ticket, shall be entitled to a prize of \$1.

(q) Holders of tickets with a Diamond (DIAMOND) play symbol in the play area, and a prize symbol of FREE (TICKET) in the play area, on a single ticket, shall be

entitled to a prize of one Pennsylvania Diamond Doubler instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

Reveal A "Diamond" Symbol  
In The Play Area, Win Prize  
Shown Below It. Win With  
Prize(s) Of:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 12,000,000 Tickets
FREE	FREE \$1 TICKET	10.71	1,120,000
\$1	\$1	150	80,000
\$1 w/DOUBLE DIAMOND	\$2	28.57	420,000
\$1 x 2	\$2	120	100,000
\$2	\$2	50	240,000
\$1 x 5	\$5	75	160,000
\$5	\$5	75	160,000
\$2 x 5	\$10	600	20,000
\$5 w/DOUBLE DIAMOND	\$10	250	48,000
\$5 x 2	\$10	1,000	12,000
\$10	\$10	300	40,000
\$5 x 4	\$20	1,500	8,000
\$10 x 2	\$20	3,000	4,000
\$10 w/DOUBLE DIAMOND	\$20	750	16,000
\$20	\$20	1,000	12,000
\$10 x 4	\$40	6,000	2,000
\$20 x 2	\$40	12,000	1,000
\$20 w/DOUBLE DIAMOND	\$40	3,000	4,000
\$40	\$40	6,000	2,000
\$20 x 5	\$100	12,000	1,000
(\$40 x 2) + (\$10 x 2)	\$100	12,000	1,000
\$50 w/DOUBLE DIAMOND	\$100	12,000	1,000
\$100	\$100	12,000	1,000
\$100 x 5	\$500	120,000	100
(\$100 w/DOUBLE DIAMOND) + (\$100 x 3)	\$500	120,000	100
\$500	\$500	120,000	100
\$500 w/DOUBLE DIAMOND	\$1,000	120,000	100
\$1,000	\$1,000	120,000	100

Reveal a "Double Diamond" (DBL DMND) symbol, win double the prize shown below it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Diamond Doubler instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Diamond Doubler, prize money from winning Pennsylvania Diamond Doubler 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 Diamond Doubler instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Diamond Doubler or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1608. Filed for public inspection August 27, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), 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.

1. Parcels No. 308, 545, 316, 317, 318, 319—City of Chester, Delaware County. The parcels contain approxi-

mately 12,300 square feet of improved land located between RT 291, Commission Street and Edgmont. The estimated fair market value of the parcel is \$27,700 as a total assemblage of parcels 308, 545, 316, 317, 318, 319, SR 0291 SEC. A10.

Interested public entities are invited to express their interest in purchasing this parcel within 30 calendar days from the date of publication of this notice to Lester C. Toaso, District Executive, Department of Transportation, Engineering District 06, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, Attention: Linda Bunt, Right of Way Administrator, King of Prussia, phone (610) 205-6784.

ALLEN D. BIEHLER, P. E.,  
Secretary

[Pa.B. Doc. No. 10-1609. Filed for public inspection August 27, 2010, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Gettysburg Municipal Authority v. DEP; EHB Doc. No. 2010-125-C

The Gettysburg Municipal Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Gettysburg Borough, Adams County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
Chairperson

[Pa.B. Doc. No. 10-1610. Filed for public inspection August 27, 2010, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, August 5, 2010, and announced the following:

### Action Taken—Regulations Disapproved:

Bureau of Professional and Occupational Affairs #16A-47: Schedule of Civil Penalties—Funeral Directors and Funeral Establishments (amends 49 Pa. Code Chapter 13)

State Board of Funeral Directors #16A-4818: Continuing Education Enforcement (amends 49 Pa. Code § 43b.6)

### Disapproval Order

Public Meeting held  
August 5, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*Bureau of Professional and Occupational Affairs—Schedule of Civil Penalties—Funeral Directors and Funeral Establishments; Regulation No. 16A-47 (#2761)*

On April 22, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Bureau of Professional and Occupational Affairs (Bureau). This rulemaking amends 49 Pa. Code § 43b.6. The proposed regulation was published in the May 2, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 25, 2010.

This final regulation would establish a civil penalty schedule for violations of the continuing education requirements of the State Board of Funeral Directors (Board). This regulation is the companion piece to Regulation #16A-4818 (IRRC #2760) from the Board entitled: "Continuing Education Enforcement."

Thomas A. Blackburn, Regulatory Unit Counsel for the Department of State, appeared at the public meeting on August 5, 2010. Attorney Blackburn represented that he was authorized to request, on behalf of the Bureau, that the Commission disapprove this final-form regulation, given that the companion Regulation #16A-4818 (IRRC #2760) had been disapproved at the same public meeting. Without support from the promulgating Bureau, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(b)(3). Therefore, in response to the Bureau's request, we disapprove this regulation.

### By Order of the Commission:

The regulation #16A-47 (IRRC #2761) from the Bureau of Professional Occupational Affairs: Schedule of Civil Penalties—Funeral Directors & Funeral Establishments was disapproved on August 5, 2010.

### Disapproval Order

Public Meeting held  
August 5, 2010

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick, Vice Chairperson; S. David Fineman, Esq.; Silvan B. Lutkewitte, III; John F. Mizner, Esq., by Phone

*State Board of Funeral Directors—Continuing Education Enforcement; Regulation No. 16A-4818 (#2760)*

On April 22, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Funeral Directors (Board).



