

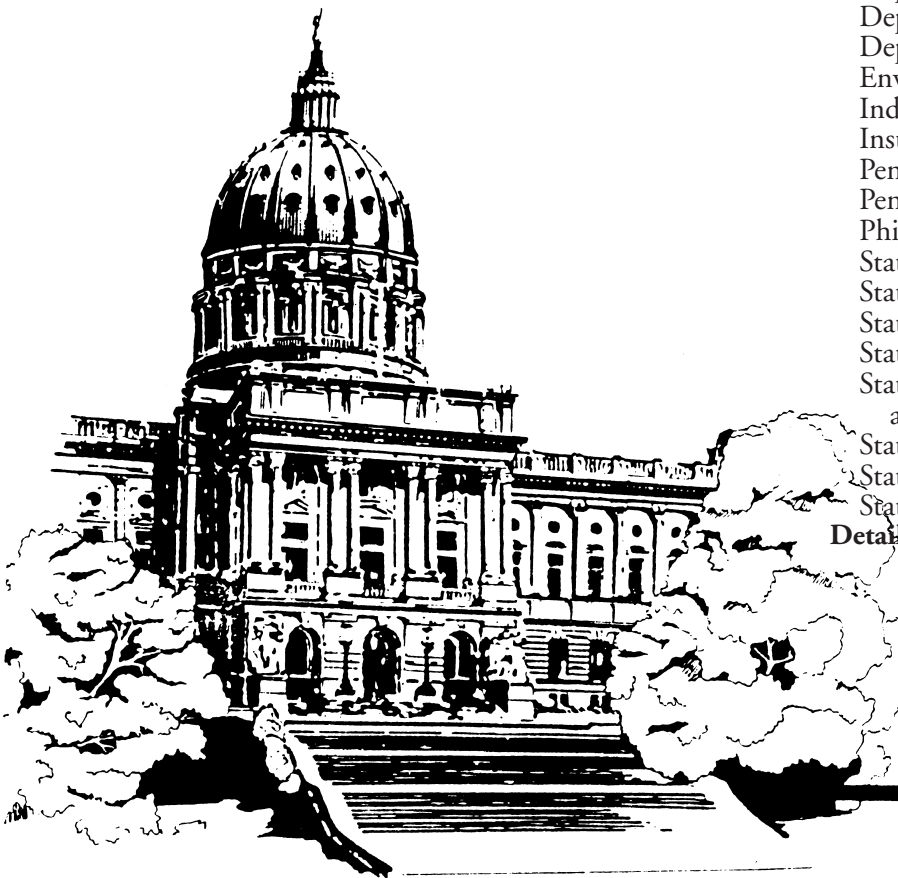
# PENNSYLVANIA BULLETIN

Volume 40  
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**No. 430, September 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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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 81 ]

#### Amendment of Section 81.505 of the Pennsylvania Interest on Lawyers Trust Account Regulations; No. 90 Disciplinary Rules

##### Order

*Per Curiam*

*And Now*, this 24th day of August, 2010, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Section 81.505 of the Pennsylvania Interest on Lawyers Trust Account Regulations is hereby amended as follows. The Form for Pro Hac Vice Admission shall be modified to reflect the increase in the admission fee from one hundred dollars (\$100) to two hundred dollars (\$200). The funds shall be applied to the Loan Repayment Assistance Program administered by the IOLTA Board and the Pennsylvania Bar Foundation.

To the extent that notice of the proposed amendment would be required by Pa.R.J.A. No. 103 or otherwise, the immediate amendment of § 81.505 is required in the interest of justice and efficient administration.

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

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

#### Subchapter D. INTEREST ON LAWYER TRUST ACCOUNT REGULATIONS FOR PRO HAC VICE ADMISSION

##### § 81.505. Fees.

(a) An attorney seeking admission pro hac vice with respect to a case shall pay a fee of [ **One** ] **Two** Hundred Dollars [ **(\$100)** ] **(\$200)**. The fee shall be required for each case in which the attorney is seeking pro hac vice admission. Under no circumstances shall the fee required by this regulation be refunded.

\* \* \* \* \*

[Pa.B. Doc. No. 10-1669. Filed for public inspection September 10, 2010, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### ADAMS COUNTY

#### Local Rule of Judicial Administration No. 21, Fee Schedule, Public Access to Magisterial District Court Records; Administrative Order No. 42 of 2010

##### Order of Court

*And Now*, this 25th day of August, 2010, the Court hereby directs that pursuant to the provisions of Section 5.0 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts, 204 Pa. Code § 213.1, et seq., the Court hereby adopts a fee schedule setting forth what may be charged for public access to official case records of the various magisterial district courts of Adams County.

#### Rule 21. Fee Schedule: Public Access to Magisterial District Court Records.

Any member of the public requesting access to the public records of the magisterial district courts of Adams County shall be charged the following fees:

- a. Any member of the public requesting access to the public records of the magisterial district courts of Adams County shall be charged the following fees:
  - i. Photocopying—\$0.25 per page;
  - ii. Facsimile or other electronic memos—\$0.25 per page;
  - iii. Conversion to paper from electronic storage—\$0.15 per page;
  - iv. Postage—actual cost;
  - v. Redaction—none;
  - vi. \$5.00 for each quarter (1/4) hour associated with the preparation, copying and re-filing of requested records.
- b. Depending upon the volume of the records requested, the Magisterial District Judge may require a reasonable deposit before authorizing response to the request.
- c. Fees paid for services are non-refundable.
- d. Fees may be waived if the magisterial district judge determines that the requestor is indigent.
- e. All fees received pursuant to this Rule shall be identified as revenue to the magisterial district court but shall be remitted monthly to the general fund of the County of Adams.

f. All terms used in this Rule shall have the same meaning as found in the definitional section of the Public Access Policy of the Unified Judicial System of Pennsylvania at 204 Pa. Code § 213.1.

It is further directed that:

1. This Order shall be filed in the Office of Prothonotary of Adams County and copies thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying;

2. Seven (7) certified copies of this Order shall be filed with the Administrative Office of the Pennsylvania Courts;

3. Two (2) certified copies of this Order and a computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b) containing the text of the local rule(s) adopted hereby shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

This Rule shall become effective immediately.

*By the Court*

JOHN D. KUHN,  
*President Judge*

[Pa.B. Doc. No. 10-1670. Filed for public inspection September 10, 2010, 9:00 a.m.]

## ADAMS COUNTY

### Local Rules of Judicial Administration Nos. 3.G, 5.0, 14.F, 19 and 20; Administration Order No. 41 of 2010

#### Order of Court

*And Now*, this 25th day of August, 2010, the Court hereby amends the Local Rules of Judicial Administration to amend Rule 5.0 and add Rules 3.G, 14.F, 19, and 20. These rules shall provide as follows:

#### Rule 3.G. Social Security Numbers.

No document submitted for filing to the Prothonotary's Office shall disclose the Social Security number of any person, except as specifically authorized by Rule promulgated by the Pennsylvania Supreme Court, court order, or as required by State or Federal law.

#### Rule 5.0. Records.

1. *Officers.* The Prothonotary, Clerk of Courts, Recorder of Deeds and Register of Wills shall be responsible for the safekeeping of records in their respective offices.

2. *Unsupervised Access to Records.* No person other than a judge, attorney admitted to practice in Pennsylvania, or persons designated by a judge or attorney may have unsupervised access to records. Attorneys shall designate which employees from their law office may have unsupervised access. The designation of law office employees must be written and filed in the appropriate office. All unsupervised access shall be limited to the Court's normal business hours and confined to the Prothonotary, Clerk of Courts or Recorder/Register's Offices where the records are stored. Attorneys and designated employees must sign an acknowledgement that they understand this rule and will do nothing to damage or compromise the integrity of records.

3. *Removal of Records.*—Officers may not authorize temporary removal of records for the purposes of examination and study by any person other than a judge, judicial staff, masters, auditors, court-appointed arbitrators or other court appointed persons. Officers shall require receipts and must be informed precisely where the records may be located. Any person temporarily removing the records shall authorize the Officer to seize and regain possession of the records without process or notice, wherever they may be held.

#### Rule 14.F. Tax Assessment Appeals.

1. All tax assessment appeals shall be filed in the Office of the Prothonotary.

2. The appeal shall set forth the name(s) and address(es) of the titled owner(s) of the real estate and/or the tax parcel number, the name of the municipality and school district in which the real estate is located, a copy of the decision of the Board of Assessment Appeals being appealed, and a brief averment stating the grounds for the appeal.

3. The Prothonotary shall forward the file to the President Judge, or designee, on the thirty-first (31st) day following the filing of the appeal. The Court shall then schedule a conference or take such other action as may be deemed necessary or appropriate.

#### Rule 19. Petitions for Exemption from Disability to Possess a Firearm.

Any person who is prohibited by law from possessing a firearm and who is seeking an exemption from such disability under provision of the Pennsylvania Uniform Firearms Act of 1995, 18 Pa.C.S.A. § 6101, et seq., and specifically under Section 6105 thereof, shall file a petition in the Office of the Prothonotary of Adams County. In addition to any other provision of law, the petition shall include:

(a). averment(s) stating the reason(s) the petitioner is prohibited from possessing a firearm and shall attach, as an exhibit, any supporting documentation;

(b). averment(s) stating the reason(s) the petitioner believes he/she is entitled to exemption;

(c). the identity of all persons entitled to notice of the proceeding; and

(d). an averment whether, by law, the hearing is to be open or closed to the public.

Within five (5) days after the filing of the petition, it shall be forwarded to the President Judge, or designee, for the scheduling of a hearing or such other action as may be deemed necessary or appropriate.

#### Rule 20. Civil Trial Exhibits.

1. After trial, exhibits admitted into evidence shall be retained by the Prothonotary until it is determined whether an appeal has been taken from a final judgment. If an appeal has been taken, the exhibits shall be retained by Prothonotary until disposition of the appeal.

2. Within sixty (60) days after the final disposition of all appeals or the date when no further appeal may be taken under the Pennsylvania Rules of Appellate Procedure, the party who offered the exhibits may reclaim them from the Prothonotary. Any exhibits not so reclaimed may be destroyed or otherwise disposed of by the Prothonotary after thirty (30) days written notice by regular mail to the attorney or party who offered the exhibit.

3. Notwithstanding the above, any person who has a possessory or legal interest in any exhibit which has been introduced into evidence may file a claim for such exhibit within thirty (30) days after trial. The presiding Judge shall determine the validity of such claim and determine the manner and timing of disposition.

These rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It is further directed that:

1. This Order shall be filed in the Office of Prothonotary of Adams County and a copy thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying;

2. Seven (7) certified copies of this Order shall be forwarded to the Administrative Office of the Pennsylvania Courts for distribution in accordance with the provisions of Pa.R.J.A. No. 203(c)(2); and

3. Two (2) certified copies of this Order, together with a computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b) containing the text of the local rules adopted hereby, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

*By the Court*

JOHN D. KUHN,  
*President Judge*

[Pa.B. Doc. No. 10-1671. Filed for public inspection September 10, 2010, 9:00 a.m.]

### CLINTON COUNTY

#### Order Enacting Rule of Miscellaneous Procedure 901; No. MD-124-2010

##### Order

*And Now*, this 19th day of August, 2010, pursuant to Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts, adopted by the Pennsylvania Supreme Court effective July 1, 2010, *It Is Hereby Ordered* that the following local rule be enacted setting forth the fee schedule to be implemented in response to requests for public access to official records of the Magisterial District Courts of the 25th Judicial District:

#### PUBLIC ACCESS TO OFFICIAL RECORDS OF THE MAGISTERIAL DISTRICT COURTS

##### Fee Schedule

##### Rule 1901

1. Copying per page—\$.25
2. No fee shall be charged for the initial 15 minutes of staff time required to respond to a public access request. Thereafter, an additional \$8.00 per 1/4 hour (with a minimum of 1/4 hour) shall be charged.
3. Fees may be waived if the Magisterial District Judge determines the requestor is indigent.
4. Fees paid for services are non-refundable.

It is further Ordered that seven (7) certified copies of this Order shall be filed with the Administrative office of the Pennsylvania Courts; that two (2) certified copies and one (1) diskette shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania; and one copy shall be filed with the Prothonotary of the Court of Common Pleas of Clinton County.

This Rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

J. MICHAEL WILLIAMSON,  
*President Judge*

[Pa.B. Doc. No. 10-1672. Filed for public inspection September 10, 2010, 9:00 a.m.]

### SOMERSET COUNTY

#### Administrative Order 2-2010; Rule 1604B of the Rules of Juvenile Court Procedure; No. 31 Miscellaneous 2010

##### Adopting Order

*Now*, this 20th day of August, 2010, it is hereby *Ordered*:

1. The following Administrative Order 2-2010, Re: Rule 1604B of the Rules of Juvenile Court Procedure, a copy of which is attached hereto, is hereby adopted as an Administrative Order effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the Unified Judicial System Portal.

2. The Somerset County Court Administrator is directed to:

A. File seven (7) certified copies of this Order and the attached Rule with the Administrative Office of Pennsylvania Courts.

B. Distribute two (2) certified copies of this Order along with a CD-ROM, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

C. File one (1) certified copy of this Order with the Pennsylvania Juvenile Court Procedural Rules Committee.

D. File proof of compliance with this Order in the docket for this Order, which shall include a copy of each transmittal letter.

##### Order

*And Now*, this 20th day of August, 2010, pursuant to the provisions of Pa.R.J.C.P. 1604B and 42 Pa.C.S.A. 6336.1(b), the Court Administrator is hereby appointed as designee to receive reports of a foster parent, pre-adoptive parent or relative providing care for a child, submitted regarding the child's adjustment progress and condition, for view by the Court in dependency hearings.

The report shall be submitted to the designee at least seven (7) days prior to the hearing. The designee shall further file a copy of the report with the Clerk of Courts and distribute copies to the attorneys, parties, and if one is appointed, to the Court Appointed Special Advocate. This Order shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the Unified Judicial System (UJS) Portal.

*By the Court*

JOHN M. CASCIO,  
*President Judge*

[Pa.B. Doc. No. 10-1673. Filed for public inspection September 10, 2010, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated July 27, 2010, under Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective August 26, 2010, for Compliance Group 3.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Ahart, Corey Edward Maple Shade, NJ	Kwasnik, Michael William Cherry Hill, NJ
Bevis, Antonia S. Wilmington, DE	Lanciano, Gaetano C. Pennington, NJ
Boyd, Raphael O'Hara Smyrna, GA	Matta, Richard K. Washington, DC
Cessario, Lorraine Christie Elkton, MD	McCormack, Brian Lebanon, NJ
Curley, Brian Francis Morristown, NJ	Nolan, Genevieve Kathleen Chicago, IL
Daidone, Salvatore B. Voorhees, NJ	Nutting, William Ogden Wheeling, WV
Dintino, Robert Paul Haddon Heights, NJ	Pabon, Mario San Juan, Puerto Rico
Ealy, David Hopkins Spencerport, NY	Pagano, Ralph V. Cranbury, NJ
Ferkin, Zori Gail Washington, DC	Pressman, Michael E. New York, NY
Floyd II, Dean Allen Washington, DC	Priestly, Lolita M. Clinton, MD
Fullano, Genaro Gerard Rockville, MD	Quinn, Ute Angelique Joas The Netherlands
Gebauer, Jay A. Princeton, NJ	Reindl, Dorothy Ellen Winchester, MA
Gray, Justin W. Poughkeepsie, NY	Rogers, John Edward Chicago, IL
Grueneberg, Rudi Moorestown, NJ	Rohlfing, James H. Haddonfield, NJ
Haendel, Dan Fairfax, VA	Rush-Lloyd, Harold Gloucester, MA
Haven, Jennifer M. Brigantine, NJ	Sand, Fred W. Bethesda, MD
Kelley, J. Judge Dearborn, MI	Scott, David Randell Colchester, CT
Krawitz, Arthur M. Wilmington, DE	Seamon, Eric D. Weirton, WV

Smith, Thomas James  
Wilmington, DE

Stephenson Jr., Robert  
Ragan  
Goodlettsville, TN

Stickel, Karen L.  
Burlington, NJ

Tran, Ngan Khanh  
Poway, CA

Tucker, Matthew  
Pennsauken, NJ

Walker, Tamiko Nicole  
Mitchellville, MD

Williams, Glenn L.  
Detroit, MI

Wynne, Andrew J.  
Las Vegas, NV

SUZANNE E. PRICE,  
*Attorney Registrar*  
*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-1674. Filed for public inspection September 10, 2010, 9:00 a.m.]

## Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated August 27, 2010, John P. Clyne, Jr., is Disbarred on Consent from the practice of law in this Commonwealth, to be effective September 26, 2010. 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. 10-1675. Filed for public inspection September 10, 2010, 9:00 a.m.]

## Notice of Suspension

Notice is hereby given that Toan Quy Thai having been suspended from the practice of law in the District of Columbia for a period of 60 days by Opinion and Order of the District of Columbia Court of Appeals decided December 24, 2009, the Supreme Court of Pennsylvania issued an Order dated August 20, 2010, suspending Toan Quy Thai from the practice of law in this Commonwealth for a period of 60 days, effective September 19, 2010. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Secretary*  
*The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-1676. Filed for public inspection September 10, 2010, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 129 ]

#### Large Appliance and Metal Furniture Surface Coating Processes

The Environmental Quality Board (Board) amends Chapter 129 (relating to standards for sources) to read as set forth in Annex A.

The final-form rulemaking amends Chapter 129 to limit emissions of volatile organic compounds (VOCs) from the use and application of coatings and cleaning materials in large appliance and metal furniture surface coating processes. The final-form rulemaking adds § 129.52a (relating to control of VOC emissions from large appliance and metal furniture surface coating processes) and amends §§ 129.51 and 129.52 (relating to general; and surface coating processes).

This order was adopted by the Board at its meeting on June 15, 2010.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Arleen J. Shulman, Chief, Division of Air Resource Management, P. O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 772-3436; or Kristen Campfield Furlan, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Public Participation).

#### C. *Statutory Authority*

This final-form rulemaking is authorized under section 5 of the Air Pollution Control Act (APCA) (35 P.S. § 4005), which in subsection (a)(1) grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth and in subsection (a)(8) grants the Board the authority to adopt rules and regulations designed to implement the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7671q).

#### D. *Background and Purpose*

The purpose of this final-form rulemaking is to reduce VOC emissions from large appliance and metal furniture surface coating operations. VOCs are a precursor for ozone formation. Ground-level ozone is not emitted directly by surface coatings to the atmosphere, but is formed by a photochemical reaction between VOCs and nitrogen oxides (NO<sub>x</sub>) in the presence of sunlight. The final-form rulemaking adopts the emission limits and other requirements of the United States Environmental

Protection Agency's (EPA) 2007 Control Techniques Guidelines (CTG) for large appliance coatings and metal furniture coatings to meet Federal CAA requirements.

The EPA is responsible for establishing National Ambient Air Quality Standards (NAAQS) for six criteria pollutants considered harmful to public health and the environment: ozone; particulate matter; NO<sub>x</sub>; carbon monoxide; sulfur dioxide; and lead. The CAA established two types of NAAQS: primary standards, limits set to protect public health; and secondary standards, limits set to protect public welfare, including protection against visibility impairment and from damage to animals, crops, vegetation and buildings. The EPA established primary and secondary ozone NAAQS to protect public health and welfare.

When ground-level ozone is present in concentrations in excess of the Federal health-based 8-hour NAAQS for ozone, public health and welfare are adversely affected. Ozone exposure correlates to increased respiratory disease and higher mortality rates. Ozone can inflame and damage the lining of the lungs. Within a few days, the damaged cells are shed and replaced. Over a long time period, lung tissue may become permanently scarred, resulting in permanent loss of lung function and a lower quality of life. When ambient ozone levels are high, more people with asthma have attacks that require a doctor's attention or use of medication. Ozone also makes people more sensitive to allergens including pet dander, pollen and dust mites, which can trigger asthma attacks.

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

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

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

In 1997, the EPA established primary and secondary ozone standards at a level of 0.08 parts per million (ppm) averaged over 8 hours. See 62 FR 38855 (July 18, 1997). In 2004, the EPA designated 37 counties in this Commonwealth as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. See 69 FR 23858, 23931 (April 30, 2004). This Commonwealth is meeting the 1997 standard in all areas except the five-county Philadelphia area. The areas in which the 1997 standard has been attained are required to have permanent and enforceable control measures to ensure violations do not occur for the next decade.

Furthermore, in March 2008, the EPA lowered the primary and secondary standards to 0.075 ppm averaged over 8 hours to provide even greater protection for children, other at-risk populations and the environment against the array of ozone-induced adverse health and welfare effects. See 73 FR 16436 (March 27, 2008). The EPA is reconsidering the March 2008 ozone NAAQS and proposed at 75 FR 2938 (January 19, 2010) to set a more protective 8-hour ozone primary standard between 0.060 and 0.070 ppm to provide increased protection for children and other at-risk groups. The EPA also proposed that the secondary ozone standard, which was set identically to the revised primary standard in the 2008 final rule, should instead be a new cumulative, seasonal standard. See 75 FR 2938. This seasonal standard is designed to protect plants and trees from damage occurring from repeated ozone exposure, which can reduce tree growth, damage leaves and increase susceptibility to disease. The final revised ozone NAAQS are expected in October 2010.

There are no Federal statutory or regulatory limits for VOC emissions from large appliance and metal furniture surface coating operations. State regulations to control VOC emissions from large appliance and metal furniture surface coating operations are required under Federal law, however, and will be reviewed by the EPA for whether they meet the reasonably available control technology (RACT) requirements of the CAA and its implementing regulations. See 72 FR 57215, 57218 (October 9, 2007).

Section 172(c)(1) of the CAA (42 U.S.C.A. § 7502(c)(1)) provides that State Implementation Plans (SIPs) for nonattainment areas must include reasonably available control measures, including RACT, for sources of emissions. Section 182(b)(2) of the CAA (42 U.S.C.A. § 7511a(b)(2)) provides that for moderate ozone nonattainment areas, states shall revise their SIPs to include RACT for sources of VOC emissions covered by a CTG document issued by the EPA prior to the area's date of attainment. More importantly, section 184(b)(1)(B) of the CAA (42 U.S.C.A. § 7511a(b)(1)(B)) requires that states in the Ozone Transport Region (OTR), including the Commonwealth, submit a SIP revision requiring implementation of RACT for sources of VOC emissions in the state covered by a specific CTG.

Section 183(e) of the CAA (42 U.S.C.A. § 7511b(e)) directs the EPA to list for regulation those categories of products that account for at least 80% of the VOC emissions from consumer and commercial products in

ozone nonattainment areas. Section 183(e)(3)(C) of the CAA further provides that the EPA may issue a CTG in place of a National regulation for a product category when the EPA determines that the CTG will be "substantially as effective as regulations" in reducing emissions of VOC in ozone nonattainment areas.

In 1995, the EPA listed large appliance coatings and metal furniture coatings on its § 183(e) list and in 2007 issued CTGs for these two product categories. See 60 FR 15264 (March 23, 1995) and 72 FR 57215. In the 2007 notice, the EPA determined that the CTGs would be substantially as effective as National regulations in reducing VOC emissions from these product categories in ozone nonattainment areas. See 72 FR 57215, 57220.

The CTG provides states with the EPA's recommendation of what constitutes RACT for the covered category. States can use the recommendations provided in the CTG to inform their own determination as to what constitutes RACT for VOC emissions from the covered category. State air pollution control agencies are free to implement other technically sound approaches that are consistent with the CAA requirements and the EPA's implementing regulations or guidelines.

The Department reviewed the recommendations included in the 2007 CTGs for large appliance and metal furniture coatings for their applicability to the ozone reduction measures necessary for this Commonwealth. The Department determined that the measures provided in the CTGs for large appliance and metal furniture coatings are appropriate to be implemented in this Commonwealth as RACT for this category.

This final-form rulemaking will assist in reducing VOC emissions locally as well as reducing the transport of VOC emissions and ground-level ozone to downwind states. Adoption of VOC emission requirements for large appliance and metal furniture surface coating operations is part of the Commonwealth's strategy, in concert with other OTR jurisdictions, to further reduce transport of VOC ozone precursors and ground-level ozone throughout the OTR to attain and maintain the 8-hour ozone NAAQS. The final-form rulemaking is required under the CAA and is reasonably necessary to attain and maintain the health-based 8-hour ozone NAAQS and to satisfy related CAA requirements in this Commonwealth. This final-form rulemaking will be submitted to the EPA as a revision to the SIP.

The final-form rulemaking was discussed with the Air Quality Technical Advisory Committee (AQTAC) on April 29, 2010. The AQTAC voted 13-0-1 to concur with the Department's recommendation to present the final-form amendments to the Board for approval for publication as a final-form rulemaking. The Department also consulted with the Small Business Compliance Advisory Committee (SBCAC) on April 28, 2010, and the Citizens Advisory Council (CAC) on May 6, 2010. The SBCAC and CAC did not have concerns.

#### *E. Summary of Regulatory Requirements and Changes to the Proposed Rulemaking*

The final-form rulemaking amends § 129.51(a) to extend its coverage to large appliance and metal furniture surface coating processes covered by this final-form rulemaking. Section 129.51(a) provides an alternative method for owners and operators of facilities to achieve compliance with air emission limits.

The final-form rulemaking amends § 129.52 by adding subsection (i). Section 129.52 specifies requirements and emission limits for various surface coating processes. The amendment in this final-form rulemaking clarifies in subsection (i) that the requirements and limits already specified in § 129.52 for metal furniture coatings and large appliance coatings are superseded by the requirements and limits that will be adopted in this final-form rulemaking.

One emission limit is expressed in § 129.52 for large appliance coatings and one emission limit is expressed for metal furniture coatings, whereas in the CTGs separate emission limits are expressed for eight different coating types within each of these two categories. Several of the limits in the CTGs are more stringent and several are less stringent than the existing limits expressed in § 129.52. As is explained in the following discussion regarding § 129.52a, Tables I and II (relating to emission limits of VOCs for large appliance surface coatings; and emission limits of VOCs for metal furniture surface coatings), the more stringent limits are retained in this final-form rulemaking.

The final-form rulemaking adds § 129.52a to regulate VOC emissions from large appliance and metal furniture surface coating processes. The applicability of this new section is described in subsection (a), which establishes that § 129.52a applies to the owner and operator of a large appliance or metal furniture surface coating process if the total actual VOC emissions from large appliance or metal furniture surface coating operations, including related cleaning activities, at the facility are equal to or greater than 15 pounds (6.8 kilograms) per day or 2.7 tons (2,455 kilograms) per 12-month rolling period before consideration of controls. The emission limits and other requirements of this section supersede the emission limits and other requirements of § 129.52. Basing the applicability on a 12-month rolling period is generally considered to be more stringent than basing it on a calendar year, as in § 129.52, but is consistent with the CTGs.

Final-form subsection (b) explains that § 129.52a supersedes the requirements of a RACT permit for VOC emissions from a large appliance or metal furniture surface coating operation already issued to the owner or operator of a source subject to § 129.52a, except to the extent the RACT permit contains more stringent requirements.

Final-form subsection (c) establishes VOC emission limits. Beginning January 1, 2011, a person may not cause or permit the emission into the outdoor atmosphere of VOCs from a large appliance or metal furniture surface coating process, unless: the VOC content of each as applied coating is equal to or less than the limit specified in one of the two tables in § 129.52a; or the overall weight of VOCs emitted to the atmosphere is reduced through the use of vapor recovery, incineration or another method that is acceptable under § 129.51(a). The second option also addresses the overall efficiency of a control system.

Final-form subsection (d) identifies daily records that shall be kept to demonstrate compliance with § 129.52a, including records of parameters and VOC content of each coating, thinner, component and cleaning solvent, as supplied, and the VOC content of each as applied coating or cleaning solvent.

Final-form subsection (e) contains a change to the recordkeeping and reporting requirements proposed in § 129.52a(e). The proposed rulemaking required that records be maintained for 2 years. The final-form provision requires that records be maintained for 2 years unless a longer period is required under § 127.511(b)(2) (relating to monitoring and related recordkeeping and reporting requirements). Additionally, § 129.52a(e) has been amended to clarify that records shall be submitted to the Department upon receipt of a written request.

Under final-form subsection (f), an owner or operator subject to § 129.52a may not cause or permit the emission into the outdoor atmosphere of VOCs from the application of large appliance or metal furniture surface coatings, unless the coatings are applied using electrostatic coating, roller coating, flow coating, dip coating (including electrodeposition), high volume-low pressure spray or brush coating. An owner or operator may use another coating application method if a request is submitted in writing to the Department that demonstrates that the method is capable of achieving a transfer efficiency equivalent to or better than that achieved by the other methods in subsection (f) and is approved in writing by the Department prior to use.

Final-form subsection (g) exempts stencil coatings, safety-indicating coatings, solid-film lubricants, electric-insulating coatings, thermal-conducting coatings, touch-up and repair coatings and coating applications using hand-held aerosol cans from the VOC coating content limits in § 129.52a, Tables I and II. Subsection (g) also exempts a coating used exclusively for determining product quality and commercial acceptance and other small quantity coatings if the quantity of coating used does not exceed 50 gallons per year for a single coating and a total of 200 gallons per year for all coatings combined for the facility and if the owner or operator of the facility requests, in writing, and the Department approves, in writing, the exemption prior to use of the coating.

Final-form subsection (h) establishes work practices that an owner or operator of a large appliance or metal furniture surface coating process subject to § 129.52a shall comply with for coating-related activities.

Final-form subsection (i) establishes work practices that an owner or operator of a large appliance or metal furniture surface coating process subject to § 129.52a shall comply with for cleaning materials.

Final-form Table I establishes emission limits for VOCs for eight types of large appliance surface coatings, expressed in weight of VOC per volume of coating solids (kilograms per liter (kg/l) or pounds per gallon (lb/gal)), as applied. Limits are prescribed for coatings that are baked and coatings that are air dried. The emission limits for the following coating types are taken from the large appliance coatings CTG: Baked (kg/l and lb/gal)—“General, One Component” and “General, Multi-Component”; Air Dried (kg/l)—“General, One Component”; and Air Dried (lb/gal)—“General, One Component,” “General, Multi-Component” and “Extreme High Gloss.” The emission limits for Air Dried (kg/l)—“General, Multi-Component” and “Extreme High Gloss” are taken from both the CTG and the emission limit for large appliance coatings in § 129.52, as they are the same in both places. The remaining emission limits are taken from § 129.52 because the limit in § 129.52 is more stringent than the recommended limits in the CTG. Whenever the limit in § 129.52 is the same as or more stringent than the recommended limit in the CTG, the limit in § 129.52 is



retained due to the CAA prohibition against backsliding from existing emission control requirements.

Final-form Table II establishes emission limits for VOCs for eight types of metal furniture surface coatings, expressed in weight of VOC per volume of coating solids (kg/l or lb/gal), as applied. Limits are prescribed for coatings that are baked and coatings that are air dried. The emission limits from the following coating types are taken from the metal furniture CTG: Baked (kg/l and lb/gal)—“General, One Component” and “General, Multi-Component”; and Air Dried (kg/l and lb/gal)—“General, One Component,” “General, Multi-Component” and “Extreme High Gloss.” The emission limits for Baked (kg/l)—“Extreme High Gloss,” “Extreme Performance,” “Heat Resistant” and “Solar Absorbent” are taken from both the CTG and the emission limit for metal furniture coatings in § 129.52, as they are the same in both places. The remaining emission limits are taken from § 129.52 because the limit in § 129.52 is more stringent than the recommended limits in the CTG. Whenever the limit in § 129.52 is the same as or more stringent than the recommended limit in the CTG, the limit in § 129.52 is retained due to the CAA prohibition against backsliding from existing emission control requirements.

The tables in the final-form rulemaking include several amendments to emission limits made for the purpose of providing consistency in the number of significant digits. Specifically, the emission limit of 3.3 lb/gal in the “Baked” columns for “General, One Component” and “General, Multi-Component,” and in the “Air Dried” columns for “General, One Component” coatings has been revised to 3.34 lb/gal. The proposed emission limit of 4.5 lb/gal in the “Air Dried” columns for “General, Multi-Component” and “Extreme High Gloss” coatings has been revised at final to 4.62 lb/gal. The 4.62 lb/gal emission limit is being used to provide consistency with the limit in § 129.52 in addition to providing for consistency in the number of significant digits. Despite the fact that 4.62 is a higher emission limit than the limit of 4.5 recommended in the CTGs, the emission reduction that will be achieved is equivalent. The difference between these two numbers is due to different but equally acceptable methodologies being used for rounding during the conversion from metric units to English units. The reductions achieved with the emission limit of 4.62 lb/gal for the “General, Multi-Component” and “Extreme High Gloss” coatings are equivalent to those that would be achieved by using the number recommended in the CTGs.

#### F. *Comments and Responses*

The Board approved publication of the proposed rulemaking at its meeting on November 17, 2009. The proposed rulemaking was published at 40 Pa.B. 420 (January 16, 2010) with a 66-day public comment period. Three public hearings were held on February 16, 17 and 18, 2010, in Pittsburgh, Harrisburg and Norristown, PA, respectively. The public comment period closed on March 22, 2010.

No public comments were received by the Board.

The Independent Regulatory Review Commission (IRRC) commented that proposed § 129.52a(d), which required the owners and operators of the regulated surface coating processes to maintain certain records, is unclear. IRRC requested that the Board clarify the format in which these records must be maintained. The Board respectfully disagrees that subsection (d) was unclear. Requiring regulated facilities to maintain records is a standard requirement in many Board-approved regula-

tions, including § 129.52(g), for instance. Neither the Department nor the regulated sources have had difficulty understanding or complying with this requirement.

IRRC commented that proposed § 129.52a(e), which required that records required under § 129.52a(d) be submitted to the Department “upon request,” is unclear as to whether this request will be made orally or in writing. The Board agrees and revised the final-form rulemaking to specify that the records shall be submitted to the Department upon receipt of a written request.

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

##### *Benefits*

Implementation of the final-form rulemaking will benefit the health and welfare of the approximately 12 million residents and the animals, crops, vegetation and natural areas of this Commonwealth by reducing emissions of VOCs, which are precursors to ground-level ozone air pollution. Although the final-form rulemaking is designed primarily to address ozone air quality, the reformulation or substitution of coating products to meet the VOC content limits applicable to users may also result in reduction of hazardous air pollutant (HAP) emissions, which are also a serious health threat.