This rulemaking amends 49 Pa. Code Chapter 13. The proposed regulation was published in the May 2, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 25, 2010.

This rulemaking is intended to clarify the consequences of failing to comply with the continuing education provisions in the Funeral Director Law (63 P. S. § 479.10(b)) and the Board's regulations (49 Pa. Code §§ 13.401—13.406). Both require a licensee to complete six hours of continuing education credits each biennium in order to qualify for license renewal. Under the amendments in this rulemaking, a licensee who has not completed the amount of continuing education credits may renew, subject to being issued a citation, paying a fine and making up the continuing education credits within six months.

We find that the Board does not have the statutory authority to renew a license for an applicant who has not completed the statutorily mandated six hours of continuing education during the prior two-year license period. As explained below, this regulation does not meet the Regulatory Review Act criterion of statutory authority to promulgate the regulation. 71 P. S. § 745.5b.

In our comments issued July 1, 2009, on the proposed regulation, we stated:

... the Board should explain the status of a license between the end of a biennial period when a license would expire and the point in time a licensee provides satisfactory proof of attendance at continuing education courses.

The Board responded in the final regulation's Preamble:

Upon renewal of the license, the licensure status is the same as if the licensee had completed the entire continuing education requirement in a timely fashion. Only if the Board later takes disciplinary action, such as if the Board then suspends a license where the licensee still has not completed the required continuing education, would the licensure status change.

The Board's response indicated that the intent of the amended regulatory language, which would be 49 Pa. Code §§ 13.231(a) and 13.401(d), is to allow a renewal of a license when a licensee failed to attend the required six hours of mandatory continuing education during the license period.

Continuing education relating to license renewal is addressed in 63 P. S. § 479.10(b)(1) which states:

The Board shall adopt, promulgate and enforce rules and regulations consistent with provisions of this act establishing requirements of continuing education to be met by individuals licensed under this act *as a condition for renewal of their licenses*. . . . (Emphasis added.)

The only exceptions to the continuing education mandate in the statute are for initial licensure and waivers for "serious illness, military service or other demonstrated hardship" on a case by case basis. When a licensee does not meet either of these conditions, the applicant, "as a condition of renewal of their license," is required to have attended "six (6) hours of mandatory continuing education during each two-year license period." 63 P. S. §§ 479.10(b)(1) to (4).

We have determined this regulation is not consistent with the statutory authority of the State Board of Funeral Directors (63 P. S. § 479.10(b)) and the intention of

the General Assembly. Therefore, we find promulgation of this regulation is not in the public interest.

*By Order of the Commission:*

The regulation #16A-4818 (IRRC #2760) from the State Board of Funeral Directors: Continuing Education Enforcement was disapproved on August 5, 2010.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1611. Filed for public inspection August 27, 2010, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or a copy can be obtained on the web site, [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-4410	State Board of Podiatry Continuing Education	08/13/10	9/16/10
47-14	Milk Marketing Board Transactions Between Dealers and Producers	8/13/10	9/16/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1612. Filed for public inspection August 27, 2010, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**Aetna Health, Inc.; PPACA Reform Changes; Applicability—Individual Advantage Plans; Rate Filing**

On August 6, 2010, the Insurance Department (Department) received a filing from Aetna Health, Inc., requesting approval to adjust its Individual Advantage Plans rates to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010.

The requested effective date of the change is October 1, 2010.

Unless formal administrative action is taken prior to November 10, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). Under the tab "How to Find . . ." click on the link "Current Rate Filings."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, csandersjo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1613. Filed for public inspection August 27, 2010, 9:00 a.m.]

### **Blue Cross of Northeastern Pennsylvania; Rate Increase Filing for BlueCare Senior Major Medical**

By filing No. 1572-PRAG-5-MM-RATE, Blue Cross of Northeastern Pennsylvania and Highmark Blue Shield submitted a filing requesting the Insurance Department's (Department) approval to increase the current monthly rates for the BlueCare Senior Major Medical plan by 19.5% effective January 1, 2011. This increase will impact approximately 2,600 monthly projected members and yield approximately \$18,000 in additional revenue annually from the Department approved 2010 base rate to the proposed 2011 base rate contained in this filing. Blue Cross of Northeastern Pennsylvania also proposes to add 53 new benefit plans and withdraw 32 existing benefit plans.

Unless formal administrative action is taken prior to November 11, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, 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. 10-1614. Filed for public inspection August 27, 2010, 9:00 a.m.]

### **Highmark, Inc., Filing No. 1-DPMS(NEPA)-10-HBS; Requesting Approval to Increase Rates for Direct Pay Care Medical Surgical Plans in the Northeastern Region; Rate Filing**

By filing No. 1-DPMS(NEPA)-10-HBS, Highmark, Inc., d/b/a Highmark Blue Shield, requests approval to revise premium rates for its Direct Pay Medical/Surgical programs in the Northeastern Pennsylvania region.

Highmark is requesting a 14.2% increase in Northeastern Pennsylvania or \$22.93 per contract. This will affect 1,700 contracts and generate an additional \$39,000 per month in premium.

The requested effective date of the change is January 1, 2011.

Unless formal administrative action is taken prior to November 11, 2010, 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.insurance.pa.gov](http://www.insurance.pa.gov). To access the filing, under "How to Find..." click on "View Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, 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. 10-1615. Filed for public inspection August 27, 2010, 9:00 a.m.]

## **PATIENT SAFETY AUTHORITY**

### **Public Meeting**

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error Act (MCARE) (40 P.S. § 1303.303), announces a meeting of the Authority's Board to be held at the Harrisburg Area Community College, One HACC Drive, Harrisburg, PA at 10 a.m. on Tuesday, September 7, 2010.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,  
*Executive Director*

[Pa.B. Doc. No. 10-1616. Filed for public inspection August 27, 2010, 9:00 a.m.]

## **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

### **Service of Notice of Motor Carrier Applications**

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by September 13, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Application of the following for approval to begin operating as common carriers for transportation of persons as described under the application.**

**A-2010-2194049. Lifestar Response of New Jersey** (657 Union Boulevard, Totowa, Passaic County, NJ 07512)—for the right to begin to transport, as a common carrier, persons in paratransit service by providing wheelchair and medical transportation, from points in the Counties of Berks, Bucks, Carbon, Columbia, Cumberland, Dauphin, Lackawanna, Lancaster, Lebanon, Luzerne, Lycoming, Monroe, Montgomery, Montour, Northampton, Northumberland, Schuylkill, Susquehanna, Union, Wayne and Wyoming, to points in Pennsylvania, and return.

**Application 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 the application.**

**A-2010-2192697. James Richard Diven** (9 Wagon Wheel Lane, Mifflintown, PA 17059)—for the discontinuance of service and cancellation of his certificate for the transportation of persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points within an airline distance of one-hundred (100) statute miles from the city limits of Mifflintown, Juniata County, to points in Pennsylvania, and return.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. Emily Taxi, Inc.;*  
*Doc. No. C-2010-2129763, A-00119640*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Emily Taxi, Inc., Respondent, maintains a principal place of business at 805 Red Lion Road, B-3, Philadelphia, PA 19115.
2. That Respondent was issued a Certificate of Public Convenience by this Commission on April 30, 2003, A-00119640.
3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.
4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Emily Taxi, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement Division  
 Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:



James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
 Transportation and Safety v. I, M & B Taxicab, Inc.;*  
*Doc. No. C-2010-2129743, A-00119134*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That I, M & B Taxicab, Inc., Respondent, maintains a principal place of business at 242 Rocklyn Road, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on August 30, 2002, at A-00119134.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 4, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine I, M & B Taxicab, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement  
 Division  
 Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and  
 Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist

from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Dhillon Transportation;  
Doc. No. C-2010-2129733, A-00118334*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Dhillon Transportation, Inc., Respondent, maintains a principal place of business at 146 Glencoe Road, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 25, 2004, A-00118334.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Dhillon Transportation, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and  
Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law

Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Kebe Cab Co.  
Doc. No. C-2010-2135170, A-00118352*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Kebe Cab Co., Respondent, maintains a principal place of business at 1100 Spring Garden Street, Philadelphia, PA 19123.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on November 14, 2001, at A-00118352.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Kebe Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and  
Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.



*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Alex & Gladys, Inc.;*  
*Doc. No. C-2010-2128654, A-00110514*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Alex & Gladys, Inc., Respondent, maintains a principal place of business at 5479 Morse Street, Philadelphia, PA 19131.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on December 7, 1992, A-00110514.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Alex & Gladys, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Division  
Bureau of Transportation and Safety

### NOTICE

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P. O. Box 3265  
Harrisburg, PA 17105-3265

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C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and  
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Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Agape Cab Co.;*  
*Doc. No. C-2010-2128658, A-00110912*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has del-

egated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Agape Cab Co., Respondent, maintains a principal place of business at 5535 Pine Street, Philadelphia, PA 19143.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on December 15, 1995, A-00110912.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated August 31, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Agape Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

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James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
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D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Little Al Cab, Inc.;*  
*Doc. No. C-2010-2137672, A-00112764*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Little Al Cab, Inc., Respondent, maintains a principal place of business at 945 East Ellet Street, Philadelphia, PA 19150.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 4, 1996, at A-00112764.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Little Al Cab, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

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Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Nijjar Cab Co.;*  
*Doc. No. C-2010-2137669, A-00121391*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Nijjar Cab Co., Respondent, maintains a principal place of business at 500 Elm Avenue, Upper Darby, PA 19082.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on January 16, 2004, at A-00121391.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service



which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Nijjar Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

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Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

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P. O. Box 3265  
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Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. M.D. Cab Co.;*  
*Doc. No. C-2010-2137670, A-00094636*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That M.D. Cab Co., Respondent, maintains a principal place of business at P. O. Box 52221, Philadelphia, PA 19115.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on September 13, 1983, at A-00094636.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11.

Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine M.D. Cab Co., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
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*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Henry Taxi, Inc.;*  
*Doc. No. C-2010-2135164, A-00114532*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Henry Taxi, Inc., Respondent, maintains a principal place of business at P. O. Box 52221, Philadelphia, PA 19115.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on March 27, 1998, at A-00114532.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Henry Taxi, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

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Date: \_\_\_\_\_

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Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

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F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Polina Taxi, Inc.;*  
*Doc. No. C-2010-2137676, A-00114407*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Polina Taxi, Inc., Respondent, maintains a principal place of business at P. O. Box 52221, Philadelphia, PA 19115.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on June 1, 1998, at A-00114407.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Polina Taxi, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.



Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. R V Cab, Inc.;*  
*Doc. No. C-2010-2135154, A-00114251*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings, which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That R V Cab, Inc., Respondent, maintains a principal place of business at P. O. Box 52221, Philadelphia, PA 19115.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on October 9, 1997, at A-00114251.

3. That Respondent was advised by letter dated May 10, 2005, that its medallion authority was being transferred to the Philadelphia Parking Authority. At that time, Respondent was advised that its taxicab service which had an origin and destination outside of the City of Philadelphia remained subject to the regulatory oversight of the PA PUC.

4. That Respondent was advised by letter dated September 11, 2009, that it failed to file a valid tariff with this Commission as required by 52 Pa. Code § 23.11. Respondent was provided 60 days to file an acceptable tariff. To date, Respondent has not filed an acceptable tariff. The Bureau of Transportation and Safety's Motor Carrier Services and Enforcement Prosecutory Staff's proposed civil penalty for this violation is \$250.00.

*Wherefore*, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine R V Cab, Inc., the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in the complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement Division  
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. Each day you continue to violate any regulation, direction, requirement or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this complaint by filing an acceptable tariff and by paying the fine proposed in this Complaint by certified check or money order. The tariff must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

The fine payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of an acceptable tariff and payment of the proposed fine, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. If you have questions regarding this Complaint or if you would like an alternative format to this Complaint (for persons with disabilities), please contact the Compliance Office at (717) 787-1227.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1617. Filed for public inspection August 27, 2010, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 10-096.6, Remove and Replace Fire Pump Controller, Building 6 at Packer Avenue Marine Terminal (PAMT) until 2 p.m. on Thursday, September 23, 2010. The bid documents can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) and available August 31, 2010. PRPA is an equal opportunity employer. Contractor must comply with all applicable EOE laws. A mandatory prebid job site meeting will be held September 9, 2010 at 10 a.m. at the North Guard House, PAMT, Philadelphia, PA. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending. Fax to (215) 426-6800, Attn: Procurement Department.

JAMES T. McDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 10-1618. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project No. 10-100.P for 2011 PRPA Diary/Calendar until 2 p.m. on Thursday, September 16, 2010. Information concerning this project can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) under Procurement and, will be available Tuesday, August 31, 2010. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. McDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 10-1619. Filed for public inspection August 27, 2010, 9:00 a.m.]

## Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project No. 10-101.P for Design and Print Six-Sided Double-Fold Port Information Brochure and Project No. 10-102.P for Design and Print Foreign Trade Zone Folder until 2 p.m. on Thursday, September 16, 2010. Information concerning this project can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) under Procurement and, will be available Tuesday, August 31, 2010. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. McDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 10-1620. Filed for public inspection August 27, 2010, 9:00 a.m.]

# SUSQUEHANNA RIVER BASIN COMMISSION

## Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has approved the following list of projects, during July 1, 2010, through July 31, 2010.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, [rcairo@srbc.net](mailto:rcairo@srbc.net); or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, [srichardson@srbc.net](mailto:srichardson@srbc.net); or mail inquiries to Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

### Supplementary Information

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process set forth in 18 CFR 806.22(e) and (f) (relating to standards for consumptive uses of water) for the time period specified previously:

### Approvals By Rule Issued Under 18 CFR 806.22(e):

1. Eastern Shore Natural Gas Company, Mainline Extension Interconnect Project, ABR-201007001, Salisbury Township, Lancaster County and West Sadsbury Township, Chester County, PA; Consumptive Use of up to 0.300 mgd; Approval Date: July 6, 2010.

### Approvals By Rule Issued Under 18 CFR 806.22(f):

1. Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad G, ABR-201007002, Grugan Township, Clinton County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 6, 2010, including a partial waiver of 18 CFR 806.15.

2. Ultra Resources, Inc.; Pad ID: Stewart 805, ABR-201007003, Elk Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 6, 2010.

3. Talisman Energy USA, Inc.; Pad ID: Shedden 01 075, ABR-201007004, Granville Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 6, 2010.

4. Chesapeake Appalachia, LLC; Pad ID: Redmond, ABR-201007005, Meshoppen Township, Wyoming County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 6, 2010.

5. Ultra Resources, Inc.; Pad ID: Fox 813, ABR-201007006, Gaines Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 6, 2010.

6. Carrizo Marcellus, LLC; Pad ID: Solanick 5H, ABR-201007007, Washington Township, Wyoming County, PA; Consumptive Use of up to 1.400 mgd; Approval Date: July 6, 2010.

7. Chief Oil & Gas, LLC; Pad ID: Squier Drilling Pad No. 1, ABR-201007008, Springville Township, Susquehanna County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 7, 2010.

8. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Synnestvedt 878, ABR-201007009, Osceola Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

9. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Matz 824, ABR-201007010, Chatham Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

10. Talisman Energy USA, Inc.; Pad ID: Noble 03 029, ABR-201007011, Wells Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 7, 2010.

11. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Cochran 705, ABR-201007012, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

12. Southwestern Energy Production Company, Pad ID: Greenzweig 1, ABR-20090437.1, Herrick Township, Bradford County, PA; Consumptive Use of up to 4.999 mgd; Approval Date: July 7, 2010.

13. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Frost 573, ABR-201007013, Covington Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

14. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 513R, ABR-201007014, Rutland Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

15. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Murdock 862, ABR-201007015, Deerfield Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

16. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Taylor 718, ABR-201007016, Liberty Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

17. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wesneski 724, ABR-201007017, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

18. Chesapeake Appalachia, LLC; Pad ID: McCarty, ABR-201007018, Fox Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

19. Chesapeake Appalachia, LLC; Pad ID: Moose, ABR-201007019, Wysox Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.