The final-form rulemaking provides as one compliance option that coatings used on or applied to large appliance or metal furniture products manufactured in this Commonwealth meet specified limits for VOC content, usually through substitution of low VOC-content solvents or water for the high VOC-content solvents. The reduced levels of high VOC-content solvents will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of high VOC-content solvents leaching into the ground. Owners and operators of affected large appliance and metal furniture coating process facilities may also reduce VOC emissions through the use of add-on controls, or a combination of complying coatings and add-on controls.

In this Commonwealth, approximately 4 large appliance surface coating operations combine to emit an estimated total of 18.2 tons of VOCs per year and about 16 metal furniture surface coating operations combine to emit an estimated total of 50.33 tons of VOCs per year.

The EPA estimates that implementation of the recommended control options for large appliance coatings processes will result in approximately a 30% reduction in VOC emissions. The maximum anticipated additional annual VOC reductions from the large appliance surface coating facilities as a result of this final-form rulemaking is approximately 5.5 tons (18.2 tons × 30%).

The EPA estimates that implementation of the recommended control options for metal furniture coatings processes will result in approximately a 35% reduction in VOC emissions. The maximum anticipated additional annual VOC reductions from the metal furniture surface coating facilities as a result of this final-form rulemaking is approximately 17.6 tons (50.33 tons × 35%).

##### *Compliance Costs*

The costs of complying with the final-form rulemaking include the cost of using alternative product formulations, such as low-VOC or water-based coatings, and the cost of using add-on controls. The facility owner or operator will be given the flexibility to choose controls. Based on information provided by the EPA in the large appliance coating CTG, the cost effectiveness of reducing VOC emissions from large appliance surface coating operations is estimated to be \$500 per ton of VOC reduced. This

estimate is based on the use of low VOC-content coatings for control. The estimated annual costs for the owners or operators of the affected large appliance surface coating facilities in this Commonwealth, combined, is \$2,750 (5.5 tons VOC reduced × \$500 per ton reduced).

Similarly, based on information provided by the EPA in the metal furniture coating CTG, the cost effectiveness of reducing VOC emissions from metal furniture surface coating operations is estimated to be \$200 per ton of VOC reduced. This estimate is based on the use of low VOC-content coatings for control. The estimated annual costs for the owners or operators of the affected metal furniture coating facilities in this Commonwealth, combined, is \$3,520 (17.6 tons VOC reduced × \$200 per ton reduced).

The potential total annual costs to the regulated industry of \$2,750 for large appliance surface coating operations and \$3,520 for metal furniture surface coating operations are negligible compared to the improved health and environmental benefits that will be gained from this final-form rulemaking.

The implementation of the work practice requirements for cleaning materials is expected to result in a net cost savings. The recommended work practices should reduce the amount of cleaning materials used by reducing the amount of cleaning materials lost to evaporation, spillage and waste.

#### *Compliance Assistance Plan*

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

#### *Paperwork Requirements*

The owners and operators of affected large appliance or metal furniture surface coating operations shall be required to keep daily operational records of information for coatings and cleaning solvents sufficient to demonstrate compliance, including identification of materials, VOC content and volumes used. The records must be maintained for 2 years and submitted to the Department upon request. Persons claiming the small quantity exemption or use of exempt coating shall be required to keep records demonstrating the validity of the exemption. Persons seeking to comply through the use of add-on controls shall be required to meet the applicable reporting requirements specified in Chapter 139 (relating to sampling and testing).

#### *H. Pollution Prevention*

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

The final-form rulemaking assures that the citizens and the environment of this Commonwealth will experience the benefits of reduced emissions of VOCs and HAPs from large appliance and metal furniture surface coating processes. Although the final-form rulemaking is designed primarily to address ozone air quality, the reformulation or substitution of coating products to meet the VOC content limits applicable to users may also result in reduction of HAP emissions, which are also a serious health threat. The final-form rulemaking provides as one compliance option that coatings used on or applied to large appliance or metal furniture products manufactured in this Commonwealth meet specified limits for VOC content, usually through substitution of low VOC-content solvents or water for the high VOC-content solvents. The reduced levels of high VOC-content solvents will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of high VOC-content solvents leaching into the ground. Owners and operators of affected large appliance and metal furniture surface coating process facilities may also reduce VOC emissions through the use of add-on controls or a combination of complying coatings and add-on controls.

#### *I. Sunset Review*

This final-form rulemaking 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.

#### *J. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 5, 2010, the Department submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 420, to IRRC and to the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 4, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 6, 2010, and approved the final-form rulemaking.

#### *K. Findings*

The Board finds that:

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

(2) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) These final-form regulations do not enlarge the purpose of the proposed rulemaking published at 40 Pa.B. 420.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble.

(5) These regulations are necessary to attain and maintain the ozone NAAQS and to satisfy related CAA requirements.

L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 129, are amended by amending §§ 129.51 and 129.52 and adding § 129.52a to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

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

(e) This final-form rulemaking will be submitted to the EPA as an amendment to the Pennsylvania SIP.

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

JOHN HANGER,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 4814 (August 21, 2010).)*

**Fiscal Note:** Fiscal Note 7-449 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart C. PROTECTION OF NATURAL RESOURCES**  
**ARTICLE III. AIR RESOURCES**  
**CHAPTER 129. STANDARDS FOR SOURCES**  
**SOURCES OF VOCs**

**§ 129.51. General.**

(a) *Equivalency.* Compliance with §§ 129.52, 129.52a, and 129.54—129.73 may be achieved by alternative methods if the following exist:

(1) The alternative method is approved by the Department in an applicable plan approval or operating permit, or both.

(2) The resulting emissions are equal to or less than the emissions that would have been discharged by complying with the applicable emission limitation.

(3) Compliance by a method other than the use of a low VOC coating or ink which meets the applicable emission limitation in §§ 129.52, 129.52a, 129.67 and 129.73 shall be determined on the basis of equal volumes of solids.

(4) Capture efficiency testing and emissions testing are conducted in accordance with methods approved by the EPA.

(5) Adequate records are maintained to ensure enforceability.

(6) The alternative compliance method is incorporated into a plan approval or operating permit, or both, reviewed by the EPA, including the use of an air cleaning

device to comply with § 129.52, § 129.52a, § 129.67, § 129.68(b)(2) and (c)(2) or § 129.73.

(b) *New source performance standards.* Sources covered by new source performance standards which are more stringent than those contained in this chapter shall comply with those standards in lieu of the standards found in this chapter.

(c) *Demonstration of compliance.* Test methods and procedures used to monitor compliance with the emission requirements of this section are those specified in Chapter 139 (relating to sampling and testing).

(d) *Records.* The owner or operator of a facility or source subject to the VOC emission limitations and control requirements in this chapter shall keep records to demonstrate compliance with the applicable limitation or control requirement.

(1) The records must provide sufficient data and calculations to clearly demonstrate that the emission limitations or control requirements are met. Data or information required to determine compliance with an applicable limitation shall be recorded and maintained in a time frame consistent with the averaging period of the standard.

(2) The records shall be retained at least 2 years and shall be made available to the Department on request.

(3) An owner or operator claiming that a facility or source is exempt from the VOC control provisions of this chapter shall maintain records that clearly demonstrate to the Department that the facility or source is not subject to the VOC emission limitations or control requirements.

**§ 129.52. Surface coating processes.**

\* \* \* \* \*

(i) Beginning January 1, 2011, the requirements and limits for metal furniture coatings and large appliance coatings in this section are superseded by the requirements and limits in § 129.52a (relating to control of VOC emissions from large appliance and metal furniture surface coating processes).

\* \* \* \* \*

**§ 129.52a. Control of VOC emissions from large appliance and metal furniture surface coating processes.**

(a) *Applicability.* This section applies as follows:

(1) This section applies to the owner and operator of a large appliance or metal furniture surface coating process if the total actual VOC emissions from all large appliance or metal furniture surface coating operations, including related cleaning activities, at the facility are equal to or greater than 15 pounds (6.8 kilograms) per day or 2.7 tons (2,455 kilograms) per 12-month rolling period, before consideration of controls.

(2) The emission limits and other requirements of this section supersede the emission limits and other requirements of § 129.52 (relating to surface coating processes) for large appliance and metal furniture surface coating processes.

(b) *Existing RACT permit.* The requirements of this section supersede the requirements of a RACT permit issued to the owner or operator of a source subject to subsection (a)(1) prior to January 1, 2011, under §§ 129.91—129.95 (relating to stationary sources of NOx and VOCs) to control, reduce or minimize VOCs from a

large appliance or metal furniture surface coating operation, except to the extent the RACT permit contains more stringent requirements.

(c) *Emission limits.* Beginning January 1, 2011, a person subject to this section may not cause or permit the emission into the outdoor atmosphere of VOCs from a large appliance or metal furniture surface coating process, unless one of the following limitations is met:

(1) The VOC content of each as applied coating is equal to or less than the limit specified in Table I or Table II (relating to emission limits of VOCs for large appliance surface coatings; and emission limits of VOCs for metal furniture surface coatings).

(i) The VOC content of the as applied coating, expressed in units of weight of VOC per volume of coating solids, shall be calculated as follows:

$$\text{VOC} = (W_o)(D_c)/V_n$$

Where:

VOC = VOC content in lb VOC/gal of coating solids

$W_o$  = Weight percent of VOC ( $W_v - W_w - W_{ex}$ )

$W_v$  = Weight percent of total volatiles (100%-weight percent solids)

$W_w$  = Weight percent of water

$W_{ex}$  = Weight percent of exempt solvent(s)

$D_c$  = Density of coating, lb/gal, at 25° C

$V_n$  = Volume percent of solids of the as applied coating

(ii) The VOC content of a dip coating, expressed in units of weight of VOC per volume of coating solids, shall be calculated on a 30-day rolling average basis using the following equation:

$$\text{VOC}_A = \frac{\text{SUM}_i (W_{oi} \times D_{ci} \times Q_i) + \text{SUM}_J (W_{oJ} \times D_{dJ} \times Q_J)}{\text{SUM}_i (V_{ni} \times Q_i)}$$

Where:

$\text{VOC}_A$  = VOC content in lb VOC/gal of coating solids for a dip coating, calculated on a 30-day rolling average basis

$W_{oi}$  = Percent VOC by weight of each as supplied coating (i) added to the dip coating process, expressed as a decimal fraction (that is 55% = 0.55)

$D_{ci}$  = Density of each as supplied coating (i) added to the dip coating process, in pounds per gallon

$Q_i$  = Quantity of each as supplied coating (i) added to the dip coating process, in gallons

$V_{ni}$  = Percent solids by volume of each as supplied coating (i) added to the dip coating process, expressed as a decimal fraction

$W_{oJ}$  = Percent VOC by weight of each thinner (J) added to the dip coating process, expressed as a decimal fraction

$D_{dJ}$  = Density of each thinner (J) added to the dip coating process, in pounds per gallon

$Q_J$  = Quantity of each thinner (J) added to the dip coating process, in gallons

(iii) Sampling and testing shall be done in accordance with the procedures and test methods specified in Chapter 139 (relating to sampling and testing).

(2) The overall weight of VOCs emitted to the atmosphere is reduced through the use of vapor recovery or incineration or another method that is acceptable under § 129.51(a) (relating to general). The overall efficiency of a control system, as determined by the test methods and

procedures specified in Chapter 139, may be no less than 90% or may be no less than the equivalent efficiency as calculated by the following equation, whichever is less stringent:

$$O = (1 - E/V) \times 100$$

Where:

V = The VOC content of the as applied coating, in lb VOC/gal of coating solids.

E = The Table I or Table II limit in lb VOC /gal of coating solids.

O = The overall required control efficiency.

(d) *Compliance monitoring procedures.* The owner or operator of a facility subject to this section shall maintain records sufficient to demonstrate compliance with this section. At a minimum, the owner or operator shall maintain daily records of:

(1) The following parameters for each coating, thinner, component and cleaning solvent as supplied:

(i) Name and identification number.

(ii) Volume used.

(iii) Mix ratio.

(iv) Density or specific gravity.

(v) Weight percent of total volatiles, water, solids and exempt solvents.

(vi) Volume percent of solids for each Table I or Table II coating used in the surface coating process.

(2) The VOC content of each coating, thinner, component and cleaning solvent as supplied.

(3) The VOC content of each as applied coating or cleaning solvent.

(e) *Recordkeeping and reporting requirements.* The records required under subsection (d) shall be:

(1) Maintained for 2 years, unless a longer period is required under § 127.511(b)(2) (relating to monitoring and related recordkeeping and reporting requirements).

(2) Submitted to the Department upon receipt of a written request.

(f) *Coating application methods.* A person subject to this section may not cause or permit the emission into the outdoor atmosphere of VOCs from the application of large appliance or metal furniture surface coatings, unless the coatings are applied using one or more of the following coating application methods:

(1) Electrostatic coating.

(2) Roller coating.

(3) Flow coating.

(4) Dip coating, including electrodeposition.

(5) High volume-low pressure (HVLP) spray.

(6) Brush coating.

(7) Other coating application method, if approved in writing by the Department prior to use.

(i) The coating application method must be capable of achieving a transfer efficiency equivalent to or better than that achieved by the methods listed in paragraphs (1)–(6).

(ii) The request for approval must be submitted in writing.

(g) *Exempt coatings and coating operations.* The VOC coating content limits in Table I and Table II do not apply to the following types of coatings and coating operations:

- (1) Stencil coatings.
- (2) Safety-indicating coatings.
- (3) Solid-film lubricants.
- (4) Electric-insulating coatings.
- (5) Thermal-conducting coatings.
- (6) Touch-up and repair coatings.
- (7) Coating applications using hand-held aerosol cans.

(8) A coating used exclusively for determining product quality and commercial acceptance and other small quantity coatings, if the coating meets the following criteria:

(i) The quantity of coating used does not exceed 50 gallons per year for a single coating and a total of 200 gallons per year for all coatings combined for the facility.

(ii) The owner or operator of the facility requests, in writing, and the Department approves, in writing, the exemption prior to use of the coating.

(h) *Work practice requirements for coating-related activities.* The owner or operator of a large appliance or metal furniture surface coating process subject to this section shall comply with the following work practices for coating-related activities:

(1) Store all VOC-containing coatings, thinners and coating-related waste materials in closed containers.

(2) Ensure that mixing and storage containers used for VOC-containing coatings, thinners and coating-related waste materials are kept closed at all times except when depositing or removing these materials.

(3) Minimize spills of VOC-containing coatings, thinners and coating-related waste materials and clean up spills immediately.

(4) Convey VOC-containing coatings, thinners and coating-related waste materials from one location to another in closed containers or pipes.

(i) *Work practice requirements for cleaning materials.* The owner or operator of a large appliance or metal furniture surface coating process subject to this section shall comply with the following work practices for cleaning materials:

(1) Store all VOC-containing cleaning materials and used shop towels in closed containers.

(2) Ensure that mixing and storage containers used for VOC-containing cleaning materials are kept closed at all times except when depositing or removing these materials.

(3) Minimize spills of VOC-containing cleaning materials and clean up spills immediately.

(4) Convey VOC-containing cleaning materials from one location to another in closed containers or pipes.

(5) Minimize VOC emissions from cleaning of storage, mixing and conveying equipment.

**Table I**

**Emission Limits of VOCs for Large Appliance Surface Coatings**

**Weight of VOC per Volume of Coating Solids, as Applied**

Coating Type	Baked		Air Dried	
	kg/l	lb/gal	kg/l	lb/gal
General, One Component	0.40	3.34	0.40	3.34
General, Multi-Component	0.40	3.34	0.55	4.62
Extreme High Gloss	0.55	4.62	0.55	4.62
Extreme Performance	0.55	4.62	0.55	4.62
Heat Resistant	0.55	4.62	0.55	4.62
Metallic	0.55	4.62	0.55	4.62
Pretreatment	0.55	4.62	0.55	4.62
Solar Absorbent	0.55	4.62	0.55	4.62

**Table II**

**Emission Limits of VOCs for Metal Furniture Surface Coatings**

**Weight of VOC per Volume of Coating Solids, as Applied**

Coating Type	Baked		Air Dried	
	kg/l	lb/gal	kg/l	lb/gal
General, One Component	0.40	3.34	0.40	3.34
General, Multi-Component	0.40	3.34	0.55	4.62
Extreme High Gloss	0.61	5.06	0.55	4.62
Extreme Performance	0.61	5.06	0.61	5.06
Heat Resistant	0.61	5.06	0.61	5.06
Metallic	0.61	5.06	0.61	5.06
Pretreatment	0.61	5.06	0.61	5.06
Solar Absorbent	0.61	5.06	0.61	5.06

[Pa.B. Doc. No. 10-1677. Filed for public inspection September 10, 2010, 9:00 a.m.]

**ENVIRONMENTAL QUALITY BOARD**

**[ 25 PA. CODE CH. 261a ]**

**Hazardous Waste Management System; Exclusion for Identification and Listing of Hazardous Waste**

The Environmental Quality Board (Board) amends Chapter 261a (relating to identification and listing of hazardous waste) to read as set forth in Annex A. The final-form rulemaking amends an existing hazardous waste delisting previously granted to Geological Reclamation Operations and Waste Systems, Inc. (GROWS), whose successor by merger, Waste Management Disposal Services of Pennsylvania, Inc. (WMDSPA), petitioned the Board to increase the maximum annual volume covered by the current delisting.

This order was adopted by the Board at its meeting on June 15, 2010.

### A. *Effective Date*

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

### B. *Contact Persons*

For further information, contact Dwayne Womer, Environmental Engineer Manager, Division of Hazardous Waste Management, P. O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 787-6239; or Curtis Sullivan, Assistant 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, (800) 654-5984 (TDD Users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site: [www.depweb.state.pa.us](http://www.depweb.state.pa.us).

### C. *Statutory Authority*

The rulemaking is adopted under the authority of sections 105, 402 and 501 of the Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.105, 6018.402 and 6018.501) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20). Under sections 105, 402 and 501 of the SWMA, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety, welfare and property, and the air, water and other natural resources of this Commonwealth. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

### D. *Background and Purpose*

A delisting petition is a request to exclude waste from a particular facility from the list of hazardous wastes under the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C.A. §§ 6901—6986) and SWMA regulations. Under 40 CFR 260.20 and 260.22 (relating to general; and petitions to amend part 261 to exclude a waste produced at a particular facility), which are incorporated by reference in § 260a.1 (relating to incorporation by reference, purpose, scope and applicability) and modified by § 260a.20 (relating to rulemaking petitions), a person may petition the United States Environmental Protection Agency (EPA) or a state administering an EPA-approved hazardous waste management program to remove waste or the residuals resulting from effective treatment of a waste from a particular generating facility from hazardous waste control by excluding the waste from the lists of hazardous wastes in 40 CFR 261.31 and 261.32 (relating to hazardous wastes from non-specific sources; and hazardous wastes from specific sources). Specifically, 40 CFR 260.20 allows a person to petition to modify or revoke any provision of 40 CFR Parts 260—266, 268 and 273. Section 260.22 of 40 CFR provides a person the opportunity to petition to exclude a waste on a "generator specific" basis from the hazardous waste lists.

Under the Commonwealth's hazardous waste regulations in § 260a.20, these petitions are to be submitted to the Board in accordance with the procedures established in Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy) instead of the procedures in 40 CFR 260.20(b)—(e).

In a delisting petition, the petitioner shall show that waste generated at a particular facility does not meet any of the criteria for which the waste was listed in 40 CFR 261.11 (relating to criteria for listing hazardous waste). In addition, a petitioner shall demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity and toxicity) and present sufficient information for the agency to decide whether factors other than those for which the waste was originally listed warrant retaining it as a hazardous waste.

WMDSPA operates a commercial landfill and associated wastewater treatment plant in Falls Township, Bucks County. In 1991, WMDSPA's predecessor, GROWS, submitted a delisting petition under 40 CFR 260.20 and 260.22. In response to the petition, the EPA excluded the wastewater treatment sludge filter cake derived from the treatment of landfill leachate originating from the closed "Old GROWS" landfill, that contains a mixture of solid wastes and hazardous wastes, and other nonhazardous waste landfills. The EPA noted that the petitioner submitted sufficient information to allow the EPA to determine that the filter cake was not hazardous based upon the criteria for which it was listed and no other hazardous constituents were present in the waste at levels of regulatory concern. Accordingly, using risk assessment tools in use by the EPA at that time to evaluate the potential risk to human health and the environment associated with the disposal of the filter cake as a nonhazardous waste, the EPA excluded the filter cake generated from the treatment of EPA Hazardous Waste No. F039, multisource leachate, from the list of hazardous wastes in 40 CFR 261.31. This delisting was limited to a maximum annual volume of 1,000 cubic yards of filter cake and was conditioned upon the petitioner performing certain verification testing of the filter cake to demonstrate compliance with maximum allowable concentration limits (MACLs). The MACLs were selected for organic and inorganic constituents of the filter cake and were established as delisting conditions by the EPA to be met before the delisted waste could be disposed in a RCRA Subtitle D (nonhazardous waste) landfill. The original petition and subsequent amendments, including the one proposed by this petition, do not address the wastes disposed in a landfill for which its leachate is treated at the treatment plant or the grit generated during the physical removal (for example, screening) of heavy solids from the landfill leachate.

In 2001, GROWS petitioned the EPA to increase the volume of excluded wastewater treatment sludge filter cake to 2,000 cubic yards because of increased filter cake production attributable to improved efficiencies in its wastewater treatment operations. In support of the petition to amend its delisting, the petitioner submitted the verification testing results it had generated in the preceding 2 years and supplemented that data with the total constituents analyses of inorganic constituents for four samples at the request of the EPA. The EPA applied its Delisting Risk Assessment Software (DRAS) program to analyze the risk associated with the request to amend the delisting. The DRAS contains more advanced risk assessment models than those the EPA used in the 1991 delisting. The EPA ultimately concluded that the filter cake sample results and the results of the risk assessment modeling supported the delisting of the filter cake at the increased volume of 2,000 cubic yards annually.

This conclusion was subject to the filter cake continuing to meet new MACLs set by the EPA based on the more conservative of: 1) the values generated by the DRAS program; or 2) the toxicity characteristic regulatory levels. The 2001 delisting amendment also required verification testing to show that the MACLs continued to be met.

Recently, the volume of leachate treated by WMDSPA at the treatment plant has increased coincident with increased concentrations of certain leachate constituents. Accordingly, WMDSPA is generating substantially more filter cake and, to accommodate the disposal of this increased volume as a nonhazardous waste, it is requesting an increase in the volume limit established in its delisting from 2,000 to 4,000 cubic yards annually.

On December 18, 2008, WMDSPA submitted a petition to the Board requesting the increase in the volume limit to 4,000 cubic yards annually. The Board accepted the petition at its April 21, 2009, meeting and directed the Department to review the contents of the petition under § 23.6 (relating to notice of acceptance and Department report).

In support of its petition, WMDSPA submitted 3 years of verification testing—41 sets of sample results of leachate analyses for inorganic constituents and totals analyses for organic constituents collected from December 2005 through December 2008 along with the total constituents analyses for inorganic constituents for four samples collected in 2008. The scope of data was comparable to, though more extensive than, the data submitted to the EPA in connection with the 2001 amendment. WMDSPA also submitted the results of the modeling of this data that it performed using the DRAS program to evaluate the potential risk associated with treating the filter cake as a nonhazardous waste and to generate MACLs for the filter cake at the proposed increased annual level of disposal. The MACLs were generated in a similar fashion to those generated by the EPA in connection with the 2001 delisting.

The petition demonstrates that the filter cake sample results and the results of the risk assessment modeling support the delisting of the filter cake at the increased volume of 4,000 cubic yards annually. Accordingly, the Board approved the amended delisting to increase the annual volume of filter cake that may be disposed as nonhazardous waste and also includes conditions in the amended delisting governing the testing and management of the filter cake similar to the conditions required by the EPA in the current delisting.

The Department carefully and independently reviewed the information in the petition submitted by WMDSPA. Review of this petition included consideration of the original listing criteria as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA) to the RCRA, as reflected in section 222 of the HSWA (42 U.S.C.A. § 6921(f)), and 40 CFR 260.22(d)(2)—(4). In addition, the Department contacted the municipalities near the WMDSPA landfill and the Bucks County Health Department to gauge local concern over the petition. Based on the Department's review and report, on June 16, 2009, the Board directed the Department to develop this rulemaking granting the changes requested by the WMDSPA petition.

The Board adopted the proposed rulemaking at its August 18, 2009, meeting. The proposed rulemaking was

published at 39 Pa.B. 6453 (November 7, 2009) with a 30-day public comment period. The Solid Waste Advisory Committee was briefed on the petition and proposed rulemaking on December 7, 2009, and reviewed and endorsed the final-form rulemaking on May 27, 2010. No public comments were submitted in response to the proposed rulemaking either in support or opposition to the amendments. On January 6, 2010, the Independent Regulatory Review Commission (IRRC) notified the Board that it did not have comments on the proposed rulemaking. No public meetings or hearings were held.

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

Chapter 261a contains provisions for the identification and listing of hazardous waste. Section 261a.32 was added in 2006 to refer to Appendix IXa (relating to wastes excluded under 25 Pa. Code § 260a.20 and 40 CFR 260.20 and 260.22). Appendix IXa contains Table 2a (relating to wastes excluded from specific sources), which lists wastes from specific sources that have been delisted through the petition process by the Department and the Board. This numbering scheme is being used to parallel the Federal regulations for clarity and consistency with the incorporation by reference of the Commonwealth's hazardous waste regulations.

The proposed rulemaking amended Chapter 261a Appendix IXa, Table 2a (relating to wastes excluded from specific sources) to provide a specific conditional delisting of wastewater treatment sludge filter cake at the WMDSPA facility (as opposed to incorporating the existing EPA delisting). The delisting levels in Appendix IXa were established by using the more conservative of health-based values calculated by DRAS or toxicity characteristic regulatory levels. WMDSPA will perform verification testing on the filter cake as set forth in the proposed delisting.

In preparing the final-form rulemaking, the Department recognized that there was an error in the placement of the WMDSPA delisting amendments. The Federal Appendix IX in 40 CFR Part 261 (relating to identification and listing of hazardous waste) contains two tables, one for wastes excluded from nonspecific sources (Table 1) and one for wastes excluded from specific sources (Table 2). The EPA placed the original GROWS delisting that is amended by this final-form rulemaking in Table 1, not Table 2. Therefore, to be consistent with the Federal hazardous waste regulations, the final-form rulemaking adds Table 1a (relating to wastes excluded from nonspecific sources) to Appendix IXa. Although two additional minor editorial corrections were made to the final-form rulemaking, it does not make substantive changes to the proposed rulemaking published at 39 Pa.B. 6453.

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

The final-form rulemaking provides additional delisted volume of filter cake commensurate with WMDSPA's increased production of wastewater treatment sludge filter cake resulting from its operations. Allowing WMDSPA to dispose of the filter cake in a permitted Subtitle D landfill after performing certain verification testing provides a cost-effective and environmentally responsible method of disposal for this nonhazardous waste. Based on the current costs incurred by WMDSPA to properly dispose of the hazardous filter cake sludge at Model City Landfill in New York, the company will save over \$400,000 annually in avoided disposal costs as a result of this delisting amendment.

*Compliance Cost*

WMDSPA will be required to continue to comply with the conditions in the delisting regulation, including testing and recordkeeping requirements. However, the delisting of the filter cake should result in an overall reduced waste management cost for the WMDSPA facility, which would otherwise send the filter cake it generates beyond 2,000 cubic yards to a Subtitle C landfill.

*Compliance Assistance Plan*

The final-form rulemaking should not require educational, technical or compliance assistance efforts. The Department has and will continue to provide manuals, instructions, forms and web site information consistent with the final-form rulemaking. In the event that assistance is required, the Department's central office staff will provide it.

*Paperwork Requirements*

The final-form rulemaking does not create new paperwork requirements to be satisfied by WMDSPA beyond those it already implements under the existing delisting to demonstrate ongoing compliance with the conditions of the current delisting regulation.

*G. Pollution Prevention*

For this final-form rulemaking, the Department does not require additional pollution prevention efforts. The Department already provides pollution prevention educational material as part of its hazardous waste program.

*H. Sunset Review*

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goal for which it was intended.

*I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 28, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 6453, to IRRC and to the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 4, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 5, 2010, and approved the final-form rulemaking.

*J. Findings*

The Board finds that:

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

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

(3) The final-form regulation does not enlarge the purpose of the proposed rulemaking published at 39 Pa.B. 6453.

(4) The regulation is necessary and appropriate for administration and enforcement of the authorizing SWMA identified in Section C of this preamble.

*K. Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 261a, are amended by amending Appendix IXa to read as set forth in Annex A.

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

(c) The Chairperson shall submit this order and Annex A to IRRC and the Committees as required by the Regulatory Review Act.

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

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

JOHN HANGER,  
Chairperson

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 4814 (August 21, 2010).)

**Fiscal Note:** Fiscal Note 7-445 remains valid for the final adoption of the subject regulation.



Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter D. LISTS OF HAZARDOUS WASTES

APPENDIX IXa. WASTES EXCLUDED UNDER 25 Pa. Code § 260a.20 AND 40 CFR 260.20 AND 260.22

Table 1a. Wastes Excluded from Nonspecific Sources

<i>Facility</i>	<i>Address</i>	<i>Waste description</i>
Waste Management Disposal Systems of Pennsylvania, Inc.	100 New Ford Mill Road, Morrisville, PA 19067	Wastewater treatment sludge filter cake from the treatment of EPA Hazardous Waste No. F039, generated at a maximum annual rate of 4,000 cubic yards, after September 11, 2010, and disposed in an RCRA Subtitle D landfill. The exclusion covers the filter cake resulting from the treatment of hazardous waste leachate derived from only the "old" Geological Reclamation Operations and Waste Systems, Inc. (GROWS) landfill and nonhazardous leachate derived from only nonhazardous waste sources. The exclusion does not address the waste disposed in the "old" GROWS landfill or the grit generated during the removal of heavy solids from the landfill leachate. To ensure that hazardous constituents are not present in the filter cake at levels of regulatory concern, WMDSPA must implement a testing program for the petitioned waste. This testing program must meet the conditions listed below in order for the exclusion to be valid:
		(1) <i>Testing</i> : Sample collection and analyses, including quality control (QC) procedures, must be performed using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B.
		(i) <i>Sample Collection</i> : Each batch of waste generated over a 4-week period must be collected in containers with a maximum capacity of 20 cubic yards. At the end of the 4-week period, each container must be divided into four quadrants and a single, full-depth core sample shall be collected from each quadrant. All of the full-depth core samples then must be composited under laboratory conditions to produce one representative composite sample for the 4-week period.
		(ii) <i>Sample Analysis</i> : Each 4-week composite sample must be analyzed for all of the constituents listed in Condition (3). The analytical data, including quality control information, must be submitted to the Pennsylvania Department of Environmental Protection, Bureau of Waste Management, Rachel Carson State Office Building, 400 Market Street, 14th Floor, Harrisburg, PA 17105. Data from the annual verification testing must be compiled and submitted to the Department within 60 days from the end of the calendar year. All data must be accompanied by a signed copy of the statement set forth in 40 CFR 260.22(i)(12) to certify to the truth and accuracy of the data submitted. Records of operating conditions and analytical data must be compiled, summarized, and maintained on-site for a minimum of 3 years and must be furnished upon request by any employee or representative of the Department, and made available for inspection.
		(2) <i>Waste Holding</i> : The dewatered filter cake must be stored as hazardous until the verification analyses are completed. If the 4-week composite sample does not exceed any of the delisting levels set forth in Condition (3), the filter cake waste corresponding to this sample may be managed and disposed in accordance with all applicable solid waste regulations. If the 4-week composite sample exceeds any of the delisting levels set forth in Condition (3), the filter cake waste generated during the time period corresponding to the 4-week composite sample must be retreated until it meets these levels (analyses must be repeated) or managed and disposed in accordance with Subtitle C of RCRA. Filter cake which is generated but for which analyses are not complete or valid must be managed and disposed in accordance with Subtitle C of RCRA, until valid analyses demonstrate that the waste meets the delisting levels.

## RULES AND REGULATIONS

<i>Facility</i>	<i>Address</i>	<i>Waste description</i>	
		<p>(3) <i>Delisting Levels:</i> If the concentrations in the 4-week composite sample of the filter cake waste for any of the hazardous constituents listed below exceed their respective maximum allowable concentrations (mg/l or mg/kg) also listed below, the 4-week batch of failing filter cake waste must either be retreated until it meets these levels or managed and disposed in accordance with Subtitle C of RCRA. WMDSPA has the option of determining whether the filter cake waste exceeds the maximum allowable concentrations for the organic constituents by either performing the analysis on a TCLP leachate of the waste or performing total constituent analysis on the waste, and then comparing the results to the corresponding maximum allowable concentration level.</p>	
		(i) Inorganics	Maximum Allowable Leachate Conc. (mg/l)
		Constituent: Arsenic ..... 1.83e-01 Barium ..... 1.43e+01 Cadmium ..... 1.10e-01 Chromium ..... 5.00e+00 Lead ..... 5.00e+00 Mercury ..... 1.59e-02 Nickel ..... 5.52e+00 Selenium ..... 4.25e-01 Silver ..... 7.50e-01 Cyanide ..... 2.64e+00 Cyanide extractions must be conducted using distilled water in place of the leaching media specified in the TCLP procedure.	
		(ii) Organics	Maximum allowable leachate conc. (mg/l)      Maximum allowable total conc. (mg/kg)
		Constituent: Acetone ..... 1.39e+01      2.78e+02 Acetonitrile ..... 3.25e+01      6.50e+02 Acetophenone ..... 1.39e+01      2.78e+02 Acrolein ..... 2.60e+02      5.20e+03 Acrylonitrile ..... 4.76e-03      9.52e-02 Aldrin ..... 7.72e-06      1.54e-04 Aniline ..... 9.24e-01      1.85e+01 Anthracene ..... 4.88e+00      9.76e+01 Benz(a)anthracene ..... 2.56e-04      5.12e-03 Benzene ..... 8.86e-02      1.77e+00 Benzo(a)pyrene ..... 1.57e-05      3.14e-04 Benzo(b)fluoranthene ..... 1.42e-04      2.84e-03 Benzo(k)fluoranthene ..... 1.98e-03      3.96e-02 Bis(2-chloroethyl)ether ..... 1.95e-02      3.90e-01 Bis(2-ethylhex yl)phthalate ..... 1.19e-01      2.38e+00 Bromodichloromethane ..... 4.14e-02      8.28e-01 Bromoform (Tribromomethane) ..... 3.25e-01      6.50e+00 Butyl-4,6-dinitrophenol, 2-sec- (Dinoseb) ..... 1.39e-01      2.78e+00 Butylbenzylphthalate ..... 5.67e+00      1.13e+02 Carbon disulfide ..... 1.39e+01      2.78e+02 Carbon tetrachloride ..... 2.75e-02      5.50e-01	

<i>Facility</i>	<i>Address</i>	<i>Waste description</i>		
		Chlordane .....	6.79e-04	1.36e-02
		Chloro-3-methylphenol 4- .....	1.81e+02	3.62e+03
		Chloroaniline, p- .....	5.57e-01	1.11e+01
		Chlorobenzene .....	2.79e+00	5.58e+01
		Chlorobenzilate .....	5.02e-02	1.00e+00
		Chlorodibromomethane .....	3.06e-02	6.12e-01
		Chloroform .....	4.75e-02	9.50e-01
		Chlorophenol, 2- .....	6.97e-01	1.39e+01
		Chrysene .....	2.71e-02	5.42e-01
		Cresol .....	6.97e-01	1.39e+01
		DDD .....	7.74e-04	1.55e-02
		DDE .....	1.82e-04	3.64e-03
		DDT .....	3.42e-04	6.84e-03
		Dibenz(a,h)anthracene .....	7.43e-06	1.49e-04
		Dibromo-3-chloropropane, 1,2- .....	2.14e-03	4.28e-02
		Dichlorobenzene 1,3- .....	1.36e-02	2.72e-01
		Dichlorobenzene, 1,2- .....	7.60e+00	1.52e+02
		Dichlorobenzene, 1,4- .....	1.07e-01	2.14e+00
		Dichlorobenzidine, 3,3'- .....	5.71e-03	1.14e-01
		Dichlorodifluoromethane .....	1.28e+01	2.56e+02
		Dichloroethane, 1,1- .....	7.33e-01	1.47e+01
		Dichloroethane, 1,2- .....	1.57e-03	3.14e-02
		Dichloroethylene, 1,1- .....	4.28e-03	8.56e-02
		Dichloroethylene, trans-1,2- .....	2.79e+00	5.58e+01
		Dichlorophenol, 2,4- .....	4.18e-01	8.36e+00
		Dichlorophenoxyacetic acid, 2,4-(2,4-D) .....	1.39e+00	2.78e+01
		Dichloropropane, 1,2- .....	6.93e-02	1.39e+00
		Dichloropropene, 1,3- .....	2.57e-02	5.14e-01
		Dieldrin .....	8.28e+01	1.66e+03
		Diethyl phthalate .....	1.35e+02	2.70e+03
		Dimethoate .....	3.67e+01	7.34e+02
		Dimethyl phthalate .....	7.33e+01	1.47e+03
		Dimethylbenz(a)anthracene, 7,12- ....	2.05e-06	4.10e-05
		Dimethylphenol, 2,4- .....	2.79e+00	5.58e+01
		Di-n-butyl phthalate .....	3.23e+00	6.46e+01
		Dinitrobenzene, 1,3- .....	1.39e-02	2.78e-01
		Dinitromethylphenol, 4,6-,2- .....	1.32e-02	2.64e-01
		Dinitrophenol, 2,4- .....	2.79e-01	5.58e+00
		Dinitrotoluene, 2,6- .....	3.99e-03	7.98e-02
		Di-n-octyl phthalate .....	6.83e-03	1.37e-01
		Dioxane, 1,4- .....	2.34e-01	4.68e+00
		Diphenylamine .....	2.29e+00	4.58e+01
		Disulfoton .....	2.32e+02	4.64e+03
		Endosulfan .....	8.36e-01	1.67e+01
		Endrin .....	2.00e-02	4.00e-01
		Ethylbenzene .....	1.02e+01	2.04e+02
		Ethylene Dibromide .....	2.52e-03	5.04e-02

## RULES AND REGULATIONS

<i>Facility</i>	<i>Address</i>	<i>Waste description</i>		
		Fluoranthene .....	3.15e-01	6.30e+00
		Fluorene .....	1.08e+00	2.16e+01
		Heptachlor .....	8.00e-03	1.60e-01
		Heptachlor epoxide .....	8.00e-03	1.60e-01
		Hexachloro-1,3-butadiene .....	1.28e-02	2.56e-01
		Hexachlorobenzene .....	1.29e-04	2.58e-03
		Hexachlorocyclohexane, gamma-(Lindane) .....	4.00e-01	8.00e+00
		Hexachlorocyclopentadiene .....	8.61e+02	1.72e+04
		Hexachloroethane .....	1.84e-01	3.68e+00
		Hexachlorophene .....	1.91e-04	3.82e-03
		Indeno(1,2,3-cd) pyrene .....	8.02e-05	1.60e-03
		Isobutyl alcohol .....	4.18e+01	8.36e+02
		Isophorone .....	2.70e+00	5.40e+01
		Methacrylonitrile .....	1.39e-02	2.78e-01
		Methoxychlor .....	1.00e+01	2.00e+02
		Methyl bromide (Bromomethane) ....	7.80e+01	1.56e+03
		Methyl chloride (Chloro-methane) ....	1.21e-02	2.42e-01
		Methyl ethyl ketone .....	8.36e+01	1.67e+03
		Methyl isobutyl ketone .....	1.11e+01	2.22e+02
		Methyl methacrylate .....	2.11e+02	4.22e+03
		Methyl parathion .....	7.74e+01	1.55e+03
		Methylene chloride .....	1.76e-01	3.52e+00
		Naphthalene .....	2.53e-01	5.06e+00
		Nitrobenzene .....	6.97e-02	1.39e+00
		Nitrosodiethylamine .....	1.71e-05	3.42e-04
		Nitrosodimethylamine .....	5.04e-05	1.01e-03
		Nitrosodi-n-butylamine .....	4.76e-04	9.52e-03
		N-Nitrosodi-n-propylamine .....	3.67e-04	7.34e-03
		N-Nitrosodiphenylamine .....	5.24e-01	1.05e+01
		N-Nitrosopyrrolidine .....	1.22e-03	2.44e-02
		Pentachlorobenzene .....	7.01e-03	1.40e-01
		Pentachloronitrobenzene (PCNB) ....	6.64e-03	1.33e-01
		Pentachlorophenol .....	5.44e-03	1.09e-01
		Phenanthrene .....	1.27e-01	2.54e+00
		Phenol .....	8.36e+01	1.67e+03
		Polychlorinated biphenyls .....	3.99e-05	7.98e-04
		Pronamide .....	1.04e+01	2.08e+02
		Pyrene .....	2.41e-01	4.82e+00
		Pyridine .....	1.39e-01	2.78e+00
		Styrene .....	3.71e+00	7.42e+01
		Tetrachlorobenzene, 1,2,4,5- .....	5.75e-03	1.15e-01
		Tetrachloroethane, 1,1,2,2- .....	1.48e-01	2.96e+00
		Tetrachloroethylene .....	5.22e-02	1.04e+00
		Tetrachlorophenol, 2,3,4,6- .....	1.10e+00	2.20e+01
		Tetraethyl dithiopyrophosphate (Sulfotep) .....	1.83e+05	3.66e+06

<i>Facility</i>	<i>Address</i>	<i>Waste description</i>
		Toluene ..... 2.79e+01 5.58e+02 Toxaphene ..... 5.00e-01 1.00e+01 Trichlorobenzene, 1,2,4- ..... 4.41e-01 8.82e+00 Trichloroethane, 1,1,1- ..... 4.63e+00 9.26e+01 Trichloroethane, 1,1,2- ..... 4.76e-02 9.52e-01 Trichloroethylene ..... 1.86e-01 3.72e+00 Trichlorofluoromethane ..... 1.24e+01 2.48e+02 Trichlorophenol, 2,4,5- ..... 5.59e+00 1.12e+02 Trichlorophenol, 2,4,6- ..... 2.34e-01 4.68e+00 Trichlorophenoxyacetic acid, 2,4,5-(245-T) ..... 1.39e+00 2.78e+01 Trichlorophenoxypropionic acid, 2,4,5-(Silvex) ..... 1.00e+00 2.00e+01 Trichloropropane, 1,2,3- ..... 4.69e-04 9.38e-03 Trinitrobenzene, sym- ..... 3.96e+00 7.92e+01 Vinyl chloride ..... 1.81e-03 3.62e-02 Xylenes (total) ..... 1.95e+02 3.90e+03
		(4) <i>Changes in Operating Conditions:</i> If WMDSPA significantly changes the treatment process or the chemicals used in the treatment process, WMDSPA may not manage the treatment sludge filter cake generated from the new process under this exclusion until it has met the following conditions: (a) WMDSPA must demonstrate that the waste meets the delisting levels set forth in Condition (3); (b) it must demonstrate that no new hazardous constituents listed in Appendix VIII of 40 CFR Part 261 have been introduced into the manufacturing or treatment process; and (c) it must obtain prior written approval from the Department to manage the waste under this exclusion.
		(5) <i>Reopener:</i>
		(i) If WMDSPA discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then WMDSPA must report any information relevant to that condition, in writing, to the Department within 10 days of discovering that condition.
		(ii) Upon receiving information described in subparagraph (i) of this Condition, regardless of its source, the Department will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.

[Pa.B. Doc. No. 10-1678. Filed for public inspection September 10, 2010, 9:00 a.m.]

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [ 34 PA. CODE CH. 125 ]

#### Workers' Compensation; Individual Self-Insurance

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), amends Chapter 125, Subchapter A (relating to individual self-insurance) to read as set forth in Annex A. This final-form rulemaking updates and clarifies the standards and procedures which govern the processing of applications for and the administration of self-insurance for individual employers under the Workers' Compensation Act (act) (77 P. S. §§ 1—1041.4 and 2501—2506 and 2701—2708) and The Pennsylvania Occupational Disease Act (Occupational

Disease Act) (77 P. S. §§ 1201—1603).

#### *Statutory Authority*

This final-form rulemaking is published under the authority in sections 305(a) and 435(a) of the act (77 P. S. §§ 501 and 991(a)) and section 2205 of The Administrative Code of 1929 (71 P. S. § 565).

#### *Background*

Under section 305(a) of the act and section 305 of the Occupational Disease Act (77 P. S. § 1405), an employer liable for the payment of benefits under those acts may be granted an exemption from the necessity of insuring the payment of its liability with an authorized insurer. The grant of an exemption, which is commonly referred to as self-insurance status, is based on the employer demonstrating to the Department that it has the financial ability to pay the compensation provided under the acts.

Subchapter A addresses these technical issues as the application procedures for self-insurance by individual employers, the materials and information that must be provided with the application, minimum requirements to be considered for self-insurance, factors used in assessing the financial ability to self-insure, financial security and excess insurance requirements and requirements to service a self-insurer's claims.

Chapter 125 (relating to workers' compensation self-insurance) was adopted on October 13, 1995, and has seen only very limited regulatory amendments in the last 15 years. The most recent regulatory amendments followed the act of June 24, 1996 (P. L. 350, No. 57) which, among other things, amended section 305 of the act and 802 of the act (77 P. S. § 1036.2) and added section 819 of the act (77 P. S. § 1036.19) affecting matters regarding the requirements for self-insurance. The Department then amended, in pertinent part, § 125.2 (relating to definitions) and § 125.9 (relating to security requirements). See 28 Pa.B. 5459 (October 24, 1998).

On November 14, 2005, the Department held a stakeholder meeting to discuss possible changes to the regulations. A proposed rulemaking was published at 39 Pa.B. 2293 (May 2, 2009). As a result, the Department received written comments from the following: Jonathan H. Rudd, Esquire, on behalf of Kominklijke Ahold N.V. and Giant Food Stores, LLC (collectively referred to as Giant Foods); Cathy L. James on behalf of Porter & Curtis, LLC; Walter T. Hannigan on behalf of AVI Risk Services, LLC; Claudia Allen on behalf of the Port Authority of Allegheny County (Port Authority); Barry Scott on behalf of the City of Philadelphia; Yolanda Romero on behalf of the Southeastern Pennsylvania Transportation Authority (SEPTA); Jayne K. Lemon on behalf of Wells Fargo Disability Management (Wells Fargo); and, Richard A. Armbrust on behalf of United States Steel Corporation (US Steel). The Department also received written comments from the Independent Regulatory Review Commission (IRRC) dated July 1, 2009. In response to comments received, changes were made to the proposed rulemaking.

#### *Purpose*

The final-form rulemaking increases clarity and consistency through the introduction of new standard terms throughout the regulations, provides more objective standards for qualifying for and maintaining self-insurance status and improves and strengthens the Department's ability to efficiently and effectively monitor and regulate workers' compensation self-insurance in this Commonwealth.

#### *Summary of Final-Form Rulemaking and Responses to Comments*

The Department amends § 125.1 (relating to purpose) to clarify existing language.

The Department amends § 125.2 to clarify existing language, delete the existing definition of "excess insurer" and "instrumentality of the Commonwealth" and include definitions for the following terms: "active self-insurer," "adequate accident and illness prevention program," "authorized retention amount," "catastrophic loss estimation," "dedicated asset account," "excess indemnity insurance," "excess insurance," "financial ability to self-insure," "guarantor," "investment grade long-term credit or debit rating," "liability limit," "long-term credit or debit rating," "maximum quick asset exposure amount," "minimum funding amount," "minimum security amount," "NRSRO," "self-insurance loss portfolio transfer policy," "special retention amount," "standard retention amount," "workers'

compensation excess insurance," "workers' compensation excess insurance recoveries" and "workers' compensation insurer."

IRRC and Porter & Curtis commented that the Department should explain the basis of the definition for "catastrophic loss estimation." Porter & Curtis additionally asked whether it would affect the amount of security a self-insurer shall provide. The catastrophic loss estimation is a general assumption of an applicant's potential worst-case loss that is used to determine if the applicant would be able to self-insure without the usual protection provided by excess insurance. The definition first takes into account an applicant's concentration of risk by considering the number of employees working at the same time at its largest location. It then assumes that a catastrophic event causes injuries to all of the employees such that compensation equal to the Statewide average weekly wage for 500 weeks shall be paid on all employees. The use of the 500-week factor reflects the maximum 500-week period of partial disability allowable under the act. In and of itself, the catastrophic loss estimation will not affect the amount of security a self-insurer must provide. However, if the applicant's catastrophic loss estimation exceeds its quick asset exposure amount, the applicant must obtain excess insurance to self-insure.

IRRC also commented that the use of the word "usually" in the proposed definition of "catastrophic loss estimation" was vague and should be clarified. The Department agrees and revised the final-form rulemaking to replace "usually" with "anticipated to work at one time during a work day."

IRRC questioned the process for administering the proposed definition for "default multiplier" as well the lack of criteria for its use. IRRC also commented that the regulation did not indicate the time of publication in the *Pennsylvania Bulletin*. Upon further consideration, the Department deleted this term and its companion definition "default multiplier-calculated security factor" from the final-form rulemaking.

IRRC commented that the Department should explain when it would exercise the discretionary provision in calculating the "special retention amount" for current self-insurers. In response, the Department deleted the discretionary language to allow current self-insurers to use an amount equal to the retention amount of their excess insurance in effect on the effective date of this final-form rulemaking.

IRRC also commented about the use of the terms "generally" and "commonly" in the definition of "standard retention amount" as well as the lack of information on when the Department intended to publish updates of the amount in the *Pennsylvania Bulletin*. In response, the Department revised the definition in the final-form rulemaking to remove these terms and to allow this amount to be calculated based upon the Statewide average weekly wage without the need to publish annual updates.

AVI Risk Services requested clarification on whether the "standard retention amount" would be a single amount encompassing all industries or multiple amounts based on industry groupings, since the latter may have an impact on excess insurance. The standard retention amount is a single amount covering self-insurers in all industries. If the insurance market requires a self-insurer to seek authorization to retain excess insurance with a retention amount that exceeds the standard retention amount, it may do so through the application of the "special retention amount," which is separately defined in this section.

The Department amends § 125.3 (relating to application) to better reflect the application requirements. The Department replaces the existing affidavit requirement with a verified statement. Under § 125.3(b), the Department allows renewal applicants to file their applications 3 months before the expiration of current permits, which is 1 month earlier than under the current language. Under § 125.3(c)(1), the Department specifies the application fees required for affiliates or subsidiaries who file a consolidated application under § 125.4 (relating to application for affiliates and subsidiaries). The Department amends § 125.3(c)(3)(i) to require that the text of financial statements must be in English. The Department amends § 125.3(c)(5) and (6) to require that loss information must be filed on each employer requesting self-insurance for an initial application and that a report on incurred loss must be filed on each self-insurer for a renewal application. Also, § 125.3(c)(6) allows applicants that have retained an actuary to submit that actuary's report with the application.

The Department adds requirements that applicants include evidence of long-term credit or debt ratings, if any, in § 125.3(c)(9), as well as a listing of workers' compensation claims previously incurred all Pennsylvania as a self-insurer and closed on or after January 1, 2005, in § 125.3(c)(8). This will replace existing language regarding the OSHA No. 200 report, which has not been utilized since the promulgation of Chapter 129 (relating to workers' compensation health and safety). The Department amends § 125.3(d) to require applicants to provide the data, information, explanations, corrections and missing items regarding an application within the time period prescribed in writing by the Bureau. Otherwise, the application will be deemed withdrawn and a renewal applicant will have to obtain insurance coverage by the expiration of the time period. The Department amends § 125.3(e) to clarify that the Bureau will not issue a decision on an application until the data, information, explanations, corrections and missing items have been submitted. The Department also clarifies existing language and references currently recognized auditing standards when applicable.

SEPTA and the City of Philadelphia commented that the deadline for filing a renewal application should remain as it is due to the volume of information that needs to be compiled for the application. IRRC also asked the Department to provide justification for changing the application deadline. In considering the effect of the amendment to subsection (b), the commentators apparently were left with the impression that the Department intended to reduce by 1 month the time an applicant would have to prepare and submit a renewal application. This is not the Department's intention. Rather, this amendment is intended to benefit self-insurers by providing an additional month between the filing of the application and the expiration of the present permit for the self-insurer to satisfy any revised conditions for renewal that are established by the Bureau. This amendment will improve the ability of self-insurers to satisfy renewal conditions and obtain Department approval of their application in a timely manner.

Giant Foods and IRRC questioned how foreign corporations that do not file Forms 10-K or 10-Q with the Securities and Exchange Commission (SEC) would be able to comply with the proposed documentary requirements in § 125.3(c)(2) and (3). Giant Foods suggested amending the two paragraphs to reference equivalent forms filed by foreign corporations with the SEC or with the governing body of other international security ex-

changes. In response, the Department substantially adopted the language suggested by Giant Foods for applications of affiliates and subsidiaries under § 125.4(e). For clarity in § 125.3(c)(3), the Department moved this language into new subparagraph (iii).

Porter & Curtis expressed concern that the proposed requirement in § 125.3(c)(3)(i) that a parent company applicant provide consolidated financial statements for its subsidiaries in support of its application would be unduly burdensome. In response, the Department deleted this specific language since, when necessary, these consolidated statements already must be provided to conform to generally accepted accounting principles requirements.

Giant Foods also commented that the proposed requirement in § 125.3(c)(3)(i) that the currency values referenced in the supporting financial statements must be in United States dollars would be problematic for foreign corporations. In response, the Department substantially adopted the suggestion set forth by Giant Foods to require an applicant to assist the Department in converting financial statements not in United States dollars to United States dollar amounts.

Giant Foods commented that the required standard for reviewing financial statements submitted under § 125.3(c)(4) should include standards established by the International Accounting Standards Board (IASB) to accommodate foreign corporations. IRRC also expressed concern about how foreign corporations using IASB standards could comply with this provision. The Department agrees and revised the final-form rulemaking to allow for the submission of financial statements prepared in conformance with the International Auditing and Assurance Standards Board, which is the international counterpart organization to the American Institute of Certified Public Accountants.

IRRC questioned why the three accounting organizations referenced in § 125.3(c)(3)(i) vary from the organizations referenced in § 125.3(c)(4), which concerns the standards for reviewed financial statements. This difference lies in the fact that the organizations involved in the setting of standards for audited financial statements are different from those involved in setting standards for reviewed financial statements.

SEPTA expressed concern over the requirement in § 125.3(c)(8) that applicants shall report data on closed claims. Giant Foods commented that the information on closed claims should be limited to those claims closed within the past 5 years, while IRRC suggested limiting the information to claims closed within a specific time period. In response to these comments, the Department revised § 125.3(c)(8) to limit this requirement to claims closed on or after the effective date of this final-form rulemaking. Similar changes were made to the reporting provisions in § 125.16(b) (relating to reporting by runoff self-insurer).

The City of Philadelphia and IRRC requested clarification on when to find the case reserve instructions referenced in § 125.3(c)(8)(iii) (now § 125.3(c)(8)(iv)). The Department added language specifying that the instructions can be found on the Bureau-prescribed forms currently provided to employers requesting self-insurance.

AVI Risk Services and Porter & Curtis requested the Department to consider the potential compliance costs in developing the electronic formats for the required reserve and claims reporting. For the electronic reporting under § 125.3(c)(8), as well as the related reporting under § 125.16(b), the costs will be minimal. The Department

intends to capture only a limited number of readily available data elements and will do so in a widely used format, such as an Excel spreadsheet.

IRRC commented that the time frame for an applicant to provide missing or incomplete application data in § 125.3(d) should both establish a reasonable minimum period and allow for extension due to unique conditions. The Department agrees and specified a 21-day period for the provision of the application data, which may be extended if requested by the applicant and approved by the Bureau.

SEPTA expressed concern that the requirement in § 125.3(e) that application materials must be provided before decision will delay the approval of renewal applications for reasons such as the self-insurer's excess insurance does not correspond to the renewal of its application. This is not the case. The Department will not delay the issuance of a permit under these circumstances as long as excess coverage is currently in place under § 125.6(c)(2)(ii) (relating to decision on application). Under existing regulations, a significant cause for the delay in issuing decisions involving a public employer such as SEPTA was the regulatory requirement that they provide audited financial statements covering the last complete fiscal year. To address this issue, the Department amended § 125.3(c)(3) to clarify that only private employers shall provide audited financial statements on the most recent fiscal year. This will eliminate the common cause of application delays for public employer applicants and will make public employers' compliance with § 125.10 (relating to funding by public employers) paramount in determining whether they have adequate financial health to self-insure.

The Department amends § 125.4 to allow for the submission of audit reports and financial information for applicants that are subsidiaries of a foreign parent company. The Department deletes the provision in subsection (a) requiring that a parent company of a consolidated program be incorporated under the laws of a state of the United States, because this incorporation requirement is extended to applicants in § 125.5 (relating to preliminary requirements). The Department also deletes the requirement that a Bureau form be used by an applicant to delete an affiliate or subsidiary from a consolidated permit, because a specific form for this purpose is unnecessary.

Giant Foods commented that the Department should include the terms "direct or indirect subsidiary" and "direct or indirect parent company" in § 125.4(a) and elsewhere throughout the regulations to recognize that an applicant's direct parent might be a holding company or other intermediary between the applicant and the ultimate holding company. IRRC also suggested clarifying the terminology regarding this subject. In response, the Department amended the definitions of "subsidiary" and "parent company" in § 125.2 to include reference to direct or indirect ownership and control.

IRRC commented that final-form § 125.4(d) should both establish a reasonable minimum period for the provision of a parent company's financial information and allow for extension by the Bureau due to unique conditions. The Department agrees and specified a 21-day period for the provision of the financial information, which may be extended if requested by the applicant and approved by the Bureau.

Giant Foods commented that § 125.4(d) should be excepted in the case of foreign corporations to whom § 125.4(e) applies. The Department agrees and revised § 125.4 (d) accordingly.

Giant Foods also commented that the term "consolidated audit report" be replaced with "consolidated financial statements" in § 125.4(e). The Department agrees and made this change to § 125.4(d) and (e). The Department also made a similar change in § 125.3(c)(3), (c)(3)(i) and (4) and § 125.6(h).

The Department amends § 125.5 to require, for enforcement purposes, that an applicant be incorporated or organized under the laws of a state of the United States and have an adequate accident and illness prevention program under Chapter 129. The Department deletes existing language in § 125.5(b)—(d) because this information is addressed in § 125.6.

IRRC commented that § 125.5(c) should be amended to specify what constitutes an "adequate" accident and illness prevention program. The term "adequate accident and illness prevention program" is defined in § 125.2, which references Chapter 129. The criteria for and determination of an adequate accident and illness prevention program are more properly governed by section 1001 of the act (77 P.S. § 1038.1) and Chapter 129. For consistency with those provisions, the Department replaced the "applicant" with "self-insured employer" in the definition of "adequate accident and illness prevention program" in § 125.2.

The Department amends § 125.6 to add paragraphs which set forth objective standards that an applicant shall satisfy to demonstrate its financial ability to self-insure, including that the applicant has adequate financial capacity and adequate financial health. The criteria for adequate financial health depend upon whether the applicant is a public or private employer. For a private employer, the Department requires an investment grade long-term credit or debt rating, or a long-term credit or debt rating that it is one grade below investment grade as issued by a rating organization or estimated by the Bureau. This will ensure that a private employer applicant which is approved to self-insure will have adequate, current financial health to meet its obligations, including its self-insurance liability, into the reasonably foreseeable future. The Department also adds language in § 125.6(a) to grandfather existing self-insurers who do not meet the rating requirements under certain conditions.

The Department amends § 125.6(a) to streamline the factors to be considered in assessing an application. The Department clarifies the information, standards and procedures pertaining to initial decisions, compliance with conditional approvals, issuance of permits, reconsideration requests and decisions, and appeals from reconsideration decisions to standardize and streamline the process and identify the necessary time frames involved. The Department also reduces the time period for compliance with conditional approvals in § 125.6 from 60 to 45 days. The Department modifies the hearing procedures following a reconsideration decision to replace the *de novo* hearing process with an appeal hearing process that will be conducted according to these regulations and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) to the extent not specifically superseded by these regulations.

Giant Foods commented that § 125.6(a)(2)(ii)(A) and (B) should contain a reference to the parent company's actual or estimated long-term credit or debt rating for



determining the requisite financial health to self-insure. In response, the Department agrees and revised these sections accordingly for applicants under § 125.4(e).

IRRC commented that the Department should include the criteria to be used in the Bureau's rating estimation for applicants that do not have the referenced Nationally-recognized statistical rating organization (NRSRO) rating under § 125.6(a)(2)(ii)(A). An outline of the specific criteria for this determination is difficult to provide, as it requires a judgment based upon a review of the information provided under § 125.6(b)(1)(i)—(iii). The Department will be using generally available "financial analysis comparison databases and evaluations models" for this estimation however and added this language to § 125.6(b)(1)(iii).

Giant Foods also commented that § 125.6(b)(1)(i) and (2) should include references to an applicant's parent company. The Department agrees with regard to § 125.6(b)(1) and (b)(1)(i) and the revised the subsection accordingly for applicants under § 125.4(e). The Department does not believe this change is proper for § 125.6(b)(2) because the quick asset amount measured for self-insurance should be only that of the applicant. However, the Department deleted the word "audited" and added a reference to § 125.4(e) in § 125.6(b)(2) to clarify that the financial statements reviewed under § 125.6(b)(2) may be the unaudited statements submitted under § 125.4(e).

The City of Philadelphia commented that the time frame for satisfying approval conditions under § 125.6(c)(1) should remain at 60 days and not be decreased to 45 days. IRRC requested that the Department explain the reason for the decreased time frame. The Department believes that the current 60-day compliance period is unnecessarily lengthy and causes delay in the timely processing of applications. A 45-day period is a reasonable time frame when there has been a conditional approval. Moreover, if an applicant requires additional time to meet conditions, it continues to have the ability to request a 30-day extension under § 125.6(c)(1)(ii).

The City of Philadelphia commented that an applicant should be given 90 days, rather than 30 days, to comply with the requirement to obtain workers' compensation insurance coverage in § 125.6(d) and (f)(2) as well as § 125.19(a)(3) and (b)(2) (relating to additional powers of Bureau and orders to show cause). The Department believes that the existing 30-day period is sufficient as it has not proven to be problematic. It is also more closely aligned with section 305(a)(3) of the act, which provides that coverage shall be obtained "immediately."

IRRC commented that the Department should provide time frames for the Bureau to take certain actions, including issuing decisions, assigning appeals to hearing officers and appealing to Commonwealth Court in § 125.6(c), (d), (f), (g) and (g)(5). The Department does not believe time frames for these actions are required or useful for several reasons. With the exception of § 125.6(g)(5), these actions have not been subject to time constraints in the past and this has never been problematic. Importantly, an applicant or current self-insurer's status is not affected by the time it takes for the Bureau to make its decision or assign an appeal. The Department has always acted within a reasonable time and will continue to do so. Finally, the time frame for appeal to Commonwealth Court under § 125.6(g)(5) is separately governed by Pennsylvania Rule of Appellate Procedure 1512 (relating to time for petitioning for review).

IRRC commented that final-form § 125.6(e)(1) should both establish a reasonable minimum period for the applicant to submit additional materials in support of its application and allow for extension by the Bureau due to unique conditions. The Department agrees and specified a 21-day period for the provision of the additional materials, which may be extended if requested by the applicant and approved by the Bureau.

The City of Philadelphia commented that the conditions under which a self-insurer continues to operate when its permit is extended under § 125.6(e)(2) and (g) were unclear. In response, the Department incorporated a reference to the conditions "as set forth under subsection (c)(2)" of that section for clarification.

IRRC commented that the Department should explain its rationale for placing the burden on the applicant to prove that the Bureau acted arbitrarily or abused its discretion in § 125.6(g)(4). The Department added this provision consistent with the current case law in *City of Scranton v. Bureau of Workers' Compensation*, 787 A.2d 1094 (Pa. Cmwlth. 2001), wherein the Court determined that this was the appropriate burden in the context of a self-insurance appeal. The Department retained this provision in the final-form rulemaking, but for clarity purposes deleted the unnecessary phrase "under this subchapter."

The Department amends § 125.7 (relating to permit) to clarify the nature and applicability of the automatic extension of an existing permit, providing safeguards for renewal applicants when the Bureau fails to issue an initial decision on a renewal application before the permit's expiration or when a renewal applicant is in the process of timely satisfying conditions in the Bureau's decision at the time an existing permit is set to expire.

IRRC commented on the lack of a timetable for an applicant to satisfy conditions in § 125.7(c). The Department revised this section in the final-form rulemaking to provide that the conditions must be satisfied within the applicable time periods for the initial or reconsideration decision set forth under § 125.6 (relating to decision on application).

The Department rescinds § 125.8 because it contained information that is duplicated in § 125.6.

The Department amends § 125.9 to clarify existing language and replace the use of the outdated security constant with the new term "minimum security amount." The Department also amends the requirements regarding the forms of acceptable security, the procedures for posting and replacing security and the methods for calculating security amounts. The Department amends § 125.9(b)(3) to delete Alaska and Hawaii as states in which a bank's branch office may issue a securing letter of credit to the Bureau, because time zone differences hamper the Bureau's ability to promptly draw down a letter of credit with a bank located in these states. The Department amends the various methods for calculating the required amount of security for private employers under § 125.9(d) to set forth in detail the factors for calculating security depending upon the status and duration of the private employer's self-insurance program.

The Department also adds a specific security discount table in § 125.9(l) based on the self-insurer's investment grade long-term credit or debt rating, if any, under which security amounts calculated under subsection (d) may be discounted. The Department replaces the language in § 125.9(f) permitting present value discounting of liability projected in an actuary's report, which may result in an

inadequate security amount, with language requiring the Bureau to use the overall experience of all self-insurers or of self-insurers in the self-insurer's industry in its selection of loss development factors under certain circumstances. The Department amends § 125.9(j) to allow for a phase-in of increased security requirements under subsection (d) over a period of up to 2 years. It also amends § 125.9(k) to specify the circumstances under which the Bureau may release a runoff self-insurer of the obligation to provide security.

Wells Fargo commented that the Department should clarify when the 45-day time period for providing replacement security under § 125.9(b)(1)(ii) begins to run. The Department agrees and revised the subparagraph to state that the bond must be replaced within 45 days "of the self-insurer's receipt of written notification of the rating decline from the Bureau."

IRRC commented that the Department should specify the type of evidence that would be acceptable for a standby claims service arrangement under the proposed § 125.9(b)(2)(iii) and (3)(iv). US Steel commented that the proposed standby claims service agreements would impose additional costs and an unnecessary administrative burden on self-insured employers, with limited benefit to the Department or injured workers, and therefore requested that the Department reconsider this requirement. The purpose of the standby claims service arrangements was to ensure the timely and efficient continuation of benefit payments to injured workers in the event of a default when deposits under trust or irrevocable letters of credit are used as security. Upon further consideration, the Department agrees with US Steel and deleted the proposed subparagraphs.

With the elimination of the proposed standby claims service provisions, the Department also deleted § 125.9(b)(3)(iii), which required the maintenance of a separate trust agreement to accommodate the proceeds from a letter of credit which is drawn on by the Bureau. The deletion of this requirement will alternatively accomplish the goal of a smooth transition in payment after a default when there is a letter of credit as security, without placing additional cost on the self-insured employer. In light of the rescission of § 125.9(b)(3)(iii), which included a requirement that the trust company obtain a nonprocurement registration number, the Department deleted the proposed definition of "nonprocurement registration number" in § 125.2, since it is no longer necessary.

AVI Risk Services commented that few self-insurers have a long-term credit or debt rating issued by an NRSRO and that the security discounts in § 125.9(d), as well as the similar funding discounts in § 125.10(b), (c) and (d) should be extended to a self-insurer who receives a Bureau-estimated financial health rating equivalent to an investment-grade long-term credit or debt rating issued by an NRSRO. In response, the Department notes that 54% of current self-insurers are rated by one or more NRSRO. Further, since ratings provided by an NRSRO are more complete and accurate than those estimated by the Bureau, the Department believes that it is appropriate to allow the security and funding discounts to be based only upon the actual investment-grade long-term credit or debt ratings issued by an NRSRO.

Giant Foods commented that the security discounts in § 125.9(d)(1)(ii) and (4)(ii) should be expanded to apply to an appropriate long-term credit or debt rating from an NRSRO on the applicant's parent company. The Department disagrees and did not make this change. The

Department believes that the privilege of the security discount should directly correspond to the financial rating of the applicant alone, which will be either the actual self-insurer or the guarantor of the self-insurer.