20. Talisman Energy USA, Inc.; Pad ID: Nolt 01 082, ABR-201007020, Granville Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 9, 2010.
21. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sorensen 876, ABR-201007021, Osceola Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 9, 2010.
22. Chesapeake Appalachia, LLC; Pad ID: Forbes NEW, ABR-201007022, Asylum Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.
23. Chesapeake Appalachia, LLC; Pad ID: Insinger, ABR-201007023, Forks Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.
24. Chesapeake Appalachia, LLC; Pad ID: Coveytown, ABR-201007024, Cherry Township, Sullivan County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.
25. Chesapeake Appalachia, LLC; Pad ID: Tiffany, ABR-201007025, Windham Township, Wyoming County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.
26. Hess Corporation, Pad ID: Miller, ABR-201007026, Scott Township, Wayne County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: July 12, 2010.
27. Hess Corporation, Pad ID: Steinberg, ABR-201007027, Preston Township, Wayne County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: July 12, 2010.
28. Chesapeake Appalachia, LLC; Pad ID: Jacobs, ABR-201007028, Rome Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.
29. Chesapeake Appalachia, LLC; Pad ID: Katzenstein NEW, ABR-201007029, Wysox Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.
30. Chesapeake Appalachia, LLC; Pad ID: Simpson, ABR-201007030, West Burlington Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.
31. Range Resources—Appalachia, LLC; Pad ID: Lone Walnut H.C. Unit No. 3H Drilling Pad, ABR-201007031, Cummings Township, Lycoming County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: July 13, 2010.
32. Chief Oil & Gas, LLC; Pad ID: Kobbe Drilling Pad No. 1, ABR-201007032, Elkland Township, Sullivan County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 14, 2010.
33. Talisman Energy USA, Inc.; Pad ID: Yurkanin 03 014, ABR-201007033, Columbia Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 14, 2010.
34. Chesapeake Appalachia, LLC; Pad ID: Milochik, ABR-201007034, Auburn Township, Susquehanna County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
35. Chesapeake Appalachia, LLC; Pad ID: Strope, ABR-201007035, Ulster Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
36. Chesapeake Appalachia, LLC; Pad ID: Robinson NEW, ABR-201007036, Orwell Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
37. Chesapeake Appalachia, LLC; Pad ID: Breezy, ABR-201007037, Troy Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
38. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Westerbaan 723, ABR-201007038, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 14, 2010.
39. Ultra Resources, Inc.; Pad ID: State 819 (rev); ABR-201007039, Gaines Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.
40. Ultra Resources, Inc.; Pad ID: State 822; ABR-201007040, Gaines Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.
41. Ultra Resources, Inc.; Pad ID: State 824; ABR-201007041, Gaines Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.
42. Ultra Resources, Inc.; Pad ID: State 825; ABR-201007042, Gaines Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.
43. Ultra Resources, Inc.; Pad ID: State 826; ABR-201007043, Shippen Township, Tioga County, PA; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.
44. Gastem, Inc./Gastem-USA, Inc.; Pad ID: Sheckells 1, ABR-201007044, Cherry Valley Town, Otsego County, NY; Consumptive Use of up to 0.080 mgd; Approval Date: July 15, 2010.
45. Chief Oil & Gas, LLC; Pad ID: Lightner Drilling Pad No. 1, ABR-201007045, Juniata Township, Blair County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 15, 2010.
46. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Maneval 296, ABR-201007046, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 15, 2010.
47. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Taft 851, ABR-201007047, Middlebury Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 15, 2010.
48. Chesapeake Appalachia, LLC; Pad ID: Barnes, ABR-201007048, Smithfield Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.
49. Anadarko E&P Company, LP; Pad ID: Robert C. Ulmer Pad A, ABR-201007049, Watson Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 16, 2010.

50. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Thomas 503, ABR-201007050, Sullivan and Rutland Townships, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 16, 2010.

51. Energy Corporation of American, Pad ID: Coldstream Affiliates No. 1MH, ABR 201007051, Goshen Township, Clearfield County, PA; Consumptive Use of up to 1.980 mgd; Approval Date: July 16, 2010.

52. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad D, ABR-201007052, Cummings Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 16, 2010, including a partial waiver of 18 CFR 806.15.

53. Anadarko E&P Company, LP; Pad ID: COP Tract 343 Pad B, ABR-201007053, Beech Creek Township, Clinton County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 19, 2010, including a partial waiver of 18 CFR 806.15.

54. Talisman Energy USA, Inc.; Pad ID: McMurray 01 031, ABR-201007054, Canton Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 19, 2010.

55. Hess Corporation, Pad ID: Medved, ABR-201007055, Preston Township, Wayne County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: July 19, 2010.

56. Hess Corporation, Pad ID: Galiardo, ABR-201007056, Starrucca Borough, Wayne County, PA; Consumptive Use of up to 5.000 mgd; Approval Date: July 19, 2010.

57. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Reese 289, ABR-201007057, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 19, 2010.

58. Chief Oil & Gas, LLC; Pad ID: M & L Beinlich South Drilling Pad No. 1, ABR-201007058, Elkland Township, Sullivan County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 19, 2010.

59. Chief Oil & Gas, LLC; Pad ID: M & L Beinlich North Drilling Pad No. 1, ABR-201007059, Overton Township, Bradford County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 19, 2010.