Giant Foods similarly commented that the security discounts in § 125.9(d)(5)(ii) and (6)(ii) should be expanded to apply to the calculation of a runoff self-insurer's security when a runoff self-insurer's guarantor possesses an appropriate long-term credit or debt rating by an NRSRO. The Department agrees that the discount should apply in this instance and made this change to this subsection. This change was also made to § 125.9(d)(5)(iii). For clarity in this regard, the Department also added a definition for the term "guarantor" in § 125.2.

Giant Foods commented that the Department's use of "runoff" and "runoff self-insurer" was not consistent in §§ 125.9(d)(5) and (6) and 125.16(b). The Department agrees and revised these sections to consistently use the term "runoff self-insurer."

IRRC commented that the provisions regarding submission and consideration of a self-insurer's actuarial report in § 125.9(e) do not establish a binding norm and should be deleted or rewritten to establish criteria the Department will apply to accept or use this report. In response, the Department deleted the proposed amendments.

IRRC commented that § 125.9(f), which addresses the Department's selection of loss development factors to project a self-insurer's outstanding liability, did not provide enough certainty to the regulated community. IRRC also commented that § 125.9(g), which addresses the Department's ability to adjust loss development procedures, also did not provide enough certainty to the regulated community. By its very nature, a projection of liability based on loss development techniques contains many adjustments, selections and considerations based on the experience and judgment of the actuary performing the projection. To provide additional certainty regarding this necessary projection in § 125.9(f) however, the Department amended this section to require that it will incorporate the overall Pennsylvania workers' compensation experience factors in its selection of loss development factors when the self-insurer's volume or experience is not sufficient based upon generally accepted actuarial procedures. Further, the Department revised § 125.9(g) to require that it will make adjustments to the loss development procedures under the circumstances in that subsection. The Department deleted proposed amendments that would have provided discretion to use methods other than loss development to make this projection. The Department also deleted proposed § 125.9(g)(1) and (2), consistent with its deletion of the proposed definitions of "default multiplier" and "default multiplier-calculated security factor" in § 125.2, by which the Department would have had additional discretion to substitute the loss development liability amount for a default-multiplier security factor.

Wells Fargo commented that self-insurers should be provided an opportunity to furnish additional information and participate in discussions prior to the Department utilizing the default multiplier-calculated security factor in § 125.9(g)(1). As previously noted, the Department deleted this provision from the final-form rulemaking.

Wells Fargo commented that the maximum security phase-in period in § 125.9(j) should remain at 3 years and not be reduced to a 2-year period. IRRC commented that the Department should provide justification for the

change or maintain the current arrangement. The Department believes that a 2-year phase-in period for current self-insurers who are already posting security based upon the terms of the regulations is reasonable, based upon its past experience with this section and the fact that it is unlikely there will be significant increases in the amount of security under these amendments.

Wells Fargo and IRRC questioned whether the Department intended to discontinue the practice of reducing a runoff self-insurer's amount of security due to the deletion of language on the subject under § 125.9(k). The Department will continue to authorize security reductions for runoff self-insurers. The provisions for calculating the required amount of security for this category of self-insurer are now in § 125.9(d)(5) and (6).

IRRC commented that the Department should specify the type of evidence that would be acceptable under § 125.9(k)(2) for a runoff self-insurer to establish that its closed claims are unlikely to be reopened. In response, the Department deleted that requirement from the subsection.

Giant Foods commented that the Department should amend § 125.9(l) to clarify whether the security discount is based upon the current long-term credit or debt rating or a past rating. The Department revised the final-form rulemaking to clarify that the security discount is based on the "current" long-term credit or debt ratings of the self-insurer or its guarantor.

IRRC commented that § 125.9(m) would give the Department the authority to amend the security discount table under subsection (l) while bypassing the normal rulemaking process. The Department's sole intention in this subsection is to provide a method for the Department to set forth the discounts resulting from financial ratings issued by a new organization that receives a designation as an NRSRO after the effective date of the final-form rulemaking. Therefore, the Department revised this subsection accordingly.

The Department amends § 125.10 to focus on a public employer's short-term solvency rather than its long-term reserves. Therefore, the amendments require public employers to maintain sufficient dedicated cash reserves to meet payments over the next year for benefits and expenses to self-insure. The Department amends § 125.10(a) to provide that a public employer shall maintain a dedicated asset account, which no longer needs to be a trust fund. This requirement now includes the Commonwealth, but not certain runoff self-insurer public employers who do not meet the threshold for average annual payout of benefits on self-insurance claims. The Department deletes existing language in § 125.10(b) and (c) regarding long-term reserves and adds subsections (b)—(e) which set forth in detail the various methods and factors for calculating the required asset level of a public employer's dedicated asset account depending upon the status and duration of the public employer's self-insurance program.

IRRC and the City of Philadelphia commented that the Department should include a definition for "dedicated asset account" for this section. The Department agrees and added a definition of the term in § 125.2.

The Port Authority commented that by replacing the existing "trust" concept with the dedicated asset account for public employers in § 125.10, the regulations will create a financial burden on public employers and their taxpayers without increasing the security of benefit payments to injured workers. The Port Authority suggested

that the Department either eliminate the requirement or establish an exemption for public employers with a history of financial responsibility in the payment of benefits. IRRC requested an explanation of the financial impact of this change on public employers. IRRC also commented that the Department should explain what constitutes "good cause" for purposes of the proposed retroactive phase-in requirement under § 125.10(d)(3).

The Department believes that the replacement of trusts with dedicated asset accounts will not increase costs. To the contrary, this change will likely decrease costs for most public employers since they will no longer be required to maintain a formal trust arrangement. While the amount of assets set aside in a dedicated asset account may increase for some public employers, overall this system will reduce the amount of funding required to be set aside under the existing trust concept. The Department recognizes the importance of allowing a public employer to use as much of its available financial resources as possible to provide its mandated public services. The Department believes that the dedicated asset account concept is carefully tailored to balance this recognition with the need to ensure that an employer who is granted the privilege to self-insure clearly has the financial resources to liquidate its workers' compensation liability. As set forth in more detail in the Fiscal Impact section of this preamble, the Department projects that 37 of the 57 current self-insured public employers actually will be able to reduce their reserve funding for workers' compensation by an average of 49% under this final-form rulemaking. While the remaining 20 public employers may be required to increase their funding, this increase will be based upon the increases in their annual payments of benefits.

To avoid a possible undue burden on the few public employers that also may have been subject to the proposed retroactive funding phase-in requirement in § 125.10(d)(3), the Department deleted that requirement. The Department instead included a grandfathering provision which establishes the initial dedicated asset account level for those public employers at their existing funding level as of the effective date of the final-form rulemaking. Future funding increases for those employers would be based only on the same minimum funding calculations in § 125.10(d)(1) and (2) applicable to all public employers that fall under § 125.10(d).

Further, to limit the impact on a public employer's provision of services while ensuring that they maintain asset reserves within a reasonable margin of safety, the Department amended the definition of "minimum funding amount" in § 125.2 to reduce in half the formula's consideration of the Statewide average weekly wage. Additionally, the Department eliminated the separate definition for an "instrumentality of the Commonwealth" in § 125.2 and included this type of public employer under the existing definition of "Commonwealth;" this will avoid the need for those employers to post unnecessary security under the separate requirements for private employers under § 125.9(a). These employers are now treated as all other public employers under the final-form rulemaking.

IRRC commented that the Department should include additional details regarding the process of determining "a later date agreed to by the Bureau" for a public employer to meet its funding requirement under § 125.10(d)(4). The Department revised the language to provide that this period may be extended if requested by the applicant and approved by the Bureau. Similar proposed language in

§ 125.10(c)(3) has also been revised accordingly. Additionally, for clarity, the Department revised § 125.10 (a), (c)(1)(i) and (d)(1)(i) to clarify that the required asset level is calculated based on a public employer's "fiscal" year payout of benefits.

The City of Philadelphia commented that adjustments the Department would make to a public employer's annual payment of benefits under § 125.10(d)(5) for the purpose of calculating the required asset level should only occur following a hearing on the matter. The Department does not believe that a hearing prior to the adjustments is necessary or practical. However, it is important to note that these adjustments are made in the context of the Bureau's initial or reconsideration decision under § 125.6. When the self-insurer disputes the adjustment or funding amount regarding their permit approval, the self-insurer may avail itself of the reconsideration and appeal proceedings consistent with § 125.6(c)(2)(i) and (e)—(g). For clarity, this subsection has been revised to include specific reference to § 125.6. A similar change also has been made to § 125.10(c)(4) for this reason.

The Department amends § 125.11 (relating to excess insurance) to replace the current requirements and limits of excess insurance with new language addressing excess insurance in terms of adequate financial capacity and the coverage of a possible catastrophic loss. Under § 125.11(a), the Department adds the requirement that, when excess insurance is required to demonstrate adequate financial capacity, the applicant's retention amount must at least equal its authorized retention amount, and the applicant's liability limit of its insurance must be in an amount acceptable to the Bureau to cover adequately a catastrophic loss. The Department deletes existing requirements for aggregate excess insurance in § 125.11(b), as these requirements are no longer necessary. The Department also clarifies and organizes the contract requirements for excess insurance in § 125.11(c) (now § 125.11(b)).

IRRC and the Port Authority commented that the language in § 125.11(a) requiring that the liability limit of an excess insurance policy be "acceptable to the Bureau" was unclear and lacked detail. The language reflects the current practice of the Department, whereby the Bureau reviews the liability limit suggested by the self-insurer to ensure that it provides adequate protection for a catastrophic loss. For clarity, the Department specified that the Bureau's determination will be based upon consideration of the financial capacity of the applicant consistent with § 125.6(a) and the amount of the catastrophic loss estimation consistent with § 125.2 involving the applicant and its self-insured affiliates.

The Port Authority also commented that the regulations on excess insurance retention amounts should take into consideration the existence of cash flow protection coverage the self-insurer may have obtained. The Department notes that since "cash flow protection amount" is a defined term in § 125.2 and included under the definition of "retention amount," the regulations do take this into consideration.

To further improve the clarity of the excess insurance provisions in this section, the Department made minor editorial changes in the final-form rulemaking to § 125.11(b) and the related definitions in § 125.2 for the terms "aggregate excess insurance," "cash flow protection amount," "excess indemnity insurance," "liability limit," "retention amount," "specific excess insurance" and "workers' compensation excess insurance." These changes do not affect the substance of the provisions or definitions,

but simply constitute a reorganization of the existing information to make the excess insurance requirements easier to locate and understand within the regulations. Additionally, in light of these changes, the Department deleted the proposed term "nonworkers' compensation insurer" and its related references in the definitions in § 125.2, as it is no longer necessary or useful.

The Department amends § 125.12 (relating to payment, handling and adjusting of claims) to require self-insurers to notify the Bureau when they change claims handling or adjusting arrangements, whether self-administered or administered by a registered claims service company. A self-insurer will also have to provide a summary of its claims data to the Bureau, upon request, to explain discrepancies or problems that may arise due to the change in claims handling responsibilities.

IRRC recommended that § 125.12(c) include the time frame for a self-insurer to report a change in claims handling arrangements and an explanation of how the Bureau will notify the self-insurer of its deadline for filing the data outlined in the subsection. The Department clarified that self-insurers shall "immediately" report changes and provide the summary claims data in a format both prescribed and provided by the Bureau within 21 days of its receipt of notification that the data is required.

The Department amends § 125.13 (relating to special funds assessments) to include the Uninsured Employers Guaranty Fund (UEGF) as one of the listed special funds for which a self-insurer is liable to pay assessments. The UEGF was newly established in sections 1601—1608 of the act (77 P. S. §§ 2701—2708) by the act of November 9, 2006 (P. L. 1362, No. 147). The amendments also allow the Bureau to require a self-insurer to retain the services of its certified public accountant to resolve questions about the accuracy of annual compensation payments reported by the self-insurer.

IRRC and Wells Fargo commented on the rationale for including assessments against self-insurers for the maintenance of the UEGF in § 125.13(a). The Department included this provision consistent with section 1607 of the act, which specifically provides that the Department will assess both insurers and self-insurers for the maintenance of the UEGF.

The Department amends § 125.15 (relating to workers' compensation liability) to clarify existing language, including specific reference to self-insurance loss portfolio transfer policies.

The Department amends § 125.16 to clarify existing language regarding the timing, format and contents of the runoff report and to specify the procedure for a runoff self-insurer to request adjustment of its security amount.

The Department amends § 125.17 (relating to claims service companies) to set forth the continuing obligation of claims service companies to assist the self-insurer and the Bureau in providing data and information on the self-insurer's claims serviced by that company.

IRRC, the City of Philadelphia and Wells Fargo each commented that the Department should provide an enforcement provision for claims service companies who do not comply with § 125.17(d). Section 441(c) of the act (77 P. S. § 997(c)) requires that registered claims service companies "shall furnish such reports of its activities as may be required by rules and regulations of the department." This section of the act further provides an enforcement mechanism by which the company's privilege of conducting business may be suspended or revoked when

the company's failure to assist or provide necessary information or reports affects the prompt payment of compensation. This provision does not appear to provide authority for the Department to impose other penalties for noncompliance. However, self-insurers themselves do not appear to be prohibited from seeking the claims service company's cooperation, or pursuing other recourse, if any, under their prior or expiring contract with that company.

The Department amends § 125.19 (relating to additional powers of Bureau and orders to show cause) to explain the procedures by which the Bureau may address changes in the financial condition of active self-insurers and violations of the act and this subchapter. The Department adds subsection (a) to set forth procedures whereby the Bureau may review the qualifications for self-insurance, and revoke an existing permit, when necessary, for active self-insurers whose financial condition declines before the expiration of an existing permit. Under paragraph (1), the Bureau will issue a letter to the self-insurer outlining its concerns. The Department further adds specific language pertaining to the Bureau's ability to suspend or revoke a permit following the issuance of an order to show cause. This will proceed in the manner in the order to show cause provisions in Chapter 121 (relating to general provisions) when a self-insurer unreasonably fails to pay compensation for which it is liable or fails to submit any report or pay any assessment made under the act.

The City of Philadelphia commented that the Department should provide a standard in § 125.19(a) for when the Bureau may question whether an applicant continues to maintain the financial ability to self-insure. This section implements section 305(a)(3) of the act and section 305 of the Occupational Disease Act, which allow the Department to request further statements of financial ability and revoke a self-insurer's permit during the permit period. The Department does not believe an additional standard is required insofar as § 125.19(a) is based upon the self-insurer's financial ability to self-insure, the requirements of which are clearly in §§ 125.2 and 125.6(a). Additionally, § 125.19(a)(2) provides a self-insurer with the ability to dispute a decision under the procedures in § 125.6(e)—(g).

The City of Philadelphia further suggested that the Department replace "may" with "shall" in § 125.19(a) regarding the Bureau's issuance of a letter when it has reason to question the financial ability of a self-insurer. The Department substantially agrees and modified the language to reflect that the Bureau will issue the letter.

IRRC and the City of Philadelphia commented that the Department should include specific language in the order to show cause provisions in § 125.19(b) to explain how a self-insurer acts unreasonably in failing to pay compensation. Since this issue involves a fact-specific, common sense inquiry, a more specific definition limited to self-insurers under Chapter 125 does not appear necessary or prudent at this time. In this regard, section 441(b) of the act, on which this provision is based, states that the secretary "shall not [revoke or suspend self-insurance status] until the employer has been notified in writing of the charges made against it and has been given an opportunity to be heard before the secretary in answer to the charges." The issue of whether a self-insurer's failure to pay was "unreasonable" under the circumstances would be addressed by the self-insurer and the Bureau before a presiding officer at the show cause proceeding. Section 441(a) of the act contains identical language regarding

the repeated or unreasonable failure to pay compensation by licensed insurers, which are not governed by Chapter 125. Moreover, reference to "unreasonable" delays in payment is also in section 435(d)(i) of the act and the courts have addressed the fact-specific issue of what constitutes "unreasonable" delay under that section on a case-by-case basis.

The Department amends § 125.20 (relating to computation of time) to adjust the manner in which a period of time will be computed under this chapter to be consistent with the time computation provisions in Chapter 121.

The Department adds § 125.21 (relating to self-insurance loss portfolio transfer policy) to establish procedures and guidelines for the transfer of a self-insurer's workers' compensation liability to an insurance carrier through the use of a self-insurance loss portfolio transfer policy.

IRRC generally commented that the Department should provide direction in the final-form rulemaking on how an applicant can access the various Bureau-prescribed forms outlined in the regulations. As a result, §§ 125.3(a), 125.4(a) and 125.9(b)(1) and (2) have been revised to state that the various forms described in those sections are available upon request from the Bureau. Additionally, § 125.3(c)(6), (7) and (8), 125.12(c) and 125.16(a) have been revised to state that the various forms and formats mentioned in those provisions will be provided to the applicant by the Bureau.

IRRC also commented that the Department should specify the type of evidence that would be acceptable when the regulations require self-insurers to provide evidence of workers' compensation insurance coverage, such as §§ 125.3(d), 125.6(c)(1)(iv), (d), (f)(1)(ii) and (2), 125.9(b)(1)(iii) and 125.19(a)(3). In response, the Department added "such as a certificate of insurance" to provide clarification. This change has also been made to § 125.19(b)(2).

Porter & Curtis commented that it would like an estimate of the one-time additional costs associated with the Bureau's implementation of the regulations and how those costs would be applied to self-insurers. The Department is not able to accurately project these costs. However, they will be minimal and will be paid through the Workmen's Compensation Administration Fund. Work in the reprogramming of the self-insurance system will be done internally by the Department's Office of Information Services.

*Affected Persons*

Active self-insurers, runoff self-insurers and employers applying for self-insurance in the future will be affected by the final-form rulemaking in various degrees. The final-form rulemaking will affect self-insurers and applicants for self-insurance. A number of the substantive amendments, including those regarding loss development calculations and security discounts, will affect existing private sector self-insurers. New and existing public sector self-insurers also will be affected by the funding requirements in the final-form rulemaking. Self-insurance claims service companies, sureties and trustees will also be impacted by the final-form rulemaking.

*Fiscal Impact*

Private employer applicants with a strong financial rating will likely see no significant, direct impact to their overall costs from the final-form rulemaking. These applicants may experience reduced costs due to the greater security discounts for employers having strong financial ratings. Private employer applicants with lesser financial

ratings, however, may experience some increase in costs as a result of the changes to security and excess insurance requirements.

The vast majority of public sector applicants will realize substantially reduced funding requirements under the final-form rulemaking. The Bureau estimates that required funding amounts would decline by an average of 49% for 37 of the 57 public self-insurers. The remaining 20 public employers are subject to a grandfather waiver provision which requires increases to their amount of funding for workers' compensation based on increases in annual compensation payments. Four of the public employers from this group also will realize cost savings as the result of the elimination of security requirements on them.

Some one-time additional costs associated with the implementation of the final-form rulemaking are likely for the Bureau. These costs, which will not be substantial, will mostly result from the reprogramming of the computer system used to monitor self-insurers and to decide applications.

#### *Reporting, Recordkeeping and Paperwork Requirements*

The major reporting, recordkeeping and paperwork requirements resulting from the final-form regulation are as follows:

An active or runoff self-insurer is required to annually file, in electronic format prescribed by the Bureau, a listing of its open and closed claims incurred after the effective date of this final-form rulemaking.

An active or runoff self-insurer may be required to file with the Bureau summary data on its claims when it changes claims handling arrangements.

#### *Effective Date*

This final-form rulemaking is immediately effective upon publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

A sunset date is not necessary for these regulations. The regulations are continuously monitored by the Workers' Compensation Advisory Council and by the Bureau in the day-to-day handling and processing of individual self-insurance applications. If needed, corrections can be initiated based on information obtained by these operations.

#### *Contact Person*

Persons who require additional information about this final-form rulemaking may submit inquiries to George Knehr, Chief, Self-Insurance Division, Bureau of Workers' Compensation, Department of Labor and Industry, 1171 South Cameron Street, Room 324, Harrisburg, PA 17104-2501, gknehr@state.pa.us.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 20, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 2293, 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 August 4, 2010, the final-form rulemaking was deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 5, 2010, and approved the final-form rulemaking.

#### *Findings*

The Department finds that:

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

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

(3) The 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 125, are amended by adding § 125.21; by amending §§ 125.1—125.7, 125.9—125.13, 125.15—125.17, 125.19 and 125.20; and by deleting § 125.8 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 effective immediately upon publication in the *Pennsylvania Bulletin*.

SANDI VITO,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 4814 (August 21, 2010).)*

**Fiscal Note:** Fiscal Note 12-85 remains valid for the final adoption of the subject regulations.

### **Annex A**

#### **TITLE 34. LABOR AND INDUSTRY PART VIII. BUREAU OF WORKERS' COMPENSATION**

#### **CHAPTER 125. WORKERS' COMPENSATION SELF-INSURANCE**

#### **Subchapter A. INDIVIDUAL SELF-INSURANCE**

#### **§ 125.1. Purpose.**

This subchapter is promulgated under section 435 of the act (77 P.S. § 991) to provide regulatory guidelines for the uniform and orderly administration of self-insurance for individual employers. This subchapter ensures full payment of compensation when due to employ-

ees of self-insured employers and to their dependents under the act and the Occupational Disease Act.

**§ 125.2. Definitions.**

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

*Act*—The Workers’ Compensation Act (77 P. S. §§ 1—1041.4, 2501—2506 and 2701—2708).

*Active self-insurer*—A self-insurer that is not a runoff self-insurer.

*Actuary*—A member in good standing of the Casualty Actuarial Society or a member in good standing of the American Academy of Actuaries.

*Adequate accident and illness prevention program*—A determination by the Bureau under Chapter 129 (relating to workers’ compensation health and safety) that a self-insured employer’s accident and illness prevention services fulfill the program and service requirements as stated in that chapter.

*Affiliates*—Employers which are closely related through common ownership or control.

*Aggregate excess insurance*—Insurance under which the insurer pays on behalf of or reimburses a self-insurer for its payment of benefits on claims incurred during a policy period in excess of the retention amount to the insurer’s liability limit.

*Applicant*—An employer requesting permission to initiate or to renew self-insurance, an employer requesting permission for it and its affiliates or subsidiaries to initiate or to renew self-insurance, or a parent company requesting permission for its subsidiaries to initiate or to renew self-insurance.

*Authorized retention amount*—A retention amount that is equal to or is less than a self-insurer’s maximum quick assets exposure amount or the current standard retention amount, whichever is less, or the special retention amount approved by the Bureau.

*Bureau*—The Bureau of Workers’ Compensation of the Department.

*Cash flow protection amount*—The maximum amount of benefits a self-insurer pays over a 2-year period on an occurrence without reimbursement from an insurer under a specific excess insurance policy with a per year per occurrence cash protection plan.

*Catastrophic loss estimation*—The greater of the following:

(i) The largest number of employees anticipated to work at one time during a work day at the largest location in this Commonwealth in terms of the applicant’s employment, or the employment of any of its affiliates or subsidiaries under a consolidated permit under § 125.4 (relating to application for affiliates and subsidiaries), multiplied by the current Statewide average weekly wage multiplied by 500.

(ii) The current Statewide average weekly wage multiplied by 5,000.

*Claims service company*—An individual, corporation, partnership or association engaged in the business of servicing a self-insurer’s claims, including the adjusting and handling of claims, the payment of benefits and the provision of required reports.

*Commonwealth*—The term includes the following:

(i) The government of the Commonwealth, including the following:

(A) The courts and other officers or agencies of the unified judicial system.

(B) The General Assembly, and its officers and agencies.

(C) The Governor, and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth.

(ii) An employer, politic and corporate, exercising an essential government function under the laws of the Commonwealth that is not a political subdivision.

*Dedicated asset account*—An account or fund, such as a bank, checking or trust account or an internal services fund, holding cash or investments solely to finance or hold reserves for the payment of a public employer’s workers’ compensation liability and related expenses.

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

*Employer*—An employer as defined in section 103 of the act (77 P. S. § 21) or under section 103 of the Occupational Disease Act (77 P. S. § 1203), or both.

*Excess indemnity insurance*—Aggregate excess insurance or specific excess insurance that meets the requirements in § 125.11(b)(1) (relating to excess insurance).

*Excess insurance*—Excess indemnity insurance or workers’ compensation excess insurance.

*Financial ability to self-insure*—Possession of adequate financial capacity and adequate financial health, as specified in § 125.6(a) (relating to decision on application).

*Guarantor*—The affiliate or parent company that has guaranteed a self-insurer’s liability by executing an agreement under § 125.4(b) (relating to application for affiliates and subsidiaries) that is on file with the Bureau.

*Investment grade long-term credit or debt rating*—A long-term credit or debt rating identified as investment grade by the NRSRO that issued it.

*Liability limit*—The maximum amount of benefits for which an insurer indemnifies a self-insurer under an excess insurance policy.

*Long-term credit or debt rating*—A measurement by an NRSRO of an applicant’s willingness and intrinsic capacity to meet its long-term financial commitments as the commitments become due, exclusive of the effects of any guaranties, insurance or other forms of credit enhancements or legal priorities on any of the applicant’s financial obligations.

*Loss development*—The tendency of the cost of a group of claims to increase as they mature.

*Maximum quick assets exposure amount*—Five percent of an applicant’s average year-end quick assets amount for its last 2 completed fiscal years.

*Minimum funding amount*—The lower of the following:

(i) The current Statewide average weekly wage multiplied by 500.

(ii) The retention amount of the applicant’s current or any proposed excess insurance, if applicable.

*Minimum security amount*—The lower of the following:

(i) The current Statewide average weekly wage multiplied by 1,000.

(ii) The retention amount of the applicant’s current or any proposed excess insurance, if applicable.

*NRSRO*—A designated Nationally-recognized statistical rating organization of the United States Securities and Exchange Commission or its successor.

*Occupational Disease Act*—The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603).

*Parent company*—An entity which directly or indirectly owns a majority of the voting stock of an employer or directly or indirectly controls a majority of the employer's board of directors appointments if the employer has no voting stock.

*Permit*—The document issued by the Bureau to an employer which authorizes the employer to operate as a self-insurer.

*Political subdivision*—A county, city, borough, incorporated town, township, school district, vocational school district and county institution district, municipal authority, or other entity created by a political subdivision under law.

*Private employer*—An employer who is not a public employer as defined in this section.

*Public employer*—The Commonwealth or a political subdivision.

*Quick assets*—The sum of an applicant's cash, cash equivalents, current receivables and marketable securities or, if the applicant is a public employer who uses fund accounting, the total of the applicant's general fund assets.

*Retention amount*—

(i) The maximum amount of benefits a self-insurer pays without reimbursement from the insurer under an aggregate excess insurance policy or under a specific excess insurance policy which does not include an annual cash flow protection plan.

(ii) The term also includes the lower of the maximum amount of benefits a self-insurer pays on each occurrence without reimbursement from the insurer or the cash flow protection amount under a specific excess insurance policy which includes an annual cash flow protection plan.

*Runoff self-insurer*—An employer that had been a self-insurer but no longer maintaining a current permit.

*Security*—Surety bonds, letters of credit or cash or negotiable government securities held in trust to be used for the payment of a self-insurer's workers' compensation liability upon order of the Bureau if the self-insurer fails to pay its liability due to its financial inability or due to the self-insurer filing for bankruptcy or being declared bankrupt or insolvent.

*Self-insurance*—The privilege granted to an employer which has been exempted by the Bureau from insuring its liability under section 305(a) of the act (77 P. S. § 501(a)) and section 305 of the Occupational Disease Act (77 P. S. § 1405).

*Self-insurance loss portfolio transfer policy*—A policy of insurance accepted by the Bureau as meeting the requirements of § 125.21 (relating to self-insurance loss portfolio transfer policy) under which a self-insurer transfers liability incurred as a self-insurer to a workers' compensation insurer.

*Self-insurer*—

(i) An employer which has been granted the privilege to self-insure its liability and to maintain direct responsibility

for the payment of this liability under the act and the Occupational Disease Act.

(ii) The term includes a parent company or affiliate which has assumed a subsidiary's or an affiliate's liability upon the termination of the parent-subsidary or affiliate relationship.

*Special retention amount*—

(i) A retention amount that exceeds the applicant's maximum quick assets exposure amount or the standard retention amount requested by the applicant and approved by the Bureau based on a determination that the applicant has sufficient quick assets to easily liquidate all losses at the requested greater retention amount.

(ii) Additionally, an applicant whose self-insurance status began before September 11, 2010, may use a special retention amount that is equal to the retention amount of the applicant's excess insurance in effect on September 11, 2010.

*Specific excess insurance*—Insurance under which the insurer pays on behalf of or reimburses a self-insurer for its payment of benefits on each occurrence in excess of the retention amount to the insurer's liability limit.

*Standard retention amount*—

(i) The current Statewide average weekly wage multiplied by 500.

(ii) Rounded upward to the nearest hundred thousand.

*Statewide average weekly wage*—The amount calculated and reported by the Bureau under section 105.1 of the act (77 P. S. § 25.1).

*Subsidiary*—An employer whose voting stock or board of directors appointments are directly or indirectly controlled by a parent company.

*Workers' compensation excess insurance*—Aggregate excess insurance or specific excess insurance that meets the requirements in § 125.11(b)(2) (relating to excess insurance).

*Workers' compensation excess insurance recoveries*—Payments made to a self-insurer under a policy of workers' compensation excess insurance or payments receivable under a policy of workers' compensation excess insurance that the insurer has agreed in writing that it is liable to pay.

*Workers' compensation insurer*—An insurance company authorized to transact the class of insurance listed in section 202(c)(14) of The Insurance Company Law of 1921 (40 P. S. § 382(c)(14)).

**§ 125.3. Application.**

(a) An applicant shall file an application on a form prescribed by and available upon request from the Bureau. All questions on the application shall be answered completely and accurately with the most recent information available. A rider may be attached if more space is necessary. The application shall be signed by the applicant, or if a corporation, an officer of the corporation. The application, including any attached riders and applicable forms, shall be verified as set forth on the application, subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Initial applications shall be filed with the Bureau no later than 3 months prior to the requested effective date of self-insurance. Renewal applications shall be filed with the Bureau no later than 3 months prior to the expiration of the current permit.



(c) With the application, the applicant shall include:

(1) The nonrefundable statutory fee in the amount of \$500 for initial applicants or \$100 for renewal applicants required under section 305(a) of the act (77 P. S. § 501(a)), payable to the "Commonwealth of Pennsylvania." A statutory fee is required in the amount of \$500 for each affiliate or subsidiary being initially added or in the amount of \$100 for each affiliate or subsidiary renewing under a consolidated application under § 125.4 (relating to application for affiliates and subsidiaries).

(2) Its Securities and Exchange Commission (SEC) Form 10-K, or equivalent form filed by a foreign corporation with the SEC or the governing body of an internationally recognized public securities exchange for an application being processed under the conditions of § 125.4(e) (relating to application for affiliates and subsidiaries), for the last complete fiscal year, if applicable. The filing of these forms does not serve as a substitute for the full completion of the application form.

(3) Its latest audited financial statements issued by a licensed certified public accountant or accounting firm. For a private employer, the audited financial statements must cover the last complete fiscal-year period immediately prior to the date of application. The audited financial statements must meet the following criteria:

(i) They must be presented in conformance with applicable generally accepted accounting principles as promulgated by the Financial Accounting Standards Board or the Government Accounting Standards Board or with international financial reporting standards promulgated by the International Accounting Standards Board. The text of the financial statements and their accompanying notes must be in the English language. If the currency used in the financial statements is not in United States dollars, the applicant shall cooperate and assist the Bureau in converting the currency to United States dollars.

(ii) They must be audited in accordance with generally accepted auditing standards in the United States or in accordance with the standards of the Public Company Accounting Oversight Board (United States) or the International Standards on Auditing. An unqualified or qualified opinion shall be stated on the most recent audited financial statements.

(iii) If the most current audited period precedes the application date by more than 6 months, the applicant's latest SEC Form 10-Q, or similar form filed by a foreign corporation with the SEC or the governing body of an internationally recognized public securities exchange for an application being processed under the conditions of § 125.4(e), or unaudited interim financial statements must be submitted.

(4) Audited financial statements covering the applicant's second and third most recent complete fiscal-year periods prior to the date of the application, if an initial application. If audited financial statements covering those periods are not available, financial statements reviewed by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants or the International Auditing and Assurance Standards Board covering the second and third most recent complete fiscal year periods prior to the date of the application will be accepted.

(5) A report of the paid and incurred workers' compensation loss experience in this Commonwealth under each of the 3 completed policy years prior to the application of each employer requesting self-insurance, if an initial

application. The loss information for each policy year shall be valued within 3 months prior to the date of the submission of the application.

(6) A report on a form prescribed by the Bureau and provided to each employer requesting self-insurance stating the costs of claims incurred by the employer by annual periods and projecting the total value of its outstanding liability under the act and the Occupational Disease Act, if a renewal application. A renewal applicant that has retained the services of an actuary to project the total value of its outstanding liability may submit the actuary's report with its application.

(7) A report for each employer requesting self-insurance on a form prescribed by the Bureau and provided to each employer requesting self-insurance summarizing the existence of the accident and illness prevention program required under section 1001(b) of the act (77 P. S. § 1038.1) and regulations promulgated thereunder.

(8) A listing for each employer requesting self-insurance, in a Bureau-prescribed electronic format provided to each employer requesting self-insurance, of the employer's Pennsylvania workers' compensation claims incurred as a self-insurer, including claims currently in litigation, and information such as payments and reserves on each claim. The listing must include:

(i) All open claims at the time of submission.

(ii) All claims closed on or after September 11, 2010.

(iii) Case reserves provided in the listing must be established according to instructions on forms prescribed by the Bureau and provided to each employer requesting self-insurance.

(9) Written verification of the applicant's current long-term credit or debt ratings, if any.

(d) The applicant shall provide additional data, information and explanation that the Bureau deems pertinent to its review of the application based on the factors enumerated under § 125.6(a) (relating to decision on application), and shall make any corrections determined necessary by the Bureau, and provide any items under subsection (c) determined missing or insufficient by the Bureau. The applicant shall provide the data, information, explanation, corrections or missing items within 21 days of its receipt of written notification from the Bureau of its need to do so, or by a later date if requested by the applicant and approved by the Bureau. If the applicant does not provide the data, information, explanation, corrections or missing items within the prescribed time period, the application will be deemed withdrawn. A renewal applicant that does not provide the data, information, explanation, corrections or missing items within the prescribed time period shall obtain workers' compensation insurance coverage effective the expiration of that time period and shall provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date.