60. Southwestern Energy Production Company, Pad ID: Ball, ABR-201007060, Stevens Township, Bradford County, PA; Consumptive Use of up to 4.999 mgd; Approval Date: July 19, 2010.

61. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sawyer 376, ABR-201007061, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 19, 2010.

62. Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad C, ABR-201007062, Grugan Township, Clinton County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 19, 2010, including a partial waiver of 18 CFR 806.15.

63. Chesapeake Appalachia, LLC; Pad ID: Dewees, ABR-201007063, Rome Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 20, 2010.

64. Carrizo Marcellus, LLC; Pad ID: Shaskas, ABR-201007064, Jessup Township, Susquehanna County, PA; Consumptive Use of up to 1.400 mgd; Approval Date: July 20, 2010.

65. Chesapeake Appalachia, LLC; Pad ID: Pieszala, ABR-201007065, Windham Township, Wyoming County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 20, 2010.

66. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Harsell 883, ABR-201007066, Nelson Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 20, 2010.

67. Chief Oil & Gas, LLC; Pad ID: Davis Drilling Pad No. 1, ABR-201007067, West St. Clair Township, Bedford County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 21, 2010.

68. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Baldwin 881, ABR-201007068, Farmington Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 21, 2010.

69. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 874, ABR-201007069, Deerfield Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 21, 2010.

70. Anadarko E&P Company, LP; Pad ID: Jason M. Phillips Pad A, ABR-201007070, Cogan House Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010.

71. Anadarko E&P Company, LP; Pad ID: Ann M. Mercier Pad A, ABR-201007071, Cogan House Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010.

72. Anadarko E&P Company, LP; Pad ID: COP Tract 357 Pad B, ABR-201007072, Cummings Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

73. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad A, ABR-201007073, Cummings Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

74. Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad E, ABR-201007074, Grugan Township, Clinton County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

75. Anadarko E&P Company, LP; Pad ID: COP Tract 357 Pad A, ABR-201007075, Cummings Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

76. Anadarko E&P Company, LP; Pad ID: Clearview HC Pad A, ABR-201007076, Gamble Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 22, 2010.

77. Chesapeake Appalachia, LLC; Pad ID: Schlick NEW, ABR-201007077, Rush Township, Susquehanna County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 22, 2010.

78. Chesapeake Appalachia, LLC; Pad ID: Delima, ABR-201007078, Albany Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 22, 2010.

79. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Smith 140, ABR-201007079, Charleston Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 22, 2010.

80. Talisman Energy USA, Inc.; Pad ID: 05 080 Young, ABR-201007080, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 22, 2010.

81. Williams Production Appalachia, LLC; Pad ID: M. Martin 1V, ABR-201007081, Sugarloaf Township, Columbia County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 22, 2010.

82. Talisman Energy USA, Inc.; Pad ID: Thorpe 03 049, ABR-201007082, Wells Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 23, 2010.

83. Talisman Energy USA, Inc.; Pad ID: Szumski 03 022, ABR-201007083, Columbia Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

84. Talisman Energy USA, Inc.; Pad ID: Watson 03 051, ABR-201007084, Columbia Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

85. Williams Production Appalachia, LLC; Pad ID: Alder Run Land LP No. 5H, ABR-201007085, Cooper Township, Clearfield County, PA; Consumptive Use of up to 2.000 mgd; Approval Date: July 26, 2010.

86. Talisman Energy USA, Inc.; Pad ID: 05 006 Ugliuzza L, ABR-201007086, Pike Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

87. Norse Energy Corporation USA, Pad ID: Thornhill No. 1, ABR-201007087, Colesville Town, Broome County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 26, 2010.

88. Talisman Energy USA, Inc.; Pad ID: Cummings 01 081, ABR-201007088, Troy Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

89. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Cleveland 616, ABR-201007089, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

90. Talisman Energy USA, Inc.; Pad ID: 05 047 Kipp, ABR-201007090, Warren Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

91. Talisman Energy USA, Inc.; Pad ID: Kirkowski 01 066, ABR-201007091, Canton Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

92. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Hedrick 702, ABR-201007092, Union Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

93. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Gee 848V, ABR-201007093, Middlebury Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

94. Talisman Energy USA, Inc.; Pad ID: Feusner 03 044, ABR-201007094, Columbia Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

95. Talisman Energy USA, Inc.; Pad ID: Feusner 03 045, ABR-201007095, Columbia Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

96. Talisman Energy USA, Inc.; Pad ID: Walters 05 001, ABR-201007096, Herrick Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

97. Anadarko E&P Company, LP; Pad ID: COP Tract 231 Pad E, ABR-201007097, Boggs Township, Centre County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 27, 2010, including a partial waiver of 18 CFR 806.15.

98. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wolfe 1114, ABR-201007098, Nelson Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

99. Talisman Energy USA, Inc.; Pad ID: 05 004 Cooley P, ABR-201007099, Orwell Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

100. Chesapeake Appalachia, LLC; Pad ID: Lopatofsky NEW, ABR-201007100, Washington Township, Wyoming County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

101. Chesapeake Appalachia, LLC; Pad ID: Rowe, ABR-201007101, Rome Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

102. Chesapeake Appalachia, LLC; Pad ID: Scheffler, ABR-201007102, Standing Stone Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

103. Chesapeake Appalachia, LLC; Pad ID: Bluegrass, ABR-201007103, Rush Township, Susquehanna County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

104. Chesapeake Appalachia, LLC; Pad ID: Wilmot, ABR-201007104, Rome Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

105. Chesapeake Appalachia, LLC; Pad ID: Champluvier, ABR-201007105, Tuscarora Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

106. Chesapeake Appalachia, LLC; Pad ID: Van DeMark, ABR-201007106, Windham Township, Wyoming County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

107. Norse Energy Corporation USA, Pad ID: Knapp, J. No. 1, ABR-201007107, Colesville Town, Broome County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.



108. Norse Energy Corporation USA, Pad ID: Klecha, M. No. 1, ABR-201007108, Coventry Township, Chenango County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

109. Norse Energy Corporation USA, Pad ID: Norse East No. 1, ABR-201007109, Afton Township, Chenango County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

110. Norse Energy Corporation USA, Pad ID: Norse West No. 1, ABR-201007110, Afton Township, Chenango County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

111. Norse Energy Corporation USA, Pad ID: Anderson, C. No. 1, ABR-201007111, Coventry Township, Chenango County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

112. Norse Energy Corporation USA, Pad ID: Norse No. 3, ABR-201007112, Colesville Town, Broome County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 28, 2010.

113. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sticklin 610, ABR-201007113, Delmar Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

114. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad I, ABR-201007114, Cummings Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 28, 2010, including a partial waiver of 18 CFR 806.15.

115. Seneca Resources Corporation, Pad ID: Lehmann Pad K, ABR-201007115, Covington Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

116. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 499, ABR-201007116, Sullivan Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

117. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Hamblin 860, ABR-201007117, Middlebury Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

118. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Foti 721, ABR-201007118, McNett Township, Lycoming County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

119. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Clegg 722, ABR-201007119, McNett Township, Lycoming County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

120. Cabot Oil & Gas Corporation, Pad ID: DavisG P1, ABR-201007120, Gibson Township, Susquehanna County, PA; Consumptive Use of up to 3.575 mgd; Approval Date: July 28, 2010.

121. Cabot Oil & Gas Corporation, Pad ID: AdamsJ P1, ABR-201007121, Harford Township, Susquehanna County, PA; Consumptive Use of up to 3.575 mgd; Approval Date: July 28, 2010.

122. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Seeley 524, ABR-201007122, Rutland Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

123. Chesapeake Appalachia, LLC; Pad ID: Covington, ABR-201007123, Sheshequin Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 28, 2010.

124. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad F, ABR-201007124, Cummings Township, Lycoming County, PA; Consumptive Use of up to 3.000 mgd; Approval Date: July 29, 2010, including a partial waiver of 18 CFR 806.15.

125. Chesapeake Appalachia, LLC; Pad ID: EDF NEW, ABR-201007125, Mehoopany Township, Wyoming County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.

126. Chesapeake Appalachia, LLC; Pad ID: Petty, ABR-201007126, Leroy Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.

127. Chesapeake Appalachia, LLC; Pad ID: Faith New, ABR-201007127, Sheshequin Township, Bradford County, PA; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.

128. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Dewey Hollow Rod & Gun Club 601, ABR-201007128, Sullivan Township, Tioga County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 29, 2010.

129. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Swingle 725, ABR-201007129, Canton Township, Bradford County, PA; Consumptive Use of up to 4.000 mgd; Approval Date: July 29, 2010.

130. Talisman Energy USA, Inc.; Pad ID: 05 002 Warner W, ABR-201007130, Pike Township, Bradford County, PA; Consumptive Use of up to 6.000 mgd; Approval Date: July 29, 2010.

131. Norse Energy Corporation USA, Pad ID: Stone No. 1, ABR-201007131, Afton Township, Chenango County, NY; Consumptive Use of up to 0.150 mgd; Approval Date: July 30, 2010.

*Authority:* Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808.

Dated: August 13, 2010.

PAUL O. SWARTZ,  
*Executive Director*

[Pa.B. Doc. No. 10-1621. Filed for public inspection August 27, 2010, 9:00 a.m.]

### Public Hearing and Meeting

The Susquehanna River Basin Commission (Commission) will hold a public hearing as part of its regular business meeting on September 16, 2010, at 8:30 a.m., at the Radisson Hotel Corning, 125 Denison Parkway East, Corning, NY 14830. At the public hearing, the Commission will consider: 1) action on certain water resources projects; 2) compliance matters involving three projects; 3) action on a project involving a diversion; and 4) the rescission of two docket approvals. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

For further information, contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net; or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, sr Richardson@srbc.net.

#### *Supplementary Information*

In addition to the public hearing and its related action items identified as follows, the business meeting also includes actions or presentations on the following items: 1) update on the Commission's Remote Water Quality Monitoring Network; 2) hydrologic conditions in the basin; 3) final rulemaking covering 18 CFR Parts 806 and 808; 4) ratification/approval of grants/contracts; and 5) revision of the Fiscal Year 2012 budget resolution. The Commission will also hear Legal Counsel's report.

#### *Public Hearing—Compliance Matters*

1. Project Sponsor: Talisman Energy USA, Inc. Pad ID: Castle 01 047 (ABR-20100128), Armenia Township; Harvest Holdings 01 036 (ABR-20100225), Canton Township; and Putnam 01 076 (ABR-20100233), Armenia Township; Bradford County, PA.

2. Project Sponsor: Cabot Oil & Gas Corporation. Withdrawal ID: Susquehanna River-3 (Docket No. 20080905), Great Bend Borough, Susquehanna County, PA.