(e) The Bureau will not issue a decision on the application under § 125.6 (relating to decision on application) until the application, including all items required under subsection (c) and all additional data, information, explanation and corrections under subsection (d), have been submitted.

(f) An initial applicant's requested self-insurance effective date is subject to the approval of the Bureau. An initial applicant which fails to insure its liability pending review of its application will be subject to prosecution under the act and the Occupational Disease Act.

**§ 125.4. Application for affiliates and subsidiaries.**

(a) An affiliate or subsidiary may be included under an application submitted by another affiliate or its parent company by providing information and data on the affiliate or subsidiary on a separate form prescribed by and available upon request from the Bureau. The related entities will be included under one consolidated permit if the application is approved. A written notification shall be provided by the applicant to delete an affiliate or a subsidiary from a consolidated permit after its issuance.

(b) An applicant shall provide a written agreement adopted by its board of directors on a form prescribed by the Bureau which states that the applicant guarantees the payment of all claims incurred by the affiliates or subsidiaries. The applicant shall further assume liability for the payment of an affiliate's or subsidiary's claims incurred during its period of self-insurance upon termination of the affiliate or parent-subsidiary relationship unless the applicant is relieved of this liability by the Bureau. In determining whether to relieve an applicant of a subsidiary's or affiliate's liability, the Bureau will consider, among other things, the financial ability of the new owner of the subsidiary or affiliate to pay the liabilities, the new owner's credit worthiness and the adequacy of security held by the Bureau covering the liability.

(c) The guarantor may not terminate the agreement under any circumstances without first giving the Bureau and the affected affiliate or subsidiary 45 days written notice. The affiliate's or subsidiary's self-insurance status automatically terminates upon expiration of the 45-day notice period.

(d) Except as provided in § 125.4(e), if an affiliate or subsidiary not included under a consolidated application as outlined in subsection (a) wishes to self-insure, it shall submit an application in its own name and provide its own audited financial statements in the manner indicated in § 125.3 (relating to application). The Bureau may require the parent company to furnish appropriate financial information within 21 days of its receipt of written notification from the Bureau of its need to do so, or by a later date if requested by the applicant and approved by the Bureau.

(e) If the applicant is a subsidiary of a parent company that is not incorporated or organized under the laws of a state of the United States, the applicant may submit its parent company's consolidated audited financial statements and an unaudited consolidated balance sheet of the applicant's financial condition, or other financial information on the applicant that the Bureau deems pertinent to its review of the application, to satisfy the financial reporting requirements of § 125.3(c), provided the parent company's audited financial statements comply with § 125.3(c)(3)(i) and (ii).

**§ 125.5. Preliminary requirements.**

(a) An applicant shall have been in business for at least 3 consecutive years prior to application.

(b) An applicant shall be incorporated or organized under the laws of a state of the United States.

(c) Each employer requesting self-insurance shall have an adequate accident and illness prevention program.

**§ 125.6. Decision on application.**

(a) The application of an applicant which meets the requirements of § 125.5 (relating to preliminary requirements) will be approved if the Bureau determines that

the applicant has demonstrated that it possesses the financial ability to self-insure.

(1) An applicant shall demonstrate that it has adequate financial capacity by showing one of the following:

(i) The retention amount of the applicant's current or proposed excess insurance equals or is less than its authorized retention amount.

(ii) The applicant's catastrophic loss estimation is equal to or is less than its maximum quick assets exposure amount.

(2) An applicant shall demonstrate that it has adequate financial health, as follows:

(i) If a public employer, the applicant satisfies or will satisfy the requirements established for it under § 125.10 (relating to funding by public employers).

(ii) If a private employer, the applicant's level of financial stability, solvency and liquidity is such that it satisfies one of the following:

(A) The applicant, or its parent company for an application being processed under the conditions of § 125.4(e) (relating to application for affiliates and subsidiaries), possesses an investment-grade long-term credit or debt rating, or such a rating that is one generic rating classification below investment grade.

(B) For an applicant who does not receive a long-term credit or debt rating by an NRSRO, or whose parent company does not receive a long-term credit or debt rating by an NRSRO for an application being processed under the conditions of § 125.4(e), the Bureau estimates that the applicant, or its parent company for an application being processed under the conditions of § 125.4(e), would merit an investment grade long-term credit or debt rating, or a rating that is one generic rating classification below investment grade, if it were rated.

(C) An applicant that was approved to self-insure as of September 11, 2010, that possesses an actual or Bureau-estimated long-term credit or debt rating more than one generic rating classification below investment grade shall be deemed to possess adequate financial health if its generic rating does not decline further. This clause will no longer apply if the applicant's actual or Bureau-estimated long-term credit or debt rating subsequently increases to one generic rating classification below investment grade or higher.

(b) The Bureau will consider the following information in assessing an applicant's financial ability to self-insure:

(1) The applicant's level of financial health, or its parent company's level of financial health for an application being processed under the conditions of § 125.4(e), based upon the applicant's or its parent's long-term credit or debt rating, if any, or upon an evaluation by the Bureau of one or more of the following:

(i) The applicant's financial statements, or its parent company's financial statements for an application being processed under the conditions of § 125.4(e), which may include comparisons of the applicant's or its parent company's financial ratios to general or to industry ratios and cash flow analysis.

(ii) Public documents and reports filed with other state and Federal agencies including the United States Securities and Exchange Commission.

(iii) Other financial analysis information provided to or considered by the Bureau, including financial analysis comparison databases and evaluation models.

(2) The amount of the applicant's quick assets at the end of its last 2 completed fiscal years as shown on the financial statements provided to the Bureau under § 125.3(c) (relating to application) or under § 125.4(e).

(3) The terms, conditions and limits of the applicant's existing or proposed excess insurance.

(4) For a public employer, its ability to satisfy or its past history in satisfying the requirements established under § 125.10.

(c) If the Bureau finds under subsection (a) that the applicant possesses the financial ability to self-insure, it will send to the applicant an initial decision approving the application and a list of conditions as set forth under subsection (c)(2) that must be met before the applicant will be issued a permit. The Bureau will issue a permit to a renewal applicant at the time of the initial decision when the renewal applicant is currently in compliance with the conditions set forth by the Bureau.

(1) An applicant has 45 days from the receipt of the initial decision approving the application to comply with the conditions set forth by the Bureau.

(i) The applicant may toll the 45-day compliance period by filing a request for a conference or notification of its intent to submit additional written information under subsection (e).

(ii) An applicant may be granted a 30-day extension to meet the conditions if the applicant requests an extension in writing. The Bureau must receive the extension request within the initial 45-day compliance period.

(iii) Unless a timely reconsideration is initiated under subsection (e), when the applicant does not meet the conditions within this compliance period, the application will be deemed denied.

(iv) A renewal applicant that does not meet the conditions within this compliance period and that has not timely initiated the procedures outlined in subsection (e) shall obtain workers' compensation insurance coverage effective the expiration date of the compliance period and provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date.

(2) The applicant will be issued a permit after all of the following have been filed with the Bureau:

(i) Security in an amount as set forth in § 125.9 (relating to security requirements) or funding as set forth in § 125.10.

(ii) A certificate providing evidence that the applicant has obtained excess insurance coverage with limits set forth under § 125.11(a) (relating to excess insurance), if required.

(iii) A guarantee agreement executed by its parent company or an affiliate as set forth in § 125.4 (relating to application for affiliates and subsidiaries), if required.

(iv) Contact information on the claims service company or in-house staff that will be handling the applicant's claims.

(v) Documents relating to any other requirement set by the Bureau to protect the compensation rights of employees.

(d) If an applicant does not meet the requirements of § 125.5 or if upon review under subsection (a) the Bureau finds that the applicant has not demonstrated that it possesses the financial ability to self-insure, the Bureau will send to the applicant an initial decision denying the

application. The initial decision will state the documents, data, information, explanation and corrections received from the applicant or otherwise reviewed or considered by the Bureau in rendering its initial decision. A renewal applicant shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of an initial decision denying the renewal application and shall provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date, unless the applicant has timely initiated the procedures outlined in subsection (e).

(e) The applicant may request a conference with the Bureau to submit additional materials to support its application or the alteration of the conditions required in the initial decision, or to challenge the accuracy of underlying calculations made or data considered by the Bureau in its decision or conditions. The applicant may also notify the Bureau of its intention to submit these materials directly in writing without a conference. The Bureau must receive a request or notification within 20 days of the date of the Bureau's initial decision.

(1) Upon its receipt of the request or notification, the Bureau will schedule a conference. If a conference is not requested, the applicant shall provide the additional materials within 21 days of its receipt of written notification from the Bureau of its need to do so, or by a later date if requested by the applicant and approved by the Bureau.

(2) The prior permit of a renewal applicant that has filed a timely request for a conference or notification of intent to submit additional materials will be automatically extended beyond the permit's original expiration date until the Bureau issues a reconsideration decision on the renewal application under subsection (f). During the time the permit is extended, the prior conditions established by the Bureau, as set forth under subsection (c)(2), shall continue to apply.

(f) After a conference or the receipt of additional materials, the Chief of the Self-Insurance Division of the Bureau will review the entire record of the application and will issue a reconsideration decision on the application.

(1) The applicant shall have 30 days from its receipt of a reconsideration decision approving an application to comply with any conditions set forth by the Bureau in that decision.

(i) Unless a timely appeal is filed under subsection (g), when the applicant does not meet the conditions within this 30-day period, the application will be deemed denied.

(ii) A renewal applicant that does not meet the conditions within this 30-day period shall obtain workers' compensation insurance coverage effective the expiration of the compliance period and shall provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date, unless the applicant has timely initiated the procedures outlined in subsection (g).

(2) Upon the issuance of a reconsideration decision denying a renewal application, the renewal applicant shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of the reconsideration decision and provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date unless the applicant has timely initiated the procedures outlined in subsection (g).

(g) An applicant shall have the right to appeal a reconsideration decision issued under subsection (f). The Bureau must receive the appeal within 30 days of the date of the reconsideration decision. The prior permit of a renewal applicant that filed a timely appeal shall be automatically extended beyond the permit's original expiration date, until a presiding officer issues a written decision on the appeal. During the time the permit is extended, the prior conditions established by the Bureau, as set forth under subsection (c)(2), shall continue to apply. Untimely appeals will be dismissed without further action by the Bureau.

(1) The Director of the Bureau will assign the appeal to a presiding officer who will schedule a hearing on the appeal from the reconsideration decision. The presiding officer will provide notice to the parties of the hearing date, time and place.

(2) The hearing will be conducted under this subsection and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) to the extent not superseded in paragraph (6). The presiding officer will not be bound by strict rules of evidence.

(3) Hearings will be stenographically-recorded. The transcript of the proceedings will be part of the record.

(4) The presiding officer will issue a written decision and order under 1 Pa. Code Chapter 35, Subchapters G and H (relating to proposed reports; and agency action) to the extent not superseded in paragraph (6). The presiding officer will determine whether the Bureau abused its discretion or acted arbitrarily in the reconsideration decision. The applicant has the burden to prove that the Bureau abused its discretion or acted arbitrarily in the reconsideration decision.

(5) A party aggrieved by a decision rendered by the presiding officer may appeal the decision to Commonwealth Court.

(6) This subsection supersedes 1 Pa. Code §§ 35.131, 35.190, 35.201, 35.211—35.214 and 35.221.

(h) An applicant which has been denied self-insurance may reapply after audited financial statements are published subsequent to the latest ones submitted with the denied application.

#### § 125.7. Permit.

(a) A permit is issued for 1 year, except that the Bureau may shorten or extend the effective period of a permit by not more than 6 months to facilitate the filing of timely financial statements or other data and information required with the next renewal application.

(b) If the Bureau fails to issue an initial decision with respect to a renewal application under § 125.6 (relating to decision on application) prior to the expiration of the permit for the prior year, the prior permit will be automatically extended under the prior conditions as set forth under § 125.6(c)(2) beyond the permit's original expiration date, until a decision on the renewal application is issued by the Bureau. This automatic extension applies only in cases when the renewal application has been timely filed under § 125.3 (relating to application) and the applicant has submitted or is submitting all data, information, explanation, corrections and missing items, or has corrected or is correcting inaccurate data, within the time period prescribed in writing by the Bureau.

(c) If a renewal applicant's permit for the prior year expires while the applicant is in the process of satisfying conditions set forth in an initial or reconsideration deci-

sion, the prior permit will be automatically extended beyond its original expiration date, pending satisfaction of the conditions within the time period set forth under the applicable provisions of § 125.6.

#### § 125.8. (Reserved).

#### § 125.9. Security requirements.

(a) A private employer shall provide security in an amount as set forth in subsection (d). The security required in this section is not a substitute for the applicant demonstrating its financial ability to self-insure. A self-insurer's security may be adjusted annually or more frequently as determined by the Bureau.

(b) The following forms of security are acceptable:

(1) A surety bond on a form prescribed by and available upon request from the Bureau issued by a company authorized to transact surety business in this Commonwealth by the Insurance Department.

(i) At the time of the issuance of the bond, the surety company shall possess a current A. M. Best Rating of A- or better or a Standard & Poor's insurer's financial strength rating of A or better or a comparable rating by another NRSRO.

(ii) The self-insurer shall replace the bond with a new bond issued by a surety company with an acceptable rating or with another acceptable form of security if the surety company's highest rating falls below an A. M. Best Rating of B+, a Standard & Poor's insurer's financial strength rating of A- or a comparable rating by another NRSRO after the bond is issued. If the bond is not replaced within 45 days of the self-insurer's receipt of written notification of the rating decline from the Bureau, the Bureau will have discretion to draw on the surety bond and deposit the proceeds with the State Treasurer to secure the self-insurer's liability and to revoke the current permit if the bond exclusively secures claims currently being incurred against the self-insurer.

(iii) An active self-insurer that does not post another bond or another acceptable form of security to cover claims currently being incurred against the self-insurer, after the surety of a bond that exclusively secures the claims provides notification of its intention to terminate the bond, shall obtain workers' compensation insurance coverage effective the bond's termination date. The self-insurer shall provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date.

(2) A security deposit held under a trust agreement prescribed by and available upon request from the Bureau and maintained for the benefit of employees of the self-insurer:

(i) The deposit must consist of cash; bonds or other evidence of indebtedness issued, assumed or guaranteed by the United States of America, or by an agency or instrumentality of the United States; investments in common funds or regulated investment companies which invest primarily in United States Government or Government agency obligations; or bonds or other security issued by the Commonwealth and backed by the Commonwealth's full faith and credit.

(ii) The securities must be held in a Commonwealth chartered bank and trust company or trust company as defined in section 102 of the Banking Code of 1965 (7 P. S. § 102) or a Federally-chartered bank or foreign bank with a branch office and trust powers in this Commonwealth.

(3) An irrevocable letter of credit using language required by the Bureau issued by and payable at a branch office of a commercial bank located in the continental United States. The letter of credit must state that the terms of the letter of credit automatically renew annually unless the letter of credit is specifically nonrenewed by the issuing bank 60 days or more prior to the anniversary date of its issuance.

(i) At the time of issuance of the letter of credit, the issuing bank or its holding company shall have a B/C or better rating or 2.5 or better credit evaluation score by Fitch Ratings, as successor to the rating services of Thomson BankWatch, or the issuing bank shall have a CD or long-term issuer credit rating of BBB or better or a short-term issuer credit rating of A-2 or better by Standard & Poor's or a comparable rating by another NRSRO.

(ii) The self-insurer shall replace the letter of credit with a new letter of credit issued by a bank with an acceptable credit rating or with another acceptable form of security if the issuing bank's highest rating falls below the acceptable rating outlined in subparagraph (i) after the letter of credit is issued. If the letter of credit is not replaced within 45 days, the Bureau will draw on the letter of credit and will deposit the proceeds to secure the self-insurer's liability.

(c) Affiliates included under a consolidated permit under § 125.4(a) (relating to application for affiliates and subsidiaries) must be included together under the forms of security provided. For purposes of this section, affiliates that are runoff self-insurers are considered to be active self-insurers if they were included under a consolidated permit with affiliates that remain active self-insurers.

(d) The amount of security required of private employers is determined as set forth in paragraphs (1)–(6).

(1) For a new self-insurer, the Bureau will determine the initial amount of security, to be calculated as follows:

(i) An amount no less than two times the amount of the applicant's total greatest annual insured incurred workers' compensation losses in this Commonwealth during the last 3 completed policy years prior to its application, or the minimum security amount, whichever is greater.

(ii) Discounted by the percentage outlined under subsection (1) for the applicant's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to the nearest hundred thousand.

(2) For those active self-insurers who have been approved to self-insure for more than 1 year but less than 3 years, the amount of security is calculated as follows:

(i) The greater of:

(A) The amount outlined in paragraph (1).

(B) One hundred percent of the Bureau's calculation of the self-insurer's undiscounted outstanding liability based on loss development, net of workers' compensation excess insurance recoveries.

(ii) Discounted by the percentage outlined under subsection (1) for the applicant's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to the nearest hundred thousand.

(3) For those active self-insurers who have been approved to self-insure for 3 or more years, the amount of security is calculated as follows:

(i) One hundred percent of the Bureau's calculation of the self-insurer's undiscounted outstanding liability based on loss development, net of workers' compensation excess insurance recoveries, or the minimum security amount, whichever is greater.

(ii) Discounted by the percentage outlined under subsection (1) for the applicant's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to the nearest hundred thousand.

(4) When multiple affiliates are included under a consolidated permit, the required amount of security for the consolidated program is calculated as follows:

(i) The sum of each individual affiliate's required amount of security as calculated under the applicable paragraphs above but excluding the effects of any rounding or minimum applicable to the individual affiliates, or the minimum security amount, whichever is greater.

(ii) Discounted by the percentage outlined under subsection (1) for the applicant's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to the nearest hundred thousand.

(5) For runoff self-insurers, the amount of security is calculated as follows:

(i) One hundred percent of the Bureau's calculation of the runoff self-insurer's undiscounted outstanding liability based on loss development, net of workers' compensation excess insurance recoveries.

(ii) Discounted by the percentage outlined under subsection (1) for the runoff self-insurer's or its guarantor's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to either:

(A) The nearest ten thousand if the Bureau's calculated undiscounted outstanding liability, net of workers' compensation excess insurance recoveries, discounted by the percentage outlined under subsection (1) for the runoff self-insurer's or its guarantor's highest current long-term credit or debt rating, if any, is \$50,000 or less.

(B) The nearest hundred thousand.

(6) When multiple runoff self-insurers are included under one security instrument, the required amount of security is calculated as follows:

(i) The sum of each individual runoff self-insurer's required amount of security as calculated under paragraph (5) but excluding the effects of any rounding applicable to the individual runoff self-insurers.

(ii) Discounted by the percentage outlined under subsection (1) for the runoff self-insurers' or their guarantor's highest current long-term credit or debt rating, if any.

(iii) Rounded upward to either:

(A) The nearest ten thousand if the Bureau's calculated undiscounted outstanding liability, net of workers' compensation excess insurance recoveries, discounted by the percentage outlined under subsection (1) for the runoff self-insurers' or their guarantor's highest current long-term credit or debt rating, if any, is \$50,000 or less.

(B) The nearest hundred thousand.

(e) A self-insurer wishing to refute the Bureau's adjustment of its outstanding liability by its history of loss development may do so by providing a report prepared by an actuary.

(f) The Bureau will incorporate the overall Pennsylvania workers' compensation experience of insured or self-

insured employers in the self-insurer's industry or of all insured or self-insured employers in its selection of loss development factors under subsection (d) if the claim volume or experience of the self-insurer is not sufficient to be considered fully credible based on generally accepted actuarial procedures. The loss development factors selected by the Bureau and its other judgments in its calculation of a self-insurer's outstanding liability will be sufficiently conservative to ensure the adequate provision of security.

(g) The Bureau will make adjustments to the loss development procedures under subsection (d) it deems appropriate under the circumstances if the Bureau believes that a self-insurer has changed its reserving methodology in such a way as to invalidate loss development factors based on past experience.

(h) The Bureau may reduce the amount of security required of a self-insurer under subsection (d) if the self-insurer confirms that liabilities under the act and the Occupational Disease Act are funded through a Black Lung Benefits Trust established under section 501(c)(21) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)(21)).

(i) The Bureau may reduce the amount of security required of a self-insurer under subsection (d) to no less than the minimum security amount rounded upward to the nearest hundred thousand if the self-insurer establishes a funding trust to provide a source of funds for the payment of its liability. A self-insurer may elect to establish a funding trust or it may be required by the Bureau to establish a funding trust where the Bureau determines that a dedicated source of funds is needed to further ensure the timely payment of the self-insurer's liability. In either case, the following conditions shall be met:

(1) The trust agreement must be in a form prescribed by the Bureau.

(2) The trust assets must be held in a Commonwealth chartered bank and trust company or trust company as defined in section 102 of the Banking Code of 1965 or a Federally chartered bank or foreign bank with a branch office and trust powers in this Commonwealth.

(3) The value of the trust fund must be adjusted at least annually to the required funding level as determined by the Bureau.

(j) A self-insurer with security which is less than the level of security required under subsection (d) may be permitted to phase in the level of required security over a maximum of 2 years. The Bureau will determine the terms of the phase-in period, including the length of time and the annual phase-in amounts.

(k) The Bureau may release a runoff self-insurer of its obligation to provide security if either of the following occurs:

(1) The runoff self-insurer provides evidence that its liability was assumed under a self-insurance loss portfolio transfer policy.

(2) If the runoff self-insurer made no payments on its liability over the past 2 years and all claims against the runoff self-insurer are closed.

(1) The following discount percentages shall be applied in calculating a self-insurer's required amount of security under subsection (d) based on the highest current long-term credit or debt rating of the self-insurer or of its guarantor:

Security Discount Table

<i>Moody's Investors Service</i>	<i>Standard &amp; Poor's, Fitch Ratings, or Dominion Bond Rating Service</i>	<i>Security Discount</i>
Aaa	AAA	75%
Aa1	AA+	65%
Aa2	AA	60%
Aa3	AA-	55%
A1	A+	45%
A2	A	40%
A3	A-	35%
Baa1	BBB+	25%
Baa2	BBB	20%
Baa3	BBB-	15%
Ba1 and lower	BB+ and lower	0%

(m) The Bureau may revise the table in subsection (l) through publication of a notice in the *Pennsylvania Bulletin* to assign security discount rates for any organization receiving designation as a NRSRO after September 11, 2010.

#### § 125.10. Funding by public employers.

(a) A self-insured public employer shall establish and maintain a dedicated asset account to provide a source of funds for the payment of benefits and other obligations and expenses relating to its self-insurance program. This section does not apply to a runoff self-insured public employer whose average annual payout of benefits on self-insurance claims over its last 3 completed fiscal years, net of workers' compensation excess insurance recoveries, is less than the current Statewide average weekly wage multiplied by 100.

(b) For a new self-insured public employer and for an active self-insured public employer that has been self-insured for less than 3 consecutive years, the required asset level of the dedicated asset account established under subsection (a) is calculated as follows:

(1) An amount greater than or equal to 20% of the public employer's modified manual premium calculated in accordance with § 125.202 (relating to definitions) or the minimum funding amount, whichever is greater.

(2) Discounted by the percentage outlined under § 125.9(l) (relating to security requirements) for the self-insurer's highest current long-term credit or debt rating, if any.

(3) The dedicated asset account must equal the above prescribed asset level no later than 30 days before the effective date of the public employer's initial permit and may not be reduced below this asset level for the first 3 years of self-insurance.

(c) For an active self-insured public employer that has been self-insured for more than 3 consecutive years but less than 7 consecutive years, the required asset level of the dedicated asset account established under subsection (a) is calculated as follows:

(1) An amount greater than or equal to the greater of the following:

(i) The self-insurer's greatest annual fiscal year payout of benefits since its initial approval to self-insure, net of workers' compensation excess insurance recoveries, plus 20% of that annual payment amount.

(ii) The minimum funding amount.

(2) Discounted by the percentage outlined under § 125.9(1) for the self-insurer's highest current long-term credit or debt rating, if any.

(3) The dedicated asset account must be equal to or exceed the prescribed asset level 120 days before the beginning of the self-insurer's next fiscal year or by a later date if requested by the applicant and approved by the Bureau.

(4) Prior to issuing a permit under § 125.6(c), the Bureau will require that the asset level of a self-insurer's dedicated asset account under paragraphs (1) and (2) be based on an adjustment to the self-insurer's greatest annual benefit payout amount to correct any material underpayment of benefits the Bureau believes is the result of the self-insurer's failure to pay compensation for which it is liable during the evaluation period.

(d) For an active self-insured public employer that has been self-insured for 7 or more consecutive years, the required asset level of the dedicated asset account established under subsection (a) is calculated as follows:

(1) An amount greater than or equal to the greater of the following:

(i) The self-insurer's average annual payout of benefits over its three most recent completed fiscal years, net of workers' compensation excess insurance recoveries, plus 20% of that average payment amount.

(ii) The minimum funding amount.

(2) Discounted by the percentage outlined under § 125.9(1) for the self-insurer's highest current long-term credit or debt rating, if any.

(3) If the asset level of the self-insurer's dedicated asset account is below the required level under paragraphs (1) and (2) as of September 11, 2010, the required asset level of the account established under subsection (a) is calculated as follows:

(A) The amount required to be in the dedicated asset account under paragraphs (1) and (2) for the current year.

(B) Minus the difference between the amount required to be in the dedicated asset account under paragraphs (1) and (2) as of September 11, 2010, and the actual asset value of the dedicated asset account as of September 11, 2010.

(4) The dedicated asset account must equal or exceed the prescribed asset level 120 days before the beginning of the self-insurer's next fiscal year or by a later date if requested by the applicant and approved by the Bureau.

(5) Prior to issuing a permit under § 125.6(c), the Bureau will require that the asset level of a self-insurer's dedicated asset account under paragraphs (1) and (2) be based on an adjustment to the self-insurer's average annual payout of benefits to correct any material underpayment of benefits the Bureau believes is the result of the self-insurer's failure to pay compensation for which it is liable during the evaluation period.

(e) For a runoff self-insured public employer, the asset level of the dedicated asset account established under subsection (a) is that outlined under subsection (d), except that the minimum funding amount does not apply.

(f) If a self-insured public employer does not possess an investment grade long-term credit or debt rating, the Bureau may require that the asset level of its dedicated asset account established under subsection (a) be greater than that outlined under subsection (b), (c) or (d), in any

amount which the Bureau determines will guaranty that the self-insurer will have sufficient funding to meet its claims payments and other obligations and expenses relating to its self-insurance program as they come due over the self-insurer's next fiscal year.

**§ 125.11. Excess insurance.**

(a) An applicant whose catastrophic loss estimation is greater than its maximum quick assets exposure amount shall obtain aggregate excess insurance or specific excess insurance with a retention amount that is no more than its authorized retention amount and a liability limit acceptable to the Bureau to provide an adequate level of protection to cover the losses from a catastrophic event. The Bureau will consider the financial capacity of the applicant and the amount of the catastrophic loss estimation in determining the adequacy of the applicant's proposed liability limit.

(b) A contract or policy of excess insurance must comply with the following:

(1) For excess indemnity insurance:

(i) It must state that it is not cancelable or nonrenewable unless written notice by registered or certified mail is given to the other party to the policy and to the Bureau at least 45 days before termination by the party desiring to cancel or not renew the policy.

(ii) It must state that it applies to any losses of a self-insurer under the act or the Occupational Disease Act.

(iii) It may not exclude coverage for any categories of injuries or diseases compensable under the act and the Occupational Disease Act.

(iv) It must be issued by an insurer that possesses an A. M. Best rating of A- or better, or a Standard & Poor's insurer financial strength rating of A or better, or a comparable rating by another NRSRO.

(2) For workers' compensation excess insurance:

(i) It must meet the requirements of paragraph (1)(i)—(iii).

(ii) It must state that if a self-insurer is unable to make benefit payments under the act and the Occupational Disease Act due to insolvency or bankruptcy, the excess carrier shall make payments to other parties involved in the paying of the self-insurer's liability, as directed by the Bureau, subject to the policy's retentions and limits.

(iii) It must state that the following apply toward reaching the retention amount in the excess contract:

(A) Payments made by the employer.

(B) Payments made on behalf of the employer under a surety bond or other forms of security as required under this subchapter.

(C) Payments made by the Self-Insurance Guaranty Fund.

(iv) It must be issued by a workers' compensation insurer that includes the premium collected for the insurance in data used by the Workers' Compensation Security Fund set forth in the Workers' Compensation Security Fund Act (77 P. S. §§ 1051—1066) to calculate assessments against workers' compensation insurers to finance the operations of that fund.

(c) A certificate of the excess insurance obtained by the self-insurer must be filed with the Bureau together with a certification that the policy fully complies with subsection (b).

**§ 125.12. Payment, handling and adjusting of claims.**

(a) A self-insurer and its claims service company are responsible for the prompt payment of compensation in accordance with the act, the Occupational Disease Act and this part.

(b) A self-insurer shall have ample facilities and competent personnel within its organization to service its program of claims handling and adjusting or shall contract with a registered claims service company to provide these services.

(c) A self-insurer shall immediately notify the Bureau when it changes arrangements for the handling or adjusting of its claims, including the initiation, modification or termination of self-administration arrangements or the initiation, termination, expiration or modification of services with a registered claims services company. The self-insurer shall file with the Bureau a summary of data on its claims, such as cumulative payments sorted by year of loss, in a format prescribed by the Bureau and provided to the self-insurer within 21 days of its receipt of written notification from the Bureau of its need to do so.

**§ 125.13. Special funds assessments.**

(a) A self-insurer is responsible for the payment of assessments to maintain funds under the act, including:

- (1) The Workmen's Compensation Administration Fund.
- (2) The Subsequent Injury Fund.
- (3) The Workmen's Compensation Supersedeas Fund.
- (4) The Self-Insurance Guaranty Fund.
- (5) The Uninsured Employers Guaranty Fund.

(b) A runoff self-insurer is liable for the payment of any assessments made after the termination or revocation of its self-insurance status until it has discharged the obligations to pay compensation which arose during the period of time it was self-insured. The assessments of a runoff self-insurer shall be based on the payment of claims that arose during the period of its self-insurance status.

(c) A self-insurer shall keep accurate records of compensation paid on a calendar year basis, including payment for disability of all types, death benefits, medical benefits and funeral expenses, for the purposes of assessments under the act and the Occupational Disease Act. The records must be available for audit or physical inspection by Bureau employees or other designated persons, whether in the possession of the self-insurer or a service company. If the Bureau has a reasonable basis to question the annual compensation payments reported by the self-insurer, it may require the self-insurer to retain the services of the self-insurer's licensed certified public accounting firm to audit the data reported to provide confirmation or make necessary adjustments.

**§ 125.15. Workers' compensation liability.**

(a) Notwithstanding the terms of a guarantee and assumption agreement executed under § 125.4(b) (relating to application for affiliates and subsidiaries), a self-insurer or a runoff self-insurer remains liable for workers' compensation on injuries or disease exposures occurring during its period of self-insurance. With application to and permission from the Bureau, liability can be transferred to another employer. Liability also may be transferred through a self-insurance loss portfolio transfer policy.

(b) A self-insurer which liquidates or dissolves shall transfer its liability to a third party, subject to the approval of the Bureau, or shall obtain a self-insurance loss portfolio transfer policy covering the liability.

(c) If a self-insurer sells or divests a part of itself, self-insurance coverage ends for the separated parts on the date of separation. The self-insurer remains liable for claims incurred against the separated part occurring up to the date of separation unless the Bureau approves a request to transfer the self-insurer's liability to another entity.

**§ 125.16. Reporting by runoff self-insurer.**

(a) A runoff self-insurer shall file an annual report with the Bureau by a date prescribed by the Bureau on a prescribed form provided by the Bureau until all cases incurred during its period of self-insurance have been closed for at least 2 years.

(b) The runoff report must include a listing in a Bureau-prescribed electronic format provided by the Bureau to the runoff self-insurer of the runoff self-insurer's Pennsylvania workers' compensation claims, including all claims currently in litigation, and information such as payments and reserves on each claim. The listing must include:

- (i) All open claims at the time of submission.
- (ii) All claims closed on or after September 11, 2010.

(iii) Case reserves provided in the listing must be established according to the instructions on forms prescribed by the Bureau and provided to the runoff self-insurer.

(c) A runoff self-insurer that is a private employer shall make any request for the adjustment of its amount of security in writing when it submits its runoff report. If the runoff self-insurer disagrees with the Bureau's decision on the request, it may request reconsideration of this decision under § 125.6(e) (relating to decision on application).

**§ 125.17. Claims service companies.**

(a) A claims service company desiring to engage in the business of adjusting and handling claims for an approved self-insurer shall register with the Bureau as provided under section 441(c) of the act (77 P. S. § 997(c)) and regulations thereunder on a prescribed form before entering into a contract to provide these services. The claims service company shall answer the questions on the registration form and swear to the information provided on the form.

(b) A claims service company shall have adequate facilities and employ competent staff to provide claims services in a manner which fulfills a self-insurer's obligations under the act, the Occupational Disease Act and this part. A claims service company which repeatedly or unreasonably fails to provide claims adjusting or services promptly with the result that compensation is not paid as required under the act or the Occupational Disease Act may have its privilege of conducting this business revoked or suspended under the procedures of section 441(c) of the act.

(c) The claims service company shall employ at least one person on a full-time basis who has the knowledge and experience necessary to service claims properly under the act and the Occupational Disease Act. A resume covering that person's background must be attached to the registration form of the claims service company.



(d) A claims service company whose engagement to handle or adjust the claims of a self-insurer is terminating or expiring, or has terminated or expired, shall provide reasonable assistance to the self-insurer and the Bureau in providing data and information on the claims serviced to maintain the integrity of past data on the claims filed with the Bureau, to rectify or explain discrepancies or questions on the claims data raised by the Bureau, or to address other related issues identified by the Bureau.

**§ 125.19. Additional powers of Bureau and orders to show cause.**

(a) If the Bureau has reason to question whether a self-insurer continues to maintain the financial ability to self-insure during the pendency of a permit, authorized under section 305(a)(3) of the act (77 P.S. § 501(a)(3)) and under section 305 of the Occupational Disease Act (77 P.S. § 1405), it will issue a letter to the self-insurer noting the reasons for its concerns and outlining the documents, data and information upon which the Bureau's concerns are based. The following also apply:

(1) The Bureau's letter is treated for procedural purposes as if it were an initial decision denying a renewal application under § 125.6(d) (relating to decision on application).