3. Project Sponsor: Seneca Resources Corporation. Pad ID: M. Pino H (ABR-20090933), Department of Conservation and Natural Resources 100 1V (ABR-20090436), Wilcox F (ABR-20090505), T. Wivell (ABR-20090814), Wivell I (ABR-20100607), Department of Conservation and Natural Resources 595 E (ABR-20100307), Department of Conservation and Natural Resources 595 D (ABR-20090827); Withdrawal ID: Arnot 5—Signor (Docket No. 20090908).

#### *Public Hearing—Projects Scheduled for Action*

1. Project Sponsor and Facility: Anadarko E&P Company, LP (Beech Creek), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 0.249 mgd.

2. Project Sponsor and Facility: Anadarko E&P Company, LP (Pine Creek—2), McHenry Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.499 mgd.

3. Project Sponsor and Facility: Anadarko E&P Company, LP (Wolf Run), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 0.499 mgd.

4. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Monroe Manor Water System, Monroe Township, Snyder County, PA. Application for groundwater withdrawal of up to 0.180 mgd from Well 4.

5. Project Sponsor and Facility: Buck Ridge Stone, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.083 mgd.

6. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, PA. Modification to project features of the withdrawal approval (Docket No. 20080923).

7. Project Sponsor and Facility: Chief Oil & Gas, LLC (Martins Creek), Hop Bottom Borough, Susquehanna County, PA. Application for surface water withdrawal of up to 0.360 mgd.

8. Project Sponsor and Facility: Citrus Energy (Susquehanna River), Washington Township, Wyoming County, PA. Application for surface water withdrawal of up to 1.495 mgd.

9. Project Sponsor and Facility: Geary Enterprises (Buttermilk Creek), Falls Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

10. Project Sponsor and Facility: Mansfield Borough Municipal Authority, Richmond Township, Tioga County, PA. Application for groundwater withdrawal of up to 0.079 mgd from Well 3.

11. Project Sponsor: New Morgan Landfill Company, Inc. Project Facility: Conestoga Landfill, Bethel Township, Berks County, PA. Application for groundwater withdrawal of up to 0.003 mgd from the Shop Well.

12. Project Sponsor: New Morgan Landfill Company, Inc. Project Facility: Conestoga Landfill (Quarry Pond), Bethel Township, Berks County, PA. Application for surface water withdrawal of up to 0.250 mgd.

13. Project Sponsor and Facility: Novus Operating, LLC (Cowanessque River), Westfield Township, Tioga County, PA. Application for surface water withdrawal of up to 0.750 mgd.

14. Project Sponsor and Facility: Novus Operating, LLC (Tioga River), Covington Township, Tioga County, PA. Application for surface water withdrawal of up to 1.750 mgd.

15. Project Sponsor and Facility: Smith Transport Warehouse (Bald Eagle Creek), Snyder Township, Blair County, PA. Application for surface water withdrawal of up to 0.160 mgd.

16. Project Sponsor and Facility: Sugar Hollow Trout Park and Hatchery, Eaton Township, Wyoming County, PA. Application for groundwater withdrawal of up to 0.864 mgd combined total from Wells 1, 2 and 3 (Hatchery Well Field).

17. Project Sponsor and Facility: Talisman Energy USA, Inc. (Seeley Creek), Wells Township, Bradford County, PA. Application for surface water withdrawal of up to 0.750 mgd.

18. Project Sponsor and Facility: Talisman Energy USA, Inc. (Wyalusing Creek), Stevens Township, Bradford County, PA. Application for surface water withdrawal of up to 2.000 mgd.

19. Project Sponsor and Facility: Walker Township Water Association, Walker Township, Centre County, PA. Modification to increase the total groundwater system withdrawal limit (30-day average) from 0.523 mgd to 0.962 mgd (Docket No. 20070905).

20. Project Sponsor and Facility: Williams Production Appalachia, LLC (Snake Creek), Liberty Township, Susquehanna County, PA. Modification to project features of the withdrawal approval (Docket No. 20090302).

#### *Public Hearing—Project Scheduled for Action Involving a Diversion*

1. Project Sponsor: Gettysburg Municipal Authority. Project Facility: Hunterstown Wastewater Treatment Plant, Abbottstown Borough, Adams County, PA. Application for an existing into-basin diversion of up to 0.123 mgd from the Potomac River Basin.

*Public Hearing—Projects Scheduled for Rescission Action*

1. Project Sponsor: McNeil PPC. Project Facility: Johnson & Johnson (Docket No. 20050906), Lititz Borough, Lancaster County, PA.

2. Project Sponsor: Northampton Fuel Supply Company, Inc. Project Facility: Loomis Bank Operation (Docket No. 20040904), Hanover Township, Luzerne County, PA.

*Opportunity to Appear and Comment*

Interested parties may appear at the previously listed hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to

otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391; or submitted electronically to Richard A. Cairo, General Counsel, [rcairo@srbc.net](mailto:rcairo@srbc.net); or Stephanie L. Richardson, Secretary to the Commission, [srichardson@srbc.net](mailto:srichardson@srbc.net). Comments mailed or electronically submitted must be received prior to September 10, 2010, to be considered.

*Authority:* Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808.

Dated: August 17, 2010.

PAUL O. SWARTZ,  
*Executive Director*

[Pa.B. Doc. No. 10-1622. Filed for public inspection August 27, 2010, 9:00 a.m.]