(2) When the Bureau determines that the self-insurer no longer possesses the financial ability to self-insure, the self-insurer's current permit will be revoked, unless the self-insurer timely initiates the procedures outlined under § 125.6(e)—(g).

(3) The self-insurer shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of a notice of revocation by the Bureau and provide evidence of the coverage, such as a certificate of insurance, to the Bureau no later than the coverage's effective date.

(b) The Department may serve upon a self-insurer an order to show cause why its self-insurance status should not be suspended or revoked under section 441(b) of the act (77 P.S. § 997(b)) for unreasonably failing to pay compensation for which it is liable, or for failing to submit any report or to pay any assessment made under the act.

(1) The order to show cause proceedings are governed by provisions in Chapter 121 (relating to general provisions), found in § 121.27 (relating to orders to show cause).

(2) The self-insurer shall obtain workers' compensation insurance coverage effective no later than 30 days after its receipt of an order revoking or suspending its self-insurance status and provide evidence of the coverage, such as a certificate of insurance, to the Department no later than the coverage's effective date.

**§ 125.20. Computation of time.**

Except as otherwise provided by law, in computing a period of time prescribed or allowed by this chapter, the day of the act, event or default after which the designated period of time begins to run may not be included. The last day of the period so computed shall be included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor a holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays and holidays shall be included in the computation.

**§ 125.21. Self-insurance loss portfolio transfer policy.**

A self-insurance loss portfolio transfer policy must comply with all of the following:

(1) The insurance carrier must be a workers' compensation insurer.

(2) The policy must provide statutory coverage limits and state that the insurer is responsible to defend, adjust and handle all open, reopened and incurred but not reported claims against the self-insurer for the period of time covered by the policy.

(3) The policy must be retrospective, providing coverage for a consecutive period of time of self-insurance.

(4) The policy must be noncancelable by either the insurance carrier or the self-insurer for any reason.

(5) The amount of annual compensation paid by the insurance carrier on any claims assumed under the policy must be included as compensation paid on the data reports filed with the Insurance Department.

(6) The insurance carrier must include the premium received on the policy in the amount of net written workers' compensation premium it annually reports to the Insurance Department or to the National Association of Insurance Commissioners.

(7) The insurance carrier must notify existing claimants with injuries or diseases covered by the policy that it has assumed liability for the payment and handling of their claims.

(8) The insurance carrier must file the policy with a rating organization approved by the Insurance Commissioner and identify it as a special self-insurance loss portfolio transfer policy. The insurance carrier should not report statistical information on claims assumed under the policy to the rating organization.

(9) The insurance carrier must enter an appearance with the appropriate workers' compensation judge, the Workers' Compensation Appeal Board and any appellate court on each pending claim in adjudication against the self-insurer for injuries or disease exposures occurring during the time period covered by the policy.

[Pa.B. Doc. No. 10-1679. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Title 58—RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

[ 58 PA. CODE CHS. 521, 523, 525, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 AND 567 ]

**Table Games; Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P.L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. §§ 1302A(1) and (2) (relating to regulatory authority), amends temporary regulations in Chapters 521, 523, 525, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567 to read as set forth in Annex A. The Board's temporary regulations will be

added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

*Purpose of the Temporary Rulemaking*

This temporary rulemaking amends the regulations for table games in response to comments received from certificate holders and based on the Board's experience to date.

*Explanation of Chapters 521, 523, 525, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567*

The Board received numerous comments on the temporary regulations that it has promulgated so far. The Board found these comments useful and thanks the commentators for their input.

While the Board does not agree with all of the suggestions offered and is still reviewing a number of the comments that have been received, the Board does agree that improvements can be made in several areas now.

Section 521.10(f) and (g) (relating to table game taxes and gross table game revenue), has been amended to clarify that revenue from one contest or tournament may not offset losses from another contest or tournament.

The Board, at its July 29, 2010, meeting, delegated authority to the Executive Director to approve certain table game floor plan changes that involve less than 10% of the certificate holder's approved table games. Section 521.11 (relating to table games floor plan changes) codifies that delegation of authority and provides clarity to certificate holders as to what information shall be submitted to the Board before a table game or the configuration of the table game floor plan may be changed.

In § 523.1 (relating to definitions), several types of chips were added. In § 523.3 (relating to value chips; denominations and physical characteristics), additional denominations of value chips, and their required colors, were added to the complement of value chips that a certificate holder may issue.

In § 523.5(c) (relating to nonvalue chips; permitted uses, inventory and impressment), several certificate holders submitted requests to conduct an impressments of their nonvalue chips on a monthly basis instead of every 30 days. The language allows for monthly impressments as specified in the certificate holder's internal controls.

In § 523.11(c) (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques), language was amended for clarity and allows for storage of chips in a vault, locked cabinet or other restricted area approved by the Bureau of Gaming Operations. The language in subsection (f) was amended to mirror the changes made to § 523.5(c).

Section 523.13 (relating to dice; receipt, storage, inspections and removal from use) has been amended to clarify that the requirements for the inspection and distribution of dice used in Pai Gow also apply to dice inspected and distributed in Pai Gow Poker. The language in subsection (o) allows for a certificate holder to retain dice beyond 72 hours. This provision was added in response to public comments from certificate holders that requested to retain dice for security reasons beyond the 72 hours required for destruction or cancellation. For clarity, "and" in subsection (o)(3) was changed to "or" requiring destruction or cancellation, not both.

Section 523.16 (relating to cards; receipt, storage, inspections and removal from use) required that when a damaged card was discovered during the course of play,

that an entire deck would be replaced. The Board received feedback during the public comment period requesting that only the damaged card or cards be replaced instead of replacing an entire deck. The new language specifies the inventory controls for replacement decks, the notification requirements to surveillance and the removal procedures at the end of the gaming day of all replacement decks.

Section 525.18(d) (relating to transport of table game drop boxes to and from gaming tables) was amended to require the security department key be returned upon completion of the table game count rather than after collection and transport of the drop boxes to the count room. Language in subsection (j) is added requiring that an emergency drop be conducted by members of the security and finance departments prior to changing the type of table game or removing a table from the gaming floor.

In Chapter 549 (relating to Blackjack), an additional wager, the Twenty Point Bonus Wager, has been added as an optional side wager. The requirements for table layouts were added in § 549.2(c) (relating to Blackjack table; card reader device; physical characteristics; inspections). New § 549.17 (relating to twenty point bonus wager; payout odds; payout limitation) provides the rules of the wager, the payout odds and the payout limitation on the Twenty Point Bonus Wager.

Finally, §§ 541.2(e), 543.2(e), 545.2(d), 549.2(d), 551.2(d), 553.2(d), 555.2(d), 557.2(d), 559.2(d), 561.2(c), 563.2(d), 565.2(d) and 567.2(c) have been amended. Currently, these sections require that the tip box and drop box be attached on the same side of the table, but on opposite sides of the dealer. Several of the certificate holders provided comment that in some circumstances other table game equipment prevents the placement of the tip box on the opposite side of the drop box. With this amendment, the Bureau of Gaming Operations may now approve an alternative location for the tip box.

*Affected Parties*

The amendments in this temporary rulemaking affect how certificate holders may conduct table games at their licensed facilities.

*Fiscal Impact*

*Commonwealth*

The Board does not expect that the amendments in this temporary rulemaking will have fiscal impact on the Board or any other Commonwealth agency.

*Political subdivisions*

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding mandated by Act 1.

*Private sector*

The amendments in this temporary rulemaking give certificate holders some additional flexibility as to how they conduct table games, allow for additional side wagers and the option to offer matched play to patrons. These changes may increase wagers in Blackjack and decrease the amount of time to replace a damaged card or cards during play, resulting in faster play and lower costs for certificate holders.

*General public*

This temporary rulemaking will not have direct fiscal impact on the general public.

*Paperwork Requirements*

This temporary rulemaking will not impose new paperwork requirements on certificate holders.

*Effective Date*

This temporary rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

*Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after publication in the *Pennsylvania Bulletin* to Susan A. Yocum, Assistant Chief Counsel, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-131.

*Contact Person*

The contact person for questions about this temporary rulemaking is Susan A. Yocum, Assistant Chief Counsel, (717) 265-8356.

*Regulatory Review*

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL); the Regulatory Review Act (71 P. S. §§ 745.1—745.12); and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the CDL and sections 204(b) and 301(10) of the Commonwealth Attorneys Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

*Order*

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code Chapters 521, 523, 525, 541, 543, 545, 549, 551, 553, 555, 557, 559, 561, 563, 565 and 567, are amended by amending §§ 521.10, 523.1, 523.3, 523.5, 523.11, 523.13, 523.16, 525.18, 541.2, 543.2, 545.2, 549.1, 549.2, 551.2, 553.2, 555.2, 557.2, 559.2, 561.2, 563.2, 565.2, 567.2 and 569.2; and by adding §§ 521.11 and 549.17 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The temporary regulations are effective September 11, 2010.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations are subject to amendment as deemed necessary by the Board.

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

GREGORY C. FAJT,  
*Chairperson*

**Fiscal Note:** 125-131. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart K. TABLE GAMES**

**CHAPTER 521. GENERAL PROVISIONS**

**§ 521.10. Table game taxes and gross table game revenue.**

\* \* \* \* \*

(f) Net revenue from any contest or tournament must be the sum of the net revenue determined for each contest or tournament individually. The net revenue for an individual contest or tournament must be equal to:

\* \* \* \* \*

(g) If the net revenue from a contest or tournament results in a loss, that loss may not offset the net revenue from another contest or tournament and may not be deducted from the calculation of gross table game revenue.

\* \* \* \* \*

**§ 521.11. Table games floor plan changes.**

(a) Requests to increase or decrease the number of approved table games by 10% or more require Board approval and shall be submitted to the Board by way of a petition under § 493a.4 (relating to petitions generally). All other requests for changes to the table games floor plan, including the type of table games or the configuration of the table games floor plan, shall be submitted in writing and considered for approval by the Board's Executive Director. The approval of the Board or the Executive Director may include conditions that must be met by the certificate holder prior to commencement of operations of the approved gaming tables or floor area.

(b) A petition or request for table games floor plan changes must, at a minimum, include:

(1) A narrative description of the proposed changes.

(2) The pit number and proposed configuration of any pit affected.

(3) The type, location and table number of any table affected.

(4) The proposed amendments to the standard or alternative staffing levels required under § 525.6 (relating to personnel assigned to the operations and conduct of table games) for the affected gaming tables or pits.

(5) The proposed amendments to table games surveillance required under § 521.3 (relating to table games surveillance requirements).

(6) A time table for completion of the proposed changes.

**CHAPTER 523. TABLE GAME EQUIPMENT**

**§ 523.1. Definitions.**

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

\* \* \* \* \*

*Gaming chip*—A nonvalue chip, Poker rake chip, tournament chip or value chip.

\* \* \* \* \*

*Poker rake chip*—A gaming chip used by dealers to facilitate the collection of the rake in the Poker room.

\* \* \* \* \*

**§ 523.3. Value chips; denominations and physical characteristics.**

(a) Certificate holders may issue and use value chips in denominations of \$1, \$2, \$2.50, \$5, \$20, \$25, \$100, \$500, \$1,000 and \$5,000 and other denominations approved by the Bureau of Gaming Operations.

\* \* \* \* \*

(c) Each gaming chip manufacturer shall submit sample color disks to the Bureau of Gaming Operations that identify all primary and secondary colors to be used for the manufacture of gaming chips for certificate holders in this Commonwealth. Once a gaming chip manufacturer has received approval for a primary or secondary color, those colors shall be consistently manufactured in accordance with the approved samples. For a primary color to be approved for use, it must visually appear, when viewed either in daylight or under incandescent light, to comply with the colors as follows:

- (1) \$1—White.
- (2) \$2—Blue.
- (3) \$2.50—Pink.
- (4) \$5—Red.
- (5) \$20—Yellow.
- (6) \$25—Green.
- (7) \$100—Black.
- (8) \$500—Purple.
- (9) \$1,000—Fire Orange.
- (10) \$5,000—Gray.

(d) Each value chip issued by a certificate holder must contain identifying characteristics that may appear in any location at least once on each face of the value chip and are applied in a manner which ensures that each identifying characteristic shall be clearly visible and remain a permanent part of the value chip. These characteristics must be visible to surveillance employees using the licensed facility's surveillance system and, at a minimum, include:

\* \* \* \* \*

**§ 523.5. Nonvalue chips; permitted uses, inventory and impressment.**

\* \* \* \* \*

(c) An impressment of the nonvalue chips assigned to each Roulette table shall be completed at least once every month as specified in the certificate holder's internal controls. The certificate holder shall record the results of the impressment in the chip inventory ledger required under § 523.11 (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques) and perform the impressment as follows:

\* \* \* \* \*

**§ 523.11. Receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques.**

\* \* \* \* \*

(c) Gaming chips or plaques not in active use shall be stored in any of the following:

- (1) A vault located in the main bank.
- (2) Locked cabinets in the cashiers' cage.
- (3) Other restricted storage area approved by the Bureau of Gaming Operations.

\* \* \* \* \*

(f) At the end of each gaming day, a certificate holder shall compute and record the unredeemed liability for each denomination of value chips and gaming plaques. At least once every month, as specified in the certificate holder's internal controls, each certificate holder shall inventory all sets of value chips and gaming plaques in its possession and record the result of the inventory in the chip inventory ledger. The procedures to be utilized to compute the unredeemed liability and to inventory value chips and gaming plaques shall be submitted as part of the certificate holder's internal controls to the Board for approval. A physical inventory of value chips and gaming plaques not in active use shall only be required annually if the inventory procedures incorporate the sealing of the locked compartment containing the value chips and gaming plaques not in active use.

\* \* \* \* \*

**§ 523.13. Dice; receipt, storage, inspections and removal from use.**

\* \* \* \* \*

(f) Dice shall be inspected and distributed to the gaming tables in accordance with one of the following applicable alternatives:

- (1) *Alternative No. 1.*

\* \* \* \* \*

(ii) Immediately upon opening a table for gaming, the pit manager or above shall distribute a set of dice to the table. At the time of receipt, a boxperson at each Craps table and the floorperson at each Pai Gow, Pai Gow Poker, Sic Bo or Mini-Craps table, to ensure that the dice are in a condition to assure fair play and otherwise conform to the requirements of this chapter, shall, in the presence of the dealer, inspect the dice given to him with a micrometer or any other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet. These instruments shall be kept in a compartment at each Craps table or pit stand and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request. The inspection shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system and by any persons in the immediate vicinity of the table.

(iii) Following the inspection required under subparagraph (ii):

\* \* \* \* \*

(D) For Pai Gow and Pai Gow Poker, the floorperson shall, in the presence of the dealer, place the dice in the Pai Gow shaker.

\* \* \* \* \*

(2) *Alternative No. 2.*

(i) The assistant table games shift manager or above and the security department employee who removed the dice from the approved storage area shall distribute the dice directly to the following certificate holder's employees who will perform the inspection in each pit:

\* \* \* \* \*

(B) For Sic Bo, Pai Gow and Pai Gow Poker, a floorperson, in the presence of another floorperson, both of whom are assigned the responsibility of supervising the operation and conduct of Sic Bo, Pai Gow or Pai Gow Poker games.

\* \* \* \* \*

(iii) After completion of the inspection, the dice shall be distributed as follows:

\* \* \* \* \*

(C) For Pai Gow and Pai Gow Poker, the floorperson who inspected the dice shall, in the presence of the other floorperson who observed the inspection, distribute the dice directly to the dealer at each Pai Gow table. The dealer shall immediately place the dice in the Pai Gow shaker.

\* \* \* \* \*

(v) Previously inspected reserve dice may be used for gaming without being reinspected if the dice are maintained in a locked compartment in the pit stand in accordance with the following procedures:

\* \* \* \* \*

(C) For Pai Gow and Pai Gow Poker, a set of three dice, after being inspected, shall be placed in a sealed envelope or container. A label that identifies the date of inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

\* \* \* \* \*

(3) *Alternative No. 3.*

\* \* \* \* \*

(iv) After completion of the inspection, the persons performing the inspection shall seal the dice as follows:

\* \* \* \* \*

(C) For Pai Gow and Pai Gow Poker, after each set of three dice are inspected, the dice shall be placed in a sealed envelope, container or shaker. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope, container or shaker.

\* \* \* \* \*

(v) At the beginning of each gaming day and at other times as may be necessary, an assistant table games shift manager or above and a security department employee shall distribute the dice as follows:

\* \* \* \* \*

(C) For Pai Gow and Pai Gow Poker, the sealed envelope or container shall be distributed to a pit manager or above in a Pai Gow pit or placed in a locked compartment in the pit stand. When the sealed dice are distributed to the Pai Gow or Pai Gow Poker table by the pit manager or above, a floorperson, after assuring the seal and envelopes or containers are intact and free from tampering, shall open the sealed envelope or container, in the presence of the dealer, and place the dice in the Pai Gow shaker.

\* \* \* \* \*

(o) Destruction or cancellation of dice, other than those retained for Board or certificate holder inspection, shall be completed within 72 hours of collection.

(1) Cancellation must occur by drilling a circular hole of at least 1/4 inch in diameter through the center of the die.

(2) Destruction must occur by shredding or crushing.

(3) The destruction or cancellation of dice must take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.

**§ 523.16. Cards; receipt, storage, inspections and removal from use.**

\* \* \* \* \*

(k) If any cards in a deck appear to be damaged during the course of play, the dealer shall immediately notify a floorperson or above. If, after inspection, the floorperson or above determines that the card is damaged and needs to be replaced, the floorperson shall notify the pit manager or above or the Poker shift manager.

(1) The pit manager or above or the Poker shift manager shall:

(i) Notify surveillance of a card change.

(ii) Bring a replacement deck of cards from the pit stand to replace the damaged card or cards.

(iii) Place the damaged card face up on the table and remove the matching card from the replacement deck and place it face up on the table.

(iv) Turn over both the damaged card and the replacement card to verify that the backs of the cards match.

(v) Place the replacement card in the discard rack.

(vi) Tear the damaged card down the center and place it face up in the replacement deck.

(vii) Return the replacement deck to the pit stand.

(2) Replacement decks of cards shall be collected at the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the certificate holder in the certificate holder's internal controls, and at other times as may be required by this subpart.

(3) The replacement decks collected shall be placed in a sealed envelope or container. A label shall be attached to each envelope or container which identifies the deck as a replacement deck and shall be signed by the pit manager or above or the Poker shift manager.

(4) The pit manager or above or the Poker shift manager shall maintain the envelopes or containers in a secure place within the pit until collection by a security department employee.

(5) This section does not apply to cards showing indications of tampering, flaws, scratches, marks or other defects that might affect the integrity or fairness of the game.

\* \* \* \* \*

**CHAPTER 525. TABLE GAME INTERNAL CONTROLS**

**§ 525.18. Transport of table game drop boxes to and from gaming tables.**

\* \* \* \* \*

(d) Upon its removal from a gaming table, a table game drop box shall be immediately placed in an enclosed trolley which is secured by two separately keyed locks. The key to one lock shall be maintained and controlled by the security department. The key to the other lock shall be maintained and controlled by the finance department. Access to the keys shall be controlled, at a minimum, by a sign-in and sign-out procedure contained in the certificate holder's internal controls. The security department key shall be returned to its secure location immediately upon the completion of the table game count. The key controlled by the finance department shall be returned to its secure location after completion of the table game count.

\* \* \* \* \*

(j) Prior to changing the type of table game offered or removing a table game from the gaming floor, at least one security department employee and one finance department employee shall conduct an emergency drop.

**CHAPTER 541. MINIBACCARAT**

**§ 541.2. Minibaccarat table physical characteristics.**

\* \* \* \* \*

(e) Each Minibaccarat table must have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 543. MIDIBACCARAT**

**§ 543.2. Midibaccarat table physical characteristics.**

\* \* \* \* \*

(e) Each Midibaccarat table must have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 545. BACCARAT**

**§ 545.2. Baccarat table physical characteristics.**

\* \* \* \* \*

(d) Each Baccarat table must have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 549. BLACKJACK**

**§ 549.1. Definitions.**

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

*Any 20*—Two cards of different suits with a total value of 20.

\* \* \* \* \*

*Matched 20*—Two identical cards with a total value of 20 except for a queen of hearts pair.

\* \* \* \* \*

*Suited 20*—Two cards of the same suit with a total value of 20.

**§ 549.2. Blackjack table; card reader device; physical characteristics; inspections.**

\* \* \* \* \*

(c) The following must be inscribed on the Blackjack layout:

\* \* \* \* \*

(4) If a certificate holder offers a Twenty Point Bonus Wager:

(i) A separate area designated for the placement of the Twenty Point Bonus Wager for each player.

(ii) Inscriptions that advise patrons of the minimum and maximum wagers permitted. If the minimum and maximum wagers permitted are not inscribed on the layout, a sign identifying the minimum and maximum permitted wagers shall be posted at each Blackjack table.

(iii) Inscriptions that advise patrons of the payout odds for the Twenty Point Bonus Wager. If payout odds are not inscribed on the layout, a sign identifying the payout odds for the Twenty Point Bonus Wager shall be posted at each Blackjack table.

(iv) Inscriptions that advise patrons of any payout limits and proportionate allocations as described in § 549.17(g) (relating to twenty point bonus wager; payout odds; payout limitation). If payout limits and proportionate allocations are not inscribed on the layout, a sign identifying the payout limits and proportionate allocation shall be posted at each Blackjack table.

(d) Each Blackjack table shall have a drop box and a tip box attached to it with the location of the boxes on the same side of the gaming table, but on opposite sides of the dealer, as approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**§ 549.17. Twenty point bonus wager; Payout odds; Payout limitation.**

(a) A certificate holder may, if specified in its Rules Submission under § 521.2 (relating to table games Rules Submissions), offer players the option of placing an additional wager that the player's hand will have a total value of 20 in the first two cards dealt. The Twenty Point Bonus Wager shall have no bearing on any other wager made by a player.

(b) Prior to the first card being dealt for each round of play, each player who has placed a wager in accordance with § 549.4 (relating to wagers), may make a Twenty Point Bonus Wager by placing a value chip or plaque into the separate betting area designated for that player.

(c) The dealer shall then announce “no more bets” and deal the initial two cards in accordance with the dealing procedures in § 549.7 (relating to procedure for dealing cards).

(d) Prior to any additional cards being dealt to any player, the dealer shall, starting with the player farthest to the dealer’s right and continuing counterclockwise around the table, settle in succession, except as provided in subsection (e), all Twenty Point Bonus Wagers by collecting all losing wagers and paying all winning wagers in accordance with subsection (g).

(e) If the first card to the dealer is a ten, jack, queen, king or ace and the player who has placed a Twenty Point Bonus Wager has two queens of hearts, that player’s Twenty Point Bonus Wager shall be settled after all other Twenty Point Bonus Wagers. In the presence of a floorperson or above, the dealer shall settle the Twenty Point Bonus Wager as follows:

(1) If the dealer has determined that the hole card will give the dealer a Blackjack, the player shall be paid in accordance with subsection (g) when the player’s Blackjack wager is settled.

(2) If the dealer has determined that the hole card will not give the dealer a Blackjack, the player shall be paid in accordance with subsection (g) before any other cards are dealt.

(f) A winning player shall receive the Twenty Point Bonus Wager payout for only the highest qualifying hand.

(g) The certificate holder shall pay out winning Twenty Point Bonus Wagers at the amounts contained in the following payout table:

<i>Hand</i>	<i>Payout</i>
Queen of Hearts pair and dealer Blackjack	1,000 to 1
Queen of Hearts pair	200 to 1
Matched 20	25 to 1
Suited 20	10 to 1
Any 20	4 to 1

(h) Notwithstanding the payout odds in subsection (g), a certificate holder may establish a maximum payout for a winning hand of Queen of Hearts pair and dealer Blackjack that is payable to all those winning hands in the aggregate on a single round of play. The maximum payout amount shall be at least \$25,000 or the maximum amount that one patron could win per round when betting the maximum possible wager, whichever is greater. Maximum payouts established by a certificate holder for a winning hand of Queen of Hearts pair and dealer Blackjack require the approval of the Board’s Executive Director and shall be included in the certificate holder’s Rules Submission filed in accordance with § 521.2. If a certificate holder establishes a maximum payout, which is approved by the Board’s Executive Director, and more than one player at a table has a winning hand of Queen of Hearts pair and dealer Blackjack, each player shall share the maximum payout amount proportionately to the amount of the player’s respective wager.

**CHAPTER 551. SPANISH 21**

**§ 551.2. Spanish 21 table; card reader device; physical characteristics; inspections.**

\* \* \* \* \*

(d) Each Spanish 21 table must have a drop box and a tip box attached to it with the location of the boxes on the same side of the gaming table, but on opposite sides of

the dealer, as approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 553. POKER**

**§ 553.2. Poker table physical characteristics.**

\* \* \* \* \*

(d) Each Poker table must have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 555. CARIBBEAN STUD POKER**

**§ 555.2. Caribbean Stud Poker table physical characteristics.**

\* \* \* \* \*

(d) Each Caribbean Stud Poker table must have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 557. FOUR CARD POKER**

**§ 557.2. Four Card Poker table physical characteristics.**

\* \* \* \* \*

(d) Each Four Card Poker table must have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 559. LET IT RIDE POKER**

**§ 559.2. Let It Ride Poker table physical characteristics.**

\* \* \* \* \*

(d) Each Let It Ride Poker table must have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 561. PAI GOW POKER**

**§ 561.2. Pai Gow Poker table; Pai Gow Poker shaker; physical characteristics.**

\* \* \* \* \*

(c) Each Pai Gow Poker table must have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, and in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 563. TEXAS HOLD 'EM BONUS POKER**

**§ 563.2. Texas Hold 'Em Bonus Poker table physical characteristics.**

\* \* \* \* \*

(d) Each Texas Hold 'Em Bonus Poker table must have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 565. THREE CARD POKER**

**§ 565.2. Three Card Poker table physical characteristics.**

\* \* \* \* \*

(d) Each Three Card Poker table must have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in

locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

**CHAPTER 567. WAR**

**§ 567.2. War table; physical characteristics.**

\* \* \* \* \*

(c) Each War table must have a drop box and a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

**CHAPTER 569. ULTIMATE TEXAS HOLD 'EM POKER**

**§ 569.2. Ultimate Texas Hold 'Em Poker table; physical characteristics.**

\* \* \* \* \*

(d) Each Ultimate Texas Hold 'Em Poker table must have a drop box and a tip box attached to it on the same side of the table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations. The Bureau of Gaming Operations may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

\* \* \* \* \*

[Pa.B. Doc. No. 10-1680. Filed for public inspection September 10, 2010, 9:00 a.m.]

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# PROPOSED RULEMAKING

## BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[ 49 PA. CODE CH. 43b ]

### Schedule of Civil Penalties for Violations of the Clean Indoor Air Act

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend §§ 43b.4—43b.9 to read as set forth in Annex A.

#### *Effective Date*

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

#### *Statutory Authority*

The Clean Indoor Air Act (act) (35 P.S. §§ 637.1—637.11), which became effective September 11, 2008, prohibits smoking in public places. Although the Department of Health has primary enforcement authority under the act, section 5(b)(1)(ii) of the act (35 P.S. § 637.5(b)(1)(ii)) provides that if a public place is subject to licensure by another agency, the Department of Health will refer the complaint to the appropriate licensing agency for investigation and enforcement. Six of the boards or commissions under the Bureau of Professional and Occupational Affairs (Bureau) license and routinely inspect “public places” as defined in section 2 of the act (35 P.S. § 637.2): the State Board of Barber Examiners; the State Board of Cosmetology; the State Board of Funeral Directors; the State Board of Pharmacy; the State Real Estate Commission; and the State Board of Vehicle Manufacturers, Dealers and Salespersons. Therefore, these six boards/commissions are responsible for the enforcement of the act in licensed facilities under their jurisdiction.

The act of July 2, 1993 (P.L. 345, No. 48) (Act 48) authorizes the Commissioner, after consultation with the licensing boards and commissions, to adopt a schedule of civil penalties for violations of their respective acts or regulations relating to the conduct or operation of a business or facility licensed by the licensing boards or commissions. Therefore, the Commissioner is proposing to amend the existing schedules of civil penalties to add civil penalties for violations of the act. Each of the boards/commissions approved the proposed rulemaking to the civil penalty schedule at a regularly scheduled public meeting.

#### *Background and purpose*

Adoption of a schedule of civil penalties for violations of the act at licensed facilities will permit authorized agents of the Bureau to issue citations for these violations. Citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive a citation retain their due process right to a hearing prior to the imposition of discipline. Section 6(a) of the act (35 P.S. § 637.6) identifies three violations that are subject to civil

penalties: failure to post a sign as required by section 4 of the act (35 P.S. § 637.4); permitting smoking in a public place where smoking is prohibited; and smoking in a public place where smoking is prohibited.

Since the passage of the act, inspectors for these six boards and commissions have been notifying licensees about their responsibilities under the act. The inspectors have been provided a supply of the signs required under section 4 of the act and have been providing them to licensed facilities upon inspection. It was determined that because many licensees would not expect inspectors for the boards and commissions to be enforcing the provisions of the act, initial violations discovered during this educational effort would result in a warning and a compliance order. Once the civil penalty schedules have been promulgated, all violations will result in the issuance of a citation as set forth in the relevant civil penalty schedule.

#### *Description of the Proposed Rulemaking*

The Commissioner proposes to amend the existing schedules of civil penalties for each of these six boards/commissions in §§ 43b.4—43b.9 to establish a civil penalty schedule for the three violations in section 6 of the act: failure to post a required sign; permitting smoking where smoking is prohibited; and smoking in a public place where smoking is prohibited. Section 6(c) of the act sets forth the administrative penalties for violations of the act: not to exceed \$250 for first violations; not to exceed \$500 for second violations (defined as those occurring within 1 year of the first violation); and not to exceed \$1,000 for third violations (defined as those occurring within 1 year of the second violation). The Commissioner is therefore proposing civil penalties of \$250 for first offenses, \$500 for second offenses and \$1,000 for third offenses. The act is silent as to subsequent violations; however, Act 48 limits the maximum civil penalty that may be imposed by citation to \$1,000. Therefore, the Commissioner is proposing a civil penalty of \$1,000 for all subsequent violations, that is, those that occur within 1 year of the previous violation.

#### *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking would not have adverse fiscal impact on the Commonwealth or its political subdivisions and would reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for violations of the act.

#### *Sunset Date*

Professional licensure statutes require each board and commission to be self-supporting; therefore, boards and commissions continually monitor the cost effectiveness of regulations affecting their operations. As a result, 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 27, 2010, the Commissioner 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 Commit-

tee 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 Commissioner, 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 Regulatory Counsel Cynthia Montgomery, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

BASIL L. MERENDA,  
*Commissioner*

**Fiscal Note:** 16-46. 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 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL**

**§ 43b.4. Schedule of civil penalties—barbers and barber shops.**

**STATE BOARD OF BARBER EXAMINERS**

\* \* \* \* \*

<b>Violation under 35 P. S.</b>	<b>Title/Description</b>	<b>Civil Penalty</b>
<b>Section 637.6(a)(1)</b>	<b>Failure of licensed barber shop or school to post a sign as required under section 4 of the Clean Indoor Air Act (35 P. S. § 637.4)</b>	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
<b>Section 637.6(a)(2)</b>	<b>Barber shop permitting smoking in the barber shop or barber school permitting smoking in the barber school in violation of the Clean Indoor Air Act (35 P. S. §§ 637.1—637.11)</b>	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
<b>Section 637.6(a)(3)</b>	<b>Licensee of the Board smoking in a barber shop or in a barber school in violation of the Clean Indoor Air Act</b>	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000

\* \* \* \* \*

§ 43b.5. Schedule of civil penalties—cosmetologists, [ manicurists, cosmeticians, shops ] nail technicians, estheticians, natural hair braiders, salons.

STATE BOARD OF COSMETOLOGY

\* \* \* \* \*

Violation under 35 P. S.	Title/Description	Civil Penalty
Section 637.6(a)(1)	Failure of licensed cosmetology salon, limited practice salon or cosmetology school to post a sign as required under section 4 of the Clean Indoor Air Act (35 P. S. § 637.4)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(2)	Licensed cosmetology or limited practice salon permitting smoking in the salon or licensed cosmetology school permitting smoking in the school in violation of the Clean Indoor Air Act (35 P. S. §§ 637.1—637.11)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(3)	Licensee of the Board smoking in a cosmetology salon, limited practice salon or cosmetology school in violation of the Clean Indoor Air Act	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000

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§ 43b.6. Schedule of civil penalties—funeral directors and funeral establishments.

STATE BOARD OF FUNERAL DIRECTORS

\* \* \* \* \*

Violation under 35 P. S.	Title/Description	Civil Penalty
Section 637.6(a)(1)	Failure of funeral establishment to post a sign as required under section 4 of the Clean Indoor Air Act (35 P. S. § 637.4)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(2)	Funeral establishment permitting smoking in the funeral establishment in violation of the Clean Indoor Air Act (35 P. S. §§ 637.1—637.11)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(3)	Licensee of the Board smoking in a funeral establishment in violation of the Clean Indoor Air Act	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000

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§ 43b.7. Schedule of civil penalties—pharmacists and pharmacies.

STATE BOARD OF PHARMACY

\* \* \* \* \*

Violation under 35 P. S.	Title/Description	Civil Penalty
Section 637.6(a)(1)	Failure of a pharmacy permit holder to post a sign as required under section 4 of the Clean Indoor Air Act (35 P. S. § 637.4)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(2)	Pharmacy permit holder permitting smoking in the pharmacy in violation of the Clean Indoor Air Act (35 P. S. §§ 637.1—637.11)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(3)	Licensee of the Board smoking in a pharmacy in violation of the Clean Indoor Air Act	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000

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§ 43b.8. Schedule of civil penalties—real estate and cemetery brokers, real estate schools.

STATE REAL ESTATE COMMISSION

\* \* \* \* \*

Violation under 35 P. S.	Title/Description	Civil Penalty
Section 637.6(a)(1)	Failure of broker or cemetery broker to post a sign in a real estate office or cemetery office or real estate education provider to post a sign in a real estate school as required under section 4 of the Clean Indoor Air Act (35 P. S. § 637.4)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(2)	Broker or cemetery broker permitting smoking in a real estate or cemetery office or real estate education provider permitting smoking in a real estate school	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(3)	Licensee of the Commission smoking in a real estate office, cemetery office or real estate school	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000

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§ 43b.9. Schedule of civil penalties—vehicle manufacturers, dealers and salespersons.

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

\* \* \* \* \*

Violation under 35 P. S.	Title/Description	Civil Penalty
Section 637.6(a)(1)	Failure of vehicle dealer, branch lot, public or retail vehicle auction, or wholesale vehicle auction to post a sign as required under section 4 of the Clean Indoor Air Act (35 P. S. § 637.4)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(2)	Vehicle dealership, branch lot, public or retail vehicle auction or wholesale vehicle auction permitting smoking in an area where smoking is prohibited by the Clean Indoor Air Act (35 P. S. §§ 637.1—637.11)	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000
Section 637.6(a)(3)	Licensee of the Board smoking in an area of the vehicle dealership, branch lot, public or retail vehicle auction or wholesale vehicle auction where smoking is prohibited by the Clean Indoor Air Act	1st offense—\$250 2nd offense (within 1 year of 1st offense)—\$500 3rd offense (within 1 year of 2nd offense)—\$1,000 Subsequent offenses (within 1 year of previous offense)—\$1,000

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[Pa.B. Doc. No. 10-1681. Filed for public inspection September 10, 2010, 9:00 a.m.]

# DEPARTMENT OF LABOR AND INDUSTRY

[ 34 PA. CODE CH. 63 ]

## Responsibilities of Employers

The Department of Labor and Industry (Department), Office of Unemployment Compensation Tax Services (UCTS), proposes to amend Chapter 63 (relating to responsibilities of employers) to read as set forth in Annex A.

### A. Statutory Authority

This rulemaking is proposed under section 201(a) of the Unemployment Compensation Law (law) (43 P. S. § 761(a)), which authorizes the Department to promulgate and amend rules and regulations necessary to administer the law.

### B. Background and Description of Proposed Rulemaking

The purpose of this proposed rulemaking, which covers 50 sections of Chapter 63, is to update the regulations to conform to current law and practice.

This proposed rulemaking rescinds 12 sections of Chapter 63 and deletes portions of additional sections. The Department is rescinding provisions that are obsolete, inconsistent with the law or superseded by a subsequent statutory enactment. In some cases, the Department is rescinding a provision and combining it with other regulatory provisions to consolidate regulations with similar subject matter. In cases when a regulation is superfluous

because it merely repeats an existing statutory provision, the regulation is rescinded or amended to refer to the statute.

References to obsolete subdivisions of the Department are removed or replaced with references to the current agency or the Department generally. References to specific forms, some of which are outdated, are removed whenever possible.

In addition to the previous changes that occur throughout the proposed rulemaking, there are particular changes described as follows.

The law requires the Department to transfer the experience record and reserve account balance of a predecessor to its successor-in-interest if they share common ownership, control or management. The Department interpreted this provision of the law to apply if there was common ownership at the time of the business transfer and without regard to the duration of that common ownership. See *Armco, Inc. v. Department of Labor and Industry*, 713 A. 2d 1208 (Pa. Cmwlth. 1998). Proposed § 63.1a (relating to determining common ownership, control or management) modifies the Department's interpretation of the statute. It provides that the Department will not transfer a predecessor's employment experience to its successor-in-interest if the entities' common ownership, control or management started immediately before the business transfer.

Section 63.2 (relating to part transfers of organization, trade or business) regarding part transfers of an employer's experience record and reserve account balance, applies only to transfers that occurred before July 1, 2005.

Subsequent transfers will be governed by the regulations that deal with transfers generally and the 2005 amendments to the law.

Proposed amendments to § 63.3 (relating to required forms and time limits for applications) clarify that an application for transfer of an employer's experience record and reserve account balance is necessary in cases when a transfer is desired and specify when the Department will consider an untimely application for transfer to be filed *nunc pro tunc*.

Proposed amendments to § 63.4 (relating to disapproval of applications for delinquency) delete a subsection allowing a redundant 30-day period to pay the predecessor's delinquency to obtain a transfer of the predecessor's experience record and reserve account balance to the successor.

Section 63.15 (relating to determination under combined experience provision) is extensively amended to consolidate the provisions that determine the earliest calendar year for which a combination of the predecessor's experience and successor's experience will apply to the contribution rate of the successor. Under certain circumstances, the combined experience applies to the successor's rate for the year in which the transfer of business or workforce to the successor occurred. These provisions apply to a transfer of the predecessor's experience record and reserve account balance that is requested by the successor.

Proposed amendments to § 63.21 (relating to notification of rate and prerequisites for applications for review and redetermination) provide that an employer is not notified of its contribution rate until the Department issues a contribution rate notice to the employer. As amended, this section will also provide that an employer may not assert a reason for objecting to the Department's rate determination that it has not included in its appeal.

In § 63.22 (relating to supporting data), the supporting data to be furnished with a rate appeal are expanded to address types of delinquency rates that exist as a result of recent amendments to the law.

In § 63.23 (relating to unacceptable reasons), unacceptable reasons for filing a rate appeal are expanded to include a challenge to the reserve account balance based on an alleged error that is over 4 years old. New provisions addressing the consequences of a payment plan default are added. A rate that is revised upwards due to a default may be appealed, but the only issue that may be raised is whether there was a default justifying the increase.

Proposed § 63.25 (relating to filing methods) enumerates acceptable methods for filing documents with the UCTS. Also, it specifies the dates on which documents submitted to the Department by these methods will be deemed to be filed.

Proposed § 63.26 (relating to appeal to the secretary) provides procedures for appeals of UCTS decisions to the Secretary. It concerns rate appeals, petitions for reassessment and applications for refund or credit.

Sections 63.31—63.36, regarding relief from charges, are amended and § 63.36a (relating to duration of relief from benefit charges and notice of changed circumstances) is proposed. New definitions and a list of circumstances under which an employer will be granted relief are provided. The method to be used, and time limit, for filing requests for relief are amended. The new section addresses termination of relief from benefit charges.

Section 63.51 (relating to initial and renewed registration) is amended to include the circumstances under which an employer shall file a renewed registration document with the Department.

Proposed amendments to § 63.52 (relating to quarterly reports from employers) require that employers file quarterly reports electronically.

Proposed § 63.59 (relating to PEO quarterly reports) specifies the method of filing, and the filing date of, Professional Employer Organization reports. It will replace a statement of policy issued on this subject.

Under proposed § 63.60 (relating to mass layoff report), if an employer lays off 50 or more individuals within a 7-day period, the employer is required to provide information to assist the Department to process the workers' benefit claims.

Section 63.63 (relating to agreement to compromise), regarding agreements to compromise tax liability, is amended to specify when an application to compromise is effective.

Section 63.64 (relating to records to be kept by employer), regarding records that an employer shall retain for unemployment compensation purposes, is amended to include workers whom the business believes are not "employees" and workers covered by a professional employer arrangement. In addition, more types of records are required.

Proposed § 63.66 (relating to power of attorney) provides that a business may empower an agent to represent it before the Department.

Proposed amendments to § 63.91 (relating to elections) specify the minimum and maximum periods of an election of reimbursable status.

Proposed amendments to § 63.93 (relating to filing of surety bond) specify the term of a surety bond and clarify that the bond applies to benefits that are based on wages paid during the period of reimbursable status, including benefits paid after that status has ended.

Under the proposed amendments to § 63.94 (relating to filing of security deposit), a nonprofit organization that provides money or securities as collateral in connection with an election of reimbursable status shall provide new collateral if it renews its reimbursable status when the current election expires. The proposed amendments also specify the reimbursement obligations that are secured by collateral in the form of money or securities.

Proposed § 63.96a (relating to conversion to contributory status) establishes procedures for situations when an employer elects reimbursable status but fails to provide collateral or a surety bond ceases to be effective during the period of an election. It also provides that unpaid reimbursement obligations are a basis for a delinquency contribution rate, if the employer converts to contributory status. Also, this section clarifies that a reimbursable employer that becomes a contributory employer remains liable for benefits that are based on wages paid during reimbursable status.

If a reimbursable employer provides securities as collateral, the Department may sell the securities to satisfy any amount owed by the employer. As amended, § 63.97 (relating to return or sale of money or securities) clarifies that any interest or increase in value accruing on the security may also be applied to the employer's debt.

Proposed amendments to § 63.99 (relating to assignment of rate of contribution) update provisions specifying

how the Department will determine an employer's contribution rate if the employer previously had been a reimbursable employer.

Proposed Subchapter D (relating to payment by electronic transfer) is new and specifies the circumstances in which an employer shall pay liabilities by electronic transfer. An employer that is not required to pay by electronic transfer and a claimant who is repaying an overpayment of benefits may use electronic transfer voluntarily.

C. *Affected Persons*

The proposed rulemaking potentially affects approximately 280,000 employers covered by the law.

D. *Fiscal Impact*

*Commonwealth and the regulated community*

This proposed rulemaking will allow the Department, under certain circumstances, to use the unemployment compensation employer experience of both the predecessor and the successor-in-interest to calculate the successor's contribution rate for the year in which the transfer of business or workforce occurred. Although the amount of unemployment compensation tax savings for successor employers and the corresponding decrease in tax revenues for the Unemployment Compensation Fund cannot be estimated, the Department expects the number of affected employers to be small and the overall monetary impact to be minimal. The Department is unable to estimate the cost to nonprofit, reimbursable employers of the provision requiring them to increase the value of their security as payrolls increase.

*Political subdivisions*

This proposed rulemaking does not affect political subdivisions except to the extent that they are employers covered by the law.

*General public*

This proposed rulemaking does not affect the general public.

E. *Paperwork Requirement*

If an employer ceases to provide employment and subsequently resumes providing employment, proposed amendments to § 63.51 will require the employer under certain circumstances to renew its unemployment compensation registration. While § 63.64, as amended, requires employers to keep employment records on workers and to preserve additional types of records, it does not require employers to create records or information that they would not have created otherwise and does not impose additional reporting requirements.

F. *Sunset Date*

The regulations will be monitored through practice and application. Thus, a sunset date has not been designated.

G. *Effective Date*

With the exception of §§ 63.52(e) and 63.110—63.114, the proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The amendments to §§ 63.11—63.17 apply to transfers of organization, trade, business or workforce under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)) that occur on or after the effective date of those amendments. Section 63.59 applies to reports filed on or after the effective date of that section. The amendments to § 63.64(a) apply to employment occurring on or after the effective date of those amendments. The amendments to

§ 63.94 apply to elections to make payments in lieu of contributions that take effect on or after the effective date of those amendments. Because § 63.2 has been superseded by the act of June 15, 2005 (P. L. 8, No. 5) with regard to transfers of organization, trade, business or workforce that occur on or after July 1, 2005, § 63.2 is amended to restrict its applicability to transfers that occurred before that date.

Sections 63.52(e) and 63.110—63.114 will take effect on January 1, 2011, and apply to calendar quarters and billing periods that begin on or after the effective date of the final-form rulemaking. The Department, however, may delay the effective date of these sections if it is impossible or impractical to implement them on January 1, 2011.

H. *Public Comment*

Interested parties are invited to submit written comments, objections or suggestions about the proposed rulemaking to Michael L. Ziemke, Office of Unemployment Compensation Tax Services, Room 900, Labor and Industry Building, 651 Boas Street, Harrisburg, PA 17121 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

Comments also may be submitted electronically to [mziemke@state.pa.us](mailto:mziemke@state.pa.us). A subject heading referencing the proposed rulemaking, name and return mailing address must be included in each transmission. In addition, electronic comments shall be contained in the text of the transmission, not in an attachment.

For further information on this proposed rulemaking, contact Michael L. Ziemke, (717) 772-1581.

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 26, 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 House Labor Relations Committee and the Senate Labor and Industry 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.

SANDI VITO,  
*Secretary*

**Fiscal Note:** 12-93. (1) Unemployment Compensation Fund;

	<i>Unemployment Compensation Benefit Payment Fund</i>
(4) 2007-08 Program—	\$2,320,529,000
2006-07 Program—	\$2,084,260,000
2005-06 Program—	\$1,998,637,000

(6) Due to the highly specific nature of these calculations, we are unable to accurately project the possible revenue loss to the Unemployment Compensation Fund. The actual loss would depend on the number and types of employers who would take advantage of this revision to

the regulation and would be dependent on the particular situation with those employers, thus any estimated future revenue loss to the Fund would be inaccurate; (8) recommends adoption. Loss of revenue is expected to be recovered over time. Implementation of solvency provisions found in Article III of the Unemployment Compensation Law (Act 1 of Special Session 2 of 1936) may be required.

#### Annex A

### TITLE 34. LABOR AND INDUSTRY

#### PART II. BUREAU OF EMPLOYMENT SECURITY

##### Subpart A. UNEMPLOYMENT COMPENSATION

#### CHAPTER 63. RESPONSIBILITIES OF EMPLOYERS

##### Subchapter A. GENERAL FUNCTIONS

#### TRANSFERS OF EXPERIENCE RECORDS

##### § 63.1a. Determining common ownership, control or management.

For purposes of determining whether an employer was owned, controlled or managed by its successor-in-interest, whether an employer owned, controlled or managed its successor-in-interest, or whether an employer and its successor-in-interest were owned, controlled or managed by the same interest or interests under section 301(d)(1)(B) of the law (43 P. S. § 781(d)(1)(B)), common ownership, control, management or a combination thereof that exists at the time of the transfer of organization, trade, business or workforce will be disregarded if it commences immediately before the transfer and during a series of nearly contemporaneous business transactions culminating in the transfer.

##### § 63.2. Part transfers of organization, trade or business.

(a) *Applicability.* This section applies to part transfers of an organization, trade or business that occurred before July 1, 2005.

(b) *Wage ratios.* When an application for part transfer of an employer's experience record and reserve account balance has been approved, or where such a transfer has occurred as provided in section 301(d)(1)(B) of the [ Law ] law (43 P. S. § 781(d)(1)(B)), the [ Bureau shall ] Department will determine the ratio that the wages paid during the last 3 completed calendar years prior to the date of the transfer, in that part of the organization, bears to all wages paid by the predecessor in the corresponding period. If the part which is transferred has been in existence for a period of less than 3-calendar years, wages paid during that period shall be used to determine the ratio.

[ (b) ] (c) *Application of ratio.* The wage ratio shall be used as the basis to reduce the reserve account of the predecessor and to establish the reserve account of the successor-in-interest, as follows:

\* \* \* \* \*

[ (c) ] (d) *Benefit paid subsequent to transfer.* When an application for part transfer of the experience record and reserve account balance of an employer is filed and approved, benefits paid after the date of transfer based on wages paid before the date of transfer, in that part of the organization, trade or business transferred, shall be charged to the experience record and reserve account of the successor-in-interest.

[ (d) *Part transfers.* An application for part transfer of the experience record and reserve account balance of an employer may be approved by the Bureau only if the application is filed in accordance with § 63.3 (relating to required forms and time limits for applications). If the predecessor is a partnership, a majority of the partners shall sign the application, except that when the partnership consists of two individuals, both shall sign the application. ]

##### § 63.3. Required forms and time limits for applications.

(a) [ Application ] An application for the transfer of the experience record and reserve account balance of a predecessor under the provisions of section 301(d)(1)(A) of the [ Law ] law (43 P. S. § 781(d)(1)(A)) shall be filed [ on the "Application for Experience Record and Reserve Account Balance of Predecessor" provided on page 3 of the Form UC-1, Employer's Initial Statement, and accompanied by an Affidavit of Business Transfer Form (UC-745), or a copy of the bill of sale signed by both parties involved in the transfer, or in such form as to contain the essential information required ] in the manner prescribed by the Department and containing the information that the Department requires. The application shall be signed by both the predecessor and the successor-in-interest.

(b) An application for the transfer of the experience record and reserve account balance of a predecessor, either in whole or in part, shall be filed [ prior to the end of the calendar year immediately following the calendar year in which the transfer occurred ] within the time allowed under section 301(d)(1)(A) of the law.

(c) [ When ] An application for the transfer of the experience record and reserve account balance of a predecessor that is filed beyond the time allowed under section 301(d)(1)(A) of the law is deemed to have been filed timely when the sole business of the successor-in-interest is that which [ he ] the successor-in-interest acquires from the predecessor in a total transfer of the predecessor's business, and the successor-in-interest, through error or inadvertence, continues to file contribution reports and pay contributions under the account number of the predecessor and at the rate determined by the [ Bureau ] Department to apply to the predecessor [ , the reporting and payment shall be considered an application for the experience record and reserve account balance of the predecessor with respect to the time limit for filing the application ].

##### § 63.4. Disapproval of applications for delinquency.

[ (a) ] If an application for transfer of the experience record and reserve account balance of a predecessor either in whole or part, is filed and the predecessor is delinquent in the payment of contributions, interest or penalties due on wages paid by [ him ] the predecessor as of the date the business was transferred, the [ Bureau shall ] Department will disapprove the application if the delinquency is not paid within 30 days of the request for payment by the [ Bureau ] Department. [ The disapproval shall apply to all actions pertaining to



the transfer, including the transfer of the predecessor's contribution rate to the successor.

(b) The transfer application may be considered if the following actions are taken within the time allowed in the Law for filing transfer applications:

(1) The successor-in-interest files a timely rate appeal requesting a reconsideration of the transfer application.

(2) The delinquency is paid not later than 30 days following the request for payment by the Bureau (following such appeal).

(c) If a transfer application is approved the transfer shall be effective with the calendar year for which the timely appeal is filed. ]

#### ASSIGNMENT OF CONTRIBUTION RATES

§ 63.11. [ General requirements ] (Reserved).

[ Where an application for the transfer of the experience record and reserve account balance of a predecessor has been approved, or where the transfer has occurred as provided in section 301(d)(1)(B) of the Law (43 P. S. § 781(d)(1)(B)), the contribution rates for the successor-in-interest shall be determined in accordance with the provisions of §§ 63.12—63.17. ]

§ 63.12. [ Successors not formerly employers ] (Reserved).

[ The successor-in-interest who prior to the transfer was not an employer during the calendar year in which the transfer occurred (referred to in this section and §§ 63.13—63.17 as the "transfer year") shall be assigned the rate of his predecessor for the remainder of that year, if the following requirements were met:

(1) The transfer application was filed by the successor-in-interest prior to the expiration of the rate appeal period for the transfer year (which rate appeal period expires 90 days after the mailing of the rate notice to the successor's last known post office address) or a timely rate appeal was filed and the transfer application was filed within 30 days of notification by the Bureau of the need for such transfer application.

(2) The predecessor paid contributions for the period required under section 301.1(b) of the Law (43 P. S. § 781.1(b)), with respect to the organization, trade or business, or part thereof transferred. ]

§ 63.13. [ Successors formerly employers ] (Reserved).

[ Successors-in-interest who prior to the transfer were employers during the transfer year may not be assigned the rate of their predecessors for the remainder of the transfer year. ]

§ 63.14. [ Rate determination in subsequent years ] (Reserved).

[ For calendar years subsequent to the transfer year, the rate for the successor-in-interest shall be determined on the basis of the experience record and reserve account balance, or in case of a part transfer the appropriate portion thereof, which has been transferred from the predecessor and com-

bined with that of the successor-in-interest, except that the rate for a successor-in-interest who has acquired a predecessor's reserve account balance which has been adjusted to zero shall be determined in accordance with § 63.16 (relating to periods of subjectivity). ]

§ 63.15. Determination under combined experience provisions.

[ Subject to § 63.16 (relating to periods of subjectivity), the first calendar year for which combination of experience shall be applicable for computing the contribution rate for the successor-in-interest shall be determined as follows:

(1) If the transfer application is filed prior to the expiration of the rate appeal period for the calendar year immediately following the transfer year, it shall be effective beginning with the calendar year in which it is filed.

(2) If the successor-in-interest has filed a timely application for review and redetermination of contribution rate, and filed a transfer application within 30 days of notification by the Bureau of the need for such application, it shall be effective beginning with the calendar year for which the timely appeal was filed.

(3) If the transfer application is filed after the expiration of the rate appeal period for the calendar year immediately following the transfer year, it shall be effective beginning with the calendar year following the year in which it is filed. ]

If a successor-in-interest applies for a transfer of the experience record and reserve account balance of a predecessor, in whole or in part, under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)), the Department will combine the experience of the predecessor and the experience of the successor-in-interest, if any, for the purpose of determining the contribution rate of the successor-in-interest. The earliest calendar year for which a combination of experience under section 301(d)(1)(A) of the law will apply to the contribution rate of the successor-in-interest will be determined in accordance with this section.

(1) If the successor-in-interest files its application for a transfer of experience prior to the expiration of the rate appeal period for a calendar year, the year in which the application is filed is the earliest calendar year for which a combination of experience will apply.

(2) If the successor-in-interest files a timely application for review and redetermination of its contribution rate, and files its application for a transfer of experience within 30 days after the Department notifies the successor-in-interest that an application for a transfer of experience is required, the year for which the application for review and redetermination of contribution is filed is the earliest calendar year for which a combination of experience will apply.

(3) If the successor-in-interest files its application for a transfer of experience after the expiration of the rate appeal period for a calendar year, the calendar year following the year in which the application is filed is the earliest calendar year for which a combination of experience will apply.

(4) Notwithstanding paragraphs (1), (2) and (3), the earliest calendar year for which a combination of experience will apply is the year in which the transfer of organization, trade, business or work force occurred, if the successor-in-interest files its application for a transfer of experience within 90 days after the transfer of organization, trade, business or work force and any of the following apply:

(i) The successor-in-interest did not pay wages covered by the law prior to the transfer of organization, trade, business or work force.

(ii) The successor-in-interest most recently paid wages covered by the law prior to the year in which the transfer of organization, trade, business or work force occurred, and the reserve account of the successor-in-interest is terminated in accordance with section 302(d) of the law (43 P. S. § 782(d)) as of the computation date for that year.

(iii) The successor-in-interest most recently paid wages covered by the law prior to the year in which the transfer of organization, trade, business or work force occurred, and the reserve account of the successor-in-interest is not terminated in accordance with section 302(d) of the law as of the computation date for that year.

(5) If the earliest calendar year for which a combination of experience applies to the contribution rate of the successor-in-interest is the year in which the transfer of organization, trade, business or work force occurred, and paragraph (4)(i) or (ii) applies to the successor-in-interest, the rate of the successor-in-interest for the year in which the transfer of organization, trade, business or work force occurred is the rate of the predecessor for that year.

(6) Notwithstanding paragraphs (1)—(5), the experience record and reserve account balance acquired from the predecessor may not affect the contribution rate of the successor-in-interest for any period prior to the date on which the transfer of organization, trade, business or workforce occurs.

§ 63.16. [ Periods of subjectivity ] (Reserved).

[ (a) Subsequent to the transfer year, a successor-in-interest who has acquired the whole or part of the reserve account balance of a predecessor which was adjusted to zero under the provisions of section 302(c) of the Law (43 P. S. § 782(c)) shall not have his rate determined on the basis of the combined experience of the predecessor and the successor-in-interest until the expiration of three calendar years following the computation date on the which the predecessor's account was adjusted to zero, unless prior to the expiration of the three-year period the successor-in-interest as of any computation date meets either of the following reporting requirements:

(1) Has been subject under the Law for 14 or more consecutive calendar quarters.

(2) Has been subject under the Law for a period as long as, or longer than, the preceding employer.

(b) A successor-in-interest whose period of subjectivity under the Law is not sufficient to meet the requirements of subsection (a) of this section

shall pay contributions at the rate provided in section 301(d)(1)(D)(3) of the Law (43 P. S. § 781(d)(1)(D)(3)). ]

§ 63.17. **Binding effect of transfers.**

A transfer of an experience record and reserve account balance, in whole or in part, having been approved by the [ Bureau ] Department on the basis of an application for the transfer of predecessor experience record and reserve account balance, [ shall be binding on ] binds both the predecessor and the successor-in-interest. [ The experience record and reserve account balance thus transferred shall be included with that of the successor-in-interest for determination of rates for calendar years subsequent to the year of transfer except as provided in § 63.16 (relating to periods of subjectivity). The predecessor may not be entitled to adjusted rates for calendar years subsequent to the transfer year, based upon the experience record and reserve account balance which has been transferred. ]

#### APPLICATIONS FOR REVIEW AND REDETERMINATION OF CONTRIBUTION RATES

§ 63.21. [ Prerequisites ] Notification of rate and prerequisites for applications for review and redetermination.

(a) For purposes of section 301(e)(2) and (j) of the law (43 P. S. § 781(e)(2) and (j)), an employer is not notified of its rate of contribution for a calendar year until the Department issues a Contribution Rate Notice to the employer.

[ An ] (b) The Department may consider an application for review and redetermination of contribution rate filed under section 301(e)(2) of the [ Law (43 P. S. § 781(e)(2)) shall be considered ] law only if it meets the following conditions:

(1) It is filed within [ 90 days after the mailing of the contribution rate notice to the last known post office address of the employer ] the time specified in section 301(e)(2) of the law.

(2) The reasons set forth by the employer contain factual statements, not mere generalities, showing specifically where the contribution rate [ of ] or reserve account balance is incorrect. The Department may not consider any factual or legal reason that the employer fails to assert in its application for review and redetermination.

§ 63.22. **Supporting data.**

Employers who wish to file an application for review and redetermination of contribution rate shall furnish [ the following type of ] supporting data as follows:

(1) To contest a ruling [ by the Bureau ] of insufficient experience, the employer shall submit information to show that his employer experience record meets the eligibility requirements of section 301.1(b) of the [ Law ] law (43 P. S. § 781.1(b)) for a rate of less than the standard rate provided in section 301(a)(1) [ (43 P. S. § 781(a)(1)) ] or [ section 301(a) ](3) of the law (43 P. S. § 781(a)(1) and (3)), whichever is applicable.

(2) To contest a [ ruling by the Bureau of money or report delinquency ] contribution rate assigned un-

der section 301(a)(2) of the law, the employer shall submit information to show [ **whether** ] that it filed all reports establishing the amount of contributions and showing the amount of wages paid for calendar quarters through the second quarter of the preceding calendar year, and that it paid all contributions, penalties and interest due on wages paid to the end of the second quarter of the preceding calendar year [ **have been paid. If a delinquency does exist, he may remove this cause of his ineligibility for a reduced rate by filing the reports and paying the delinquent amount within 30 days after the Bureau, in response to his request, notifies the employer of the missing reports and amounts due** ].

(3) To contest a contribution rate assigned under section 301(a)(2.1) of the law, the employer shall submit information to show that it filed the reports required under section 315(a)(1), (2) and (3) of the law (43 P. S. § 715(a)(1), (2) and (3)).

(4) To contest the accuracy of any figures shown on the [ **Form UC-657,** ] Contribution Rate Notice, the employer shall submit information obtained from his records to substantiate the alleged discrepancy.

#### § 63.23. Unacceptable reasons.

[ **An** ] (a) The Department will not approve an application for review and redetermination of contribution rate based on the following reasons [ **shall not be approved by the Bureau** ]:

(1) *Questions of eligibility.* [ (i) **That claimants** ] **Claimants** who caused the benefit charges were ineligible to receive unemployment compensation.

[ (ii) ] (i) Questions of eligibility for compensation shall be resolved conclusively under sections 501—512 of the [ **Law** ] law (43 P. S. §§ 821—832) and § 65.63 (relating to filing of appeals)[ , and the affected employers shall be notified with respect thereto ].

[ (iii) ] (ii) Appeals raising questions of eligibility for compensation shall be filed in the manner and within the time prescribed [ **therein** ] in the law and this subpart. (For detailed instructions, see [ **the reverse side of** ] Form UC-44F, Notice of Financial Determination, which is mailed to base-year employers at the time the [ **Bureau** ] Department makes the financial determination on the application for benefits by the claimant.)

(2) *Claimants who caused benefit charges.* [ (i) **That claimants** ] **Claimants** who caused benefit charges were separated from the applicant due to being discharged for willful misconduct connected with their work or due to leaving work without good cause attributable to their employment.

[ (ii) ] (i) Questions as to the right to relief from charges for these reasons shall be resolved conclusively under section 302(a) of the [ **Law** ] law (43 P. S. § 782(a)) and §§ 63.31—63.37 (relating to relief from benefit charges)[ , and the affected employers shall be notified with respect thereto ].

[ (iii) ] (ii) Requests raising these questions shall be filed in the manner and within the time prescribed [ **therein** ] in the law and this subpart. (For detailed

instructions, see Form UC-44FR, Request for Relief from Charges, which is mailed to base-year employers with the Form UC-44F.)

(3) *Benefits charged to employer's reserve account.* [ (i) **That benefits** ] **Benefits** charged to the reserve account of the employer as shown on Form UC-640, Monthly Notice of Compensation Charged, are incorrect.

[ (ii) ] (i) Questions [ **as to** ] regarding the accuracy of benefit charges on Form UC-640, shall be resolved conclusively under section 301(e)(1) of the [ **Law** ] law (43 P. S. § 781(e)(1))[ , and the affected employers shall so be notified ].

[ (iii) ] (ii) Protests contesting the accuracy of [ **such** ] the charges shall be filed in the manner and within the time prescribed in [ **Form UC-640** ] the law and this subpart. (For detailed instructions, see [ **the reverse side of** ] Form UC-640, Monthly Notice of Compensation Charged, which is mailed to base-year employers following the payment of unemployment compensation to their former employees.)

(4) *Reserve account balance.* The reserve account balance as indicated on the Contribution Rate Notice is inaccurate, if the alleged inaccuracy is attributable to an error that occurred more than 4 years prior to the computation date for the contribution rate in question.

(5) *Payment plan default.* The rate of contribution assigned after the employer defaults on a deferred payment plan is incorrect for reasons unrelated to the payment plan or the default.

(i) Under section 301(a)(2) of the law, an employer that is delinquent in the payment of contributions, interest or penalty is assigned a rate of contribution that is the sum of 3% plus the employer's rate as otherwise determined. However, if the employer is complying with a deferred payment plan, section 301(a)(2) of the law provides that the Department will issue a rate of contribution that does not include the additional 3%. If the employer defaults on the payment plan, section 301(a)(2) of the law provides that the employer's contribution rate or rates for the period of the payment plan are retroactively revised to include the additional 3%.

(ii) If an employer with a deferred payment plan is assigned a rate that does not include the additional 3% and the employer is dissatisfied with the assigned rate, the employer is responsible to timely contest the assigned rate. If an employer defaults on a payment plan and the employer's rate is revised to include the additional 3%, an application for review and redetermination of contribution rate filed in response to the rate revision is limited to the issue of whether a default on the payment plan occurred.

(b) [ **While an** ] **An** application for review and redetermination of contribution rate [ **shall** ] **will** not be [ **approved on the grounds described herein** ] **disapproved under this section** while the issues of benefit eligibility or charge relief are [ **still** ] pending under the provisions specified, neither shall the application be disapproved pending such proceedings. In [ **all such** ] **those** cases, the employer's application shall be held in abeyance until final resolution of the issue of eligibility or relief from charges [ **as the case may be** ].

§ 63.24. Unacceptable applications.

(a) [ Applications shall be denied for the following reasons ] The Department will deny the following applications for review and redetermination of contribution rate:

(1) Applications which are not timely filed [ according to ] under § 63.21(1) (relating to notification of rate and prerequisites for applications for review and redetermination).

(2) Applications based upon the reasons in § 63.23 (relating to unacceptable reasons) [ shall be denied and returned to the employers with letters explaining the reasons for the denial ].

(b) [ Applications ] The Department may deny applications for review and redetermination of contribution rate which do not furnish the information required in § 63.21(b)(2) or § 63.22 (relating to supporting data) [ shall be returned to the employer with a statement of the reasons for returning such applications ].

(c) [ Any of the forms referred to in this section and §§ 63.21—63.23 (relating to applications for review and redetermination of contribution rates) may be obtained by writing to the Bureau of Employment Security, Department of Labor and Industry, Harrisburg, Pennsylvania 17121. ] If an application is denied under this section, the Department will inform the employer and advise the employer of the reasons for the denial.

FILINGS AND APPEALS

§ 63.25. Filing methods.

(a) *Applicability.* Except as otherwise provided in the law or this chapter, a document shall be filed with the Office of Unemployment Compensation Tax Services (UCTS) in accordance with subsections (b)—(g).

(b) *United States mail.* The filing date will be determined as follows:

(1) The date of the official United States Postal Service postmark on the envelope containing the document, a United States Postal Service Form 3817 (Certificate of Mailing) or a United States Postal Service certified mail receipt.

(2) If there is no official United States Postal Service postmark, United States Postal Service Form 3817 or United States Postal Service certified mail receipt, the date of a postage meter mark on the envelope containing the document.

(3) If the filing date cannot be determined by any of the methods in paragraph (1) or (2), the filing date will be the date recorded by UCTS when it receives the document.

(c) *Common carrier.* A document may be delivered by a common carrier of property that is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The date of filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business. If the date of delivery to the common carrier cannot be determined by the

documents in the record, the date of filing will be the date recorded by UCTS when it receives the document.

(d) *Fax transmission.*

(1) The filing date will be determined as follows:

(i) The date of receipt imprinted by the UCTS fax machine.

(ii) If the UCTS fax machine does not imprint a legible date, the date of transmission imprinted on the faxed document by the sender's fax machine.

(iii) If the faxed document is received without a legible date of transmission, the filing date will be the date recorded by UCTS when it receives the document.

(2) A party filing a document by fax transmission is responsible for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the document may not be properly or timely filed.

(e) *Electronic transmission other than fax transmission.* The filing date is the receipt date recorded by the UCTS electronic transmission system, if the electronic record is in a form capable of being processed by that system. A party filing by electronic transmission shall comply with UCTS instructions concerning format. A party filing by electronic transmission is responsible for using the proper format and for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the document may not be properly or timely filed.

(f) *Personal delivery.* The filing date will be the date the document was personally delivered to UCTS during its normal business hours.

(g) *Additional and suspended methods.*

(1) UCTS may prescribe additional filing methods. If UCTS prescribes an additional filing method, it will designate the date on which a document is filed by that method.

(2) UCTS may suspend one or more of the filing methods prescribed under subsections (b)—(g)(1) when it determines, in its discretion, that the method is obsolete, impractical, inefficient or infrequently used.

§ 63.26. Appeal to the Secretary.

(a) If an employer files an application for review and redetermination of its contribution rate under section 301(e)(2) of the law (43 P. S. § 781(e)(2)) and the employer is aggrieved by the determination of the Office of Unemployment Compensation Tax Services (UCTS), the employer may appeal to the Secretary or the Secretary's designee within 30 days of the mailing date of the UCTS determination.

(b) If UCTS issues an assessment under section 304 of the law (43 P. S. § 784) and the person to whom the assessment is directed is aggrieved by the assessment, the person may appeal to the Secretary or the Secretary's designee by filing a petition for reassessment within the time allowed under section 304.

(c) If an employer applies for a refund or credit under section 311 of the law (43 P. S. § 791) and the employer is aggrieved by the determination of UCTS, the employer may appeal to the Secretary or

the Secretary's designee within 30 days of the mailing date of the UCTS determination.

(d) The following provisions apply to an appeal under subsection (a), (b) or (c):

(1) The appellant shall file the appeal with the Unemployment Compensation Tax Review Office at the address indicated in the UCTS determination or assessment and in the manner prescribed by the Unemployment Compensation Tax Review Office, and serve a copy on UCTS.

(2) The appellant shall set forth in the appeal all factual assertions and legal arguments that are the basis for the appeal. The Secretary or the Secretary's designee may not consider any factual or legal grounds for relief that are not set forth in the appeal.

(3) The decision of the Secretary or the Secretary's designee is the final decision of the Department.

#### RELIEF FROM BENEFIT CHARGES

§ 63.31. [ General requirement ] Applicability and definitions.

(a) [ Whenever a claimant is paid unemployment compensation, his former employers shall be charged for the amount of benefits paid to him. These charges shall be made in proportion to the wages paid by the employer during the base year of the claimant as compared with the total wages paid by all of his employers during the same period. ] An employer that pays contributions may be relieved of benefit charges in accordance with section 302(a) of the law (43 P. S. § 782(a)) and this chapter.

(b) [ An employer may exert some control over the determination of his contribution rate by maintaining and providing necessary records and information which will enable the Bureau to charge employer accounts properly and relieve charges under certain conditions. ] If an employer that makes payments in lieu of contributions satisfies the requirements of section 213 of the law (43 P. S. § 773) for a calendar year, the employer may be relieved of charges, in accordance with section 302(a) of the law and this chapter, for benefits paid on applications for benefits that take effect during that calendar year.

(c) The following words and terms, when used in §§ 63.31—63.37, have the following meanings, unless the context clearly indicates otherwise:

*Material change*—A substantial reduction in wages or in the number of hours or days ordinarily worked by the claimant employed in part-time work.

*Return to work*—Resumption of employment with an employer from whom the claimant had been separated, at the level of employment that existed immediately prior to the separation.

*Separation from employment*—A termination of the employment relationship, a suspension of active employment, or a reduction in the number of hours worked by the claimant.

§ 63.32. Reasons for [ separation ] relief from benefit charges.

(a) [ Section 302(a) of the law (43 P. S. § 782(a)) provides that a base year employer may obtain

relief from the charges for benefits paid to an ex-employee as explained in § 63.31 (relating to general requirement) if the claimant has separated from his most recent work for such employer due to one of the following reasons:

(1) When the claimant leaves work without good cause attributable to his employment.

(2) When the claimant is discharged for willful misconduct connected with his work.

(b) A base-year employer may obtain relief from charges for benefits paid as explained in § 63.31 (relating to general requirement) when the claimant works part-time for a base-year employer in addition to his full-time job, and such claimant, subsequent to a separation from his full-time job, continues his part-time work with the employer without a material change. ]

Under section 302(a)(1) of the law (43 P. S. § 782(a)(1)), an employer may be granted relief from benefit charges in the following circumstances:

(1) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 402(e) of the law (43 P. S. § 802(e)), which provides that an individual is ineligible for benefits if the individual is unemployed due to willful misconduct.

(2) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 402(b) of the law, which provides that an individual is ineligible for benefits if the individual voluntarily left work without a necessitous and compelling reason.

(3) When the claimant was separated from employment with the employer under conditions that would not be disqualifying under section 402(b) of the law, but do not involve good cause attributable to the claimant's employment.

(4) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 3 of the law (43 P. S. § 752)), which provides that an individual must be unemployed through no fault of his own to be eligible for benefits.

(5) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 402(e.1) of the law, which provides that an individual is ineligible for benefits if the individual is unemployed due to failure to submit to or pass a drug test.

(6) When the claimant was separated due to a major natural disaster declared by the President of the United States.

(b) Under section 302(a)(2) of the law, an employer may be granted relief from benefit charges when the claimant continues to work part-time for the employer after being separated from other employment.

(c) Under section 302(a)(2.1) of the law, an employer may be granted relief from benefit charges when the claimant was separated due to a cessation of business of 18 months or less caused by a disaster.

§ 63.33. [ Information accompanying requests ] Request for relief from benefit charges.

(a) [ A Form UC-44FR "Request for Relief from Charges" under section 302(a) of the law (43 P. S. § 782(a)) shall be submitted in writing to the Bureau of Employment Security, Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

(b) The request for relief from charges shall contain the following information: ]

An employer shall file a request with the Department to be granted relief from benefit charges.

(b) An employer's request for relief from benefit charges must contain the information required by the Department, including the following:

\* \* \* \* \*

[ (4) The date of valid application for benefits by the claimant.

(5) The local office number.

(6) The date of financial decision.

(7) The signature of the employer or that of his authorized representative.

(8) The last day of work of the claimant.

(9) The reason for the separation of the claimant from employment. ]

(c) In addition to the information required under subsection (b), a request for relief from benefit charges based on a claimant's separation from employment must contain a statement of the facts surrounding the most recent separation of the claimant from the employer requesting relief and the date of the separation.

(d) In addition to the information required under subsection (b), an employer making a request for relief from benefit charges based on continuing part-time work shall include a statement of the facts concerning the part-time employment of the claimant which contains the following information:

(1) The date the claimant was hired.

(2) The number of hours or days of work and the pay available to the claimant before and after the claimant's separation from other employment.

(e) An employer shall file a request for relief from benefit charges with the Department in the same manner that documents shall be filed with the Office of Unemployment Compensation Tax Services (UCTS) under § 63.25 (relating to filing methods). The filing date of the request will be determined in accordance with § 63.25.

(f) Notwithstanding subsection (e), the Department may prescribe additional filing methods that it determines to be advisable or expedient. If the Department prescribes an additional filing method, it will designate the date on which a request is filed by that method.

§ 63.34. [ Requests as to voluntary separations or discharge of employe for willful misconduct ] (Reserved).

[ (a) A request filed under section 302(a)(1) of the law (43 P. S. § 782(a)(1)) shall contain a concise but comprehensive statement of facts surrounding the

most recent separation of the claimant and the date of such separation from the employer requesting relief.

(b) If an employer who has applied for relief from charges because of the separation or discharge of an employe subsequently reemploys the employe, the employer shall notify the Bureau of the fact and of the date of rehire within 15 days thereof. The notification shall state the name and social security account number of the claimant and the name and account number of the employer. ]

§ 63.35. [ Requests as to part-time workers ] (Reserved).

[ (a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Material change*—A substantial reduction in wages or in the number of hours or days ordinarily worked by the claimant employed in part-time work.

*Part-time work*—Work other than normal full-time work of a claimant with a regular base-year employer which is ordinarily performed for less than the total number of hours or days customarily worked in the business, occupation or industry.

(b) *Information.* A request filed under the provisions of this section shall contain a concise but comprehensive statement of facts concerning the part-time employment of the claimant. The statement shall include the following information:

(1) The date the claimant was hired.

(2) The number of hours or days of work and the pay available to the claimant before and after separation from the full-time job.

(c) *Certification.* The request shall be certified that the information provided is true and correct. The certification shall be signed by the employer making the request or his authorized representative.

(d) *Changes of employment situation.* If an employer who has applied for relief under section 302(a)(2) of the Law (43 P. S. § 782(a)(2)) subsequently changes the employment situation of a part-time employe, it shall be the duty of the employer to notify the Bureau of such fact within 15 days. The notification shall state the name and social security account number of the claimant and the name and account number of the employer. ]

§ 63.36. Time limits for [ filing for ] requesting relief from benefit charges.

(a) [ Where the last separation is the basis for establishing an application for benefits, a Form UC-44FR (Request for Relief from Charges) shall be filed ] If an employer is requesting relief from benefit charges on the basis of a separation that occurs on or before the date the claimant files an application for benefits or on the basis of continuing part-time work, the employer shall file the request with the [ Bureau ] Department within 15 days after the date of [ "Financial Decision" shown on the face of ] the first eligible [ Form UC-44F ( ) Notice of Financial Determination[ ) as ] issued by the [ Bu-

reau on the basis of this ] Department under the claimant's application for benefits.

(b) [ If a claimant returns to work for a base-year employer after establishing a benefit year, that is a 52-week period beginning with the date of the first valid Application for Benefits, and is subsequently separated from employment during the benefit year, any request made by the separating employer for relief from charges must be filed within 30 days from the last day worked ] If an employer is requesting relief from benefit charges on the basis of a separation that occurs after the claimant files an application for benefits, the employer shall file the request within 15 days after the date of the Department's earliest notice indicating that the claimant is claiming benefits subsequent to the separation and that the employer may request relief from benefit charges.

(c) The following apply to employer requests for relief from benefit changes:

(1) If an employer requests relief from benefit charges in accordance with subsection (a) and the Department grants relief, relief will begin with the earliest week for which the claimant is eligible for benefits pursuant to the claimant's application for benefits.

(2) If an employer requests relief from benefit charges in accordance with subsection (b) and the Department grants relief, relief will begin with the earliest week for which the claimant is eligible for benefits following the last day worked.

(3) A request for relief from benefit charges not filed within the time limitations prescribed in subsections (a) or (b) [ shall be ] is effective only with respect to charges resulting from benefits paid for weeks ending [ 15 or more days subsequent to ] on or after the date the late request is filed with the [ Bureau ] Department.

[ (d) A request for relief from charges will be considered as filed with the Bureau on the date the request is postmarked or, if the request is otherwise delivered, on the date such request is received in the central office or in the local or district office of the Bureau. ]

§ 63.36a. Duration of relief from benefit charges and notice of changed circumstances.

(a) Subject to the requirements of §§ 63.33 and 63.36 (relating to request for relief from benefit charges; and time limits for requesting relief from benefit charges), relief from benefit charges granted to an employer on the basis of a claimant's separation from employment remains in effect until the claimant returns to work for the employer or until the end of the period for which relief is authorized under section 302(a) of the law (43 P. S. § 782(a)), whichever occurs first.

(b) An employer that is granted relief from benefit charges on the basis of a claimant's separation from employment shall notify the Department within 15 days if the claimant returns to work for that employer. The employer shall include with the notification the claimant's name and Social Security number, the employer's name and account number and the date when reemployment commenced.

(c) An employer that is granted relief from benefit charges on the basis of continuing, part-time work shall notify the Department within 15 days if the employment situation of the claimant changes. The employer shall include with the notification the claimant's name and Social Security number and the employer's name and account number.

**READJUSTMENT OF RESERVE ACCOUNT BALANCES**

§ 63.41. Requests.

An employer who elects to have [ his ] its debit reserve account balance adjusted [ to zero under sections 301.1(f) and ] under section 302(c) of the [ Law ] law (43 P. S. § [ § 781.1(f) and ] 782(c)) shall submit a request [ in writing ] for the adjustment to the Department, in the manner prescribed by the Department and containing the information required by the Department.

§ 63.42. Time period for filing and revocability.

(a) [ A ] An employer shall file a request for adjustment of a debit reserve account balance [ to zero shall be filed on or after January 1, ] on or after the date of the Contribution Rate Notice for the calendar year immediately following the computation date corresponding to the adjustment, but not later than April 30 of [ the ] that calendar year [ immediately following the computation date for the determination of contribution rates ].

(b) The [ request may not be revocable ] employer may not revoke the request for any cause [ after ] more than 10 days [ from ] after the date of filing.

§ 63.43. [ Date of filing ] (Reserved).

[ The date of filing of a request shall be considered as the date on which the request is postmarked. Should the request be delivered in some other way the date of receipt in any field or administrative office of the Bureau shall be considered the date of filing. ]

**REPORTS TO BE FILED**

§ 63.51. [ Form UC-1 ] Initial and renewed registration.

[ Form UC-1, Employer's Initial Statement, shall be filed by each employer, whether or not he is liable for the payment of contributions, for whom any individual has performed services in this Commonwealth subsequent to December 31, 1935. The form shall be filed immediately after services are first performed for the employer. ]

(a) Under section 315(a)(1) of the law (43 P. S. § 795(a)(1)), an employer shall register with the Department within 30 days after services are first performed for the employer.

(b) If an employer that has stopped filing reports in accordance with § 63.52(b) (relating to quarterly reports from employers) or has not provided employment for 1 year or longer resumes providing employment, the employer shall file a new registration with the Department within 30 days after it resumes providing employment.

§ 63.52. [ Form UC-2 ] Quarterly reports from employers.

(a) [ Form UC-2, Employer's Report for Unemployment Compensation, and Form UC-2A, Employer's Quarterly Report of Wages Paid to Each Employee, shall be filed by each employer liable for the payment of contributions, on or before the last day of the month which immediately follows the end of the calendar quarter for which the reports are filed.

(b) Form UC-2 and Form UC-2A shall be filed for each calendar quarter, whether or not the employer has paid wages during the calendar quarter.

(c) The Bureau may require an employer who has discontinued operation of his organization, trade or business in this Commonwealth to file reports immediately upon discontinuance of an operation.

(d) If the day on which Forms UC-2 and UC-2A are otherwise required to be filed is a Saturday, Sunday or a legal holiday, the reports may be filed on the first subsequent day which is not a Saturday, Sunday or a legal holiday.

(e) The day on which reports are postmarked shall be deemed the day on which they are filed.

(f) An employer who has been required to file Form UC-2 may be relieved of filing the report only upon written application to the Bureau to be so relieved. The application shall certify that he no longer furnishes employment as defined in the Law (43 P. S. § 753). The Bureau may, however, relieve an employer from filing reports upon finding that the employer no longer furnishes employment as defined in the Law (43 P. S. § 753), at any time, on its own motion. ]

**Required reports.** An employer shall file the following reports for each calendar quarter, regardless of whether the employer has paid wages during the calendar quarter:

(1) The periodic report to establish the amount of contributions due, known as the Employer's Report for Unemployment Compensation.

(2) The periodic report showing the amount of wages paid to each employee, known as the Employer's Quarterly Report of Wages Paid to Each Employee.

(b) **Termination of reporting.** An employer may stop filing reports required under subsection (a) if it certifies in writing that it no longer provides employment as defined in section 4 of the law (43 P. S. § 753) or the Department determines that the employer no longer provides the employment.

(c) **Contents of reports.** An Employer's Report for Unemployment Compensation must contain the total amount of wages paid during the calendar quarter, the amount of wages paid during the calendar quarter that does not exceed the limitation in section 4(x)(1) of the law, the amount of contributions due, and other information the Department requires. An Employer's Quarterly Report of Wages Paid to Each Employee must contain the following:

(1) The name and Social Security number of each employee to whom wages were paid during the calendar quarter.

(2) The amount of wages paid to each employee.

(3) The number of credit weeks for each employee.

(4) Other information the Department requires.

(d) *Due date.*

(1) An employer shall file reports required under subsection (a) on or before the last day of the month that immediately follows the end of the calendar quarter for which the reports are filed. If the day on which the reports are required to be filed is a Saturday, Sunday or legal holiday, the employer may file them on the first subsequent day that is not a Saturday, Sunday or legal holiday.

(2) The Department may require an employer that has discontinued operation of its organization, trade or business in this Commonwealth to file the reports required under subsection (a) immediately.

(e) **Reporting methods.** Except as otherwise prescribed by the Department under subsection (g), for calendar quarters beginning on or after January 1, 2011, an employer shall make the reports required under subsection (a) through an electronic filing system that the Department prescribes.

(f) **Filing date.** The filing date of a report made under subsection (e) is the receipt date recorded by the electronic filing system.

(g) **Additional reporting methods.**

(1) The Department may prescribe additional methods for employers to make the reports required under subsection (a). If the Department prescribes an additional method to make a report, it will designate the date on which a report made by that method is filed. The Department may suspend use of one or more of the methods of making reports prescribed in subsection (e) or under this paragraph when it determines, in its discretion, that the method is obsolete, impractical or infrequently used.

(2) The Department may limit a class of employers to one or more methods of making the reports required under subsection (a), or limit a method of making the reports to a class or classes of employers.

(h) **Waiver.** Upon a showing of good cause, the Department may allow an employer to make the reports required under subsection (a), to file the reports, or both, by a method other than as provided in subsections (e), (f) and (g).

§ 63.58. [ Penalties for failure to file ] (Reserved).

[ The penalty for failure to file reports as provided in section 206 of the Law (43 P. S. § 766) may not apply to the filing of Form UC-2 with respect to any reporting period during which the employer paid no wages subject to contributions. ]

§ 63.59. PEO quarterly reports.

(a) **Method and content of report.** A report required under section 315(a)(4) of the law (43 P. S. § 795(a)(4)) shall be made through the electronic filing system prescribed by the Department for that purpose, and include the information required by that system.

(b) **Filing date.** The filing date of a report required under section 315(a)(4) of the law is the date



indicated on the confirmation page displayed upon completion of the filing process.

§ 63.60. Mass layoff report.

(a) An employer that lays off or separates 50 or more individuals within any 7-day period shall provide the information that the Department requires for processing the individuals' applications and claims for unemployment compensation.

(b) The employer shall file the report required under subsection (a) in accordance with the following.

(1) The employer shall file the report no later than 5 business days prior to the first layoff or separation, unless the Department extends the due date for the report for good cause.

(2) The employer shall file the report in the same manner that documents shall be filed with Office of Unemployment Compensation Tax Services under § 63.25 (relating to filing methods). The filing date of the report will be determined in accordance with § 63.25.

MISCELLANEOUS PROVISIONS

§ 63.61. [ Voluntary contributions to Unemployment Compensation Fund ] (Reserved).

[ (a) Any employer who wishes to take advantage of the privilege afforded by voluntary contributions to the Unemployment Compensation Fund shall pay his voluntary contribution in strict conformity with section 302(b) of the Law (43 P. S. § 782(b)). The amount shall be included in the computation or recomputation of the rate for any calendar year only if it is paid within 120 days after the beginning of the year.

(b) Irrespective of any action by the Bureau, the employer shall be responsible for determining the amount he wishes to pay and he shall pay that amount, unconditionally, within the 120-day period.

(c) After voluntary contributions are accepted by the Bureau, they will not be refunded or allowed as a credit to pay contributions due on taxable wages. ]

§ 63.62. [ Assignment of contribution credit ] (Reserved).

[ (a) Contribution credit which arose as a result of the 1949 and 1951 experience rating amendments to the Law (43 P. S. §§ 781 and 781.1) may be transferred to a successor-in-interest or to any assignee. The credit shall be used solely for the payment of contributions, interest or penalties owing under the Law and may not be refunded.

(b) Request for the assignment of nonrefundable credit shall be made by submitting the request in duplicate and shall contain the essential information required.

(c) Credit may be transferred to more than one assignee, in which case the request shall be submitted in duplicate for each assignee. ]

§ 63.63. Agreement to compromise.

(a) [ Application ] An employer's application for compromise of contributions, interest or penalties under [ the provisions of ] section 309.1 of the [ Law ] law

(43 P. S. § 789.1) shall be made [ to the Bureau on Form UC-168, Application for Agreement to Compromise. The application shall be properly executed under oath, by the employer or his authorized representative, and shall have attached thereto and made a part thereof such additional information as the Bureau may require ] in the manner that the Department prescribes, and containing the information that the Department requires.

(b) [ All contributions, interest or penalties, other than those for which application for compromise is being made, and all legal costs incurred by the Bureau shall be paid in full before the Bureau will give consideration to an employer's application. The amount offered in compromise shall accompany each application but the Bureau may waive this requirement when the circumstances justify the exception. ] An application for compromise is effective only if both of the following occur:

(1) The Department notifies the employer that the application is approved.

(2) The employer pays the contributions, reimbursement, interest, penalties and legal costs that it owes, other than those amounts the Department has agreed to forgo in the compromise, within the time and in the manner that the Department specifies.

§ 63.64. Records to be kept by employer.

(a) *Content of records.* Each employer, whether or not liable for the payment of contributions, shall keep clear, accurate and complete employment and payroll records. The records [ shall include ] must contain the following information on each worker, including workers whom the employer considers to be independent contractors, workers whom the employer considers not "employees" under the law, and workers covered by an arrangement described in section 4(j)(2.1) of the law (43 P. S. § 753(j)(2.1)):

\* \* \* \* \*

(4) Total remuneration paid for each pay period by type of payment (cash and [ cash value of payments in kind ] fair market value of noncash remuneration).

\* \* \* \* \*

(7) [ Full-time ] All scheduled hours and hours worked.

\* \* \* \* \*

(10) Number of credit weeks.

(11) Documentation of payments made to the worker, including bank statements, cancelled checks, copies of cancelled checks, check stubs, and electronic funds transfer records.

(12) If the worker is covered by an arrangement described in section 4(j)(2.1) of the law, the contract between the employer and the other party to the arrangement.

(13) Any contract between the employer and the worker.

(14) If the employer considers the worker to be an independent contractor or otherwise not an "employee" under the law, records, documentation and evidence supporting that position.

(15) Federal and State tax returns for the periods when the worker was employed.

(b) *Location [ and ], retention and inspection of records.*

(1) [ All ] The employment and payroll records [ and supporting evidence, as well as all other business records such as cash books, journals, ledgers and corporate minutes, ] required under subsection (a) shall be retained either at the place of employment or at an established central recordkeeping office for at least 4 years after contributions relating to [ such ] the records have been paid.

\* \* \* \* \*

(3) [ The records shall be open for inspection and transcription by authorized representation of the Bureau ] The Department's authorized representatives may inspect, transcribe or photocopy all employment and payroll records required under subsection (a) and all other business records, including, without limitation, cash books, journals, ledgers and corporate minutes at any reasonable time and as often as may be deemed necessary. [ They shall be ] The employer or entity in possession of the records shall keep the records in [ such ] a condition that the information required may readily be obtained by representatives of the [ Bureau ] Department.

(c) *Scope.* For purposes of this section, the term "employer" includes any person for whom services are performed by an individual for remuneration.

§ 63.66. Power of attorney.

(a) *Power of attorney.* An employer may appoint an agent with full or limited power and authority to act on its behalf with the Department.

(b) *Form of power of attorney.* An employer's appointment of an agent shall be made in the manner prescribed by the Department and contain the information required by the Department.

#### Subchapter B. MULTISTATE AGREEMENTS MISCELLANEOUS

§ 63.75. [ Approval of reciprocal coverage elections ] (Reserved).

[ The Assistant Director for Tax Operations shall have the authority to approve or disapprove reciprocal coverage elections in accordance with the provisions of this subchapter. ]

#### Subchapter C. NONPROFIT ORGANIZATIONS MAKING PAYMENTS IN LIEU OF CONTRIBUTIONS

§ 63.91. [ Purpose ] Elections.

[ This subchapter is intended to effectuate those provisions of the law which deal with filing a surety bond or depositing money or securities of equal value with the Department when a nonprofit organization elects to become liable for payments in lieu of contributions. ]

(a) *Duration.* A nonprofit organization electing to make payments in lieu of contributions shall make its election effective for a period of 2, 3 or 4

calendar years. This subsection does not prevent a nonprofit organization from filing one or more successive elections.

(b) *Transitional provision.* An election that is effective prior to \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*) terminates on the later of the following dates, unless sooner terminated in accordance with the law:

(1) December 31 of the third calendar year following the calendar year in which the election became effective.

(2) December 31 of the calendar year in which this regulation takes effect, if this regulation takes effect from January 1 through June 30, or December 31 of the calendar year immediately following the calendar year in which this regulation takes effect, if this regulation takes effect from July 1 through December 31.

§ 63.93. Filing of surety bond.

Nonprofit organizations subject to [ the provisions of ] this subchapter electing to file a surety bond shall file with the [ local Field Accounting Office of the Bureau ] Department a surety bond [ equal to 1.0% of the employer's taxable wages paid for subject employment for the most recent four calendar quarters prior to the election to make payments in lieu of contributions or a surety bond in an amount set by the Department, such bond to be executed by an approved bonding company ] issued by an insurance company with a certificate of authority to provide such coverage in the Commonwealth. The term of the surety bond must coincide with the period for which the employer elects to make payments in lieu of contributions. The surety bond must secure reimbursement of benefit payments that are based on wages paid during the period of the election, including benefit payments made after the period of the election, together with interest and penalties.

§ 63.94. Filing of security deposit.

(a) In lieu of a surety bond, as prescribed in § 63.93 (relating to filing of surety bond), nonprofit organizations subject to this subchapter may deposit [ moneys ] money, in [ the ] a form [ of bank-guaranteed checks payable ] acceptable to the Department [ of Labor and Industry ] or securities [ of equal present monetary value, ] of a kind acceptable to the [ Bureau, with the local Field Accounting Office of the Bureau, for transmittal to the Department in Harrisburg ] Department. [ A written receipt will be given to the employer depositing such moneys or securities. A copy of the receipt will be forwarded to the Bureau Accounting Division in Harrisburg and a copy retained in the local Field Accounting Office. Reference should also be made to §§ 63.95—63.97 (relating to moneys or securities received, securities pledged and return or sale of moneys or securities). ]

(b) If a nonprofit organization deposits money or securities in connection with an election to make payments in lieu of contributions, it shall file a surety bond or deposit new collateral in connection with any subsequent election.

(c) Money or securities deposited with the Department in connection with an election to make payments in lieu of contributions secures reimbursement of both of the following, together with interest and penalties:

(1) Benefit payments that are based on wages paid during the period of the election, including benefit payments made after the period of the election.

(2) If the money or securities constitute new collateral in accordance with subsection (b), benefit payments that are based on wages paid during the period of the previous election, including benefit payments made after the period of the previous election.

§ 63.95. [ Moneys ] Money or securities received.

(a) [ *Moneys* ] *Money received*. The Department will deposit all [ moneys ] money received with the State Treasurer, Commonwealth of Pennsylvania. Any interest [ thereon ] paid by the State Treasurer on money received from an employer shall accrue to the employer, subject to § 63.97 (relating to return or sale of money or securities).

(b) *Securities received*. Securities received will be deposited with the State Treasurer of the Commonwealth. The securities shall be assigned to the Department and be negotiable by the Department at any time. Interest or dividends accruing thereon shall be the property of the owner of the securities, subject to § 63.97.

§ 63.96a. Conversion to contributory status.

(a) If an employer that elects to make payments in lieu of contributions fails to provide a surety bond, money or securities in accordance with section 1106(d) of the law (43 P. S. § 906(d)) and this subchapter, the employer's election is void.

(b) If an employer that elects to make payments in lieu of contributions provides a surety bond that ceases to be effective during the period of the election, and the employer does not provide a replacement bond for the remainder of the period of the election within 30 days after the Department requests the replacement bond, the Department will terminate the election. The Department will specify the effective date of the termination, which may be retroactive to the first day of the calendar quarter in which the bond ceases to be effective. A termination of an election under this subsection is not governed under section 1107(b) of the law (43 P. S. § 907(b)).

(c) If an employer who elects to make payments in lieu of contributions subsequently becomes a contributory employer, and the employer owes reimbursement for benefit payments, or interest or penalties, the unpaid reimbursement, interest or penalties constitute unpaid contributions, interest or penalties for purposes of section 301(a)(2) of the law (43 P. S. § 781(a)(2)). The date when benefits are paid is used to determine if the unpaid reimbursement, interest or penalties correspond to the period through the second calendar quarter of the preceding calendar year.

(d) If an employer who elects to make payments in lieu of contributions subsequently becomes a contributory employer, the employer remains liable to reimburse the Department for benefit payments

made after the period of the election that are based on wages paid during the period of the election, in addition to the employer's liability for contributions on wages paid after the period of the election.

§ 63.97. Return or sale of [ moneys ] money or securities.

Any deposit of [ moneys ] money or securities received will be held until the organization's liability for payments is terminated. Upon termination of liability the deposit will be returned, minus any amount, including interest and penalty, due the Department. The Department is authorized to sell securities deposited to satisfy any amount due, in which event any interest and increase in value accruing on the securities will be applied to the amount due to the Department. [ All securities pledged to the Department but held in escrow will be released through written advice by the Department upon termination of liability as a reimbursing nonprofit employer, but only if all amounts due have been paid. ]

§ 63.99. Assignment of rate of contribution.

[ A 2% rate will be assigned to employers who elect the reimbursement method of payment and subsequently choose to convert to contributory status. The employer will be treated as a "new or newly covered" employer during the period in which he was in reimbursement status, and this period will not be taken into account for any of the purposes of experience rating. The entry rate of 2% is available only on the occasion of the first conversion from reimbursement to contributory status. Thereafter, the rate of contribution may not be less than the standard rate subject to adjustment under section 301.1 of the Law (43 P. S. § 801.1). ]

If an employer who elects to make payments in lieu of contributions subsequently becomes a contributory employer, the employer's rate of contribution shall be determined in accordance with the following:

(1) Wages paid by the employer during the period of the election, employee contributions paid on those wages, and benefit payments based on those wages are not taken into account for purposes of experience rating.

(2) If the employer was a contributory employer before the period of the election and the employer's reserve account has not been terminated under section 302(d) of the law (43 P. S. § 782(d)), the employer is assigned a rate of contribution in accordance with section 301(a)(1) or 301.1 of the law (43 P. S. § 781(a)(1) and § 781.1)), whichever is applicable.

(3) If the employer was a contributory employer before the period of the election and the employer's reserve account has been terminated under section 302(d) of the law, or the employer was not a contributory employer before the period of the election, the employer is assigned a rate of contribution in accordance with section 301(a)(3) or (4) of the law, whichever is applicable, until the employer is no longer subject to those provisions.

(4) A rate of contribution determined in accordance with paragraph (2) or (3) is subject to any adjustments required under the rate provisions of the law.

(Editor's Note: The following subchapter is new and printed in regular type to enhance readability.)

#### **Subchapter D. PAYMENT BY ELECTRONIC TRANSFER**

Sec.	
63.111.	Definitions.
63.112.	Electronic transfer requirement, waiver and penalty.
63.113.	Voluntary participation.
63.114.	Date of payment.
63.115.	Miscellaneous provisions.

##### **§ 63.111. Definitions.**

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

*ACH—Automated clearing house*—A Federal reserve bank, or an organization established by agreement with the National Automated Clearinghouse Association, which operates as a clearing house for transmitting or receiving entries between financial institutions and financial institution accounts, and which authorizes an electronic transfer of funds between the financial institutions or financial institution accounts.

*ACH credit*—A transaction in which the payer, through its own financial institution, originates an ACH transaction crediting the Department's financial institution account and debiting its own financial institution account for the amount of the payment to the Department.

*ACH debit*—A transaction in which the Department, through its designated depository financial institution, originates an ACH transaction debiting the payer's financial institution account and crediting the Department's financial institution account for the amount of the payment to the Department.

*Card processor*—An entity which provides credit card and debit card payment services on behalf of the Department.

*Credit card*—A device or instrument which entitles the holder to obtain money, goods, services or anything of value on credit and is accepted by the card processor.

*Debit card*—A device or instrument which entitles the holder to obtain and transfer money from an account or accounts with a financial institution and is accepted by the card processor.

*Electronic transfer*—A transfer of funds by ACH credit, ACH debit, credit card or debit card.

##### **§ 63.112. Electronic transfer requirement, waiver and penalty.**

(a) An employer shall make payment for a calendar quarter by electronic transfer if the employer's liability for contributions, interest and penalty for that calendar quarter equals or exceeds \$5,000 and continue to pay by electronic transfer thereafter regardless of whether the liability threshold is reached or exceeded for any subsequent quarter.

(b) An employer that has elected to make payments in lieu of contributions shall make payment for a billing period by electronic transfer if the employer's liability for reimbursement, interest and penalties for that billing period equals or exceeds \$5,000 and continue to pay by electronic transfer thereafter regardless of whether the liability threshold is reached or exceeded for any subsequent billing period.

(c) Upon a showing of good cause, the Department may exempt an employer from the electronic transfer payment requirements of this subchapter.

(d) If an employer subject to the electronic transfer payment requirements of this subchapter makes payment other than as required, the Department will charge a penalty of 10% of the payment, up to a maximum of \$500 with a minimum of \$25 per occurrence. The sums will be collectible in the manner provided in sections 308.1, 308.2, 308.3 and 309 of the law.

##### **§ 63.113. Voluntary participation.**

An employer that is not required to make payments by electronic transfer, and an individual liable for an overpayment of unemployment compensation benefits, may make payments by electronic transfer in accordance with this subchapter.

##### **§ 63.114. Date of payment.**

(a) A payment by ACH debit is made on the earliest date when the following apply:

(1) The Department may exercise the payer's authorization to debit its financial institution account.

(2) The information necessary to process the payment has been received by the Department in the manner prescribed by the Department.

(b) A payment by credit card or debit card is made on the date when the information necessary to effectuate the payment is given to the card processor in a manner prescribed by the card processor.

(c) A payment by ACH credit is made on the date when the payment is received in the Department's financial institution account.

(d) If the date when a payment is made by electronic transfer, as determined under subsections (a)—(c), is delayed as a result of a human error or a technological failure by the Department, the Department's agents or the banking system that is beyond the employer's control, the Department will redetermine the date of payment as if the error or failure had not occurred.

##### **§ 63.115. Miscellaneous provisions.**

(a) Information necessary to effectuate a payment by ACH debit includes the name of the financial institution, the financial institution's routing number and the account number of the account to be debited. Information necessary to effectuate a payment by credit card or debit card shall be determined by the card processor.

(b) If a payment is made by electronic transfer and subsequently the transfer of funds to the Department is rescinded, the liability to which the payment was applied will be reinstated as if the payment was not made.

(c) The Department will provide one or more methods for payers to verify that payments by electronic transfer have been received by the Department.

(d) The Department may provide refunds by ACH credit.

[Pa.B. Doc. No. 10-1682. Filed for public inspection September 10, 2010, 9:00 a.m.]

# STATE REAL ESTATE COMMISSION

[ 49 PA. CODE CH. 35 ]

## Education

The State Real Estate Commission (Commission) proposes to amend §§ 35.201, 35.271—35.273, 35.275, 35.341, 35.359, 35.384 and 35.385 to read as set forth in Annex A.

### A. *Effective Date*

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

### B. *Statutory Authority*

The amendments are proposed under the authority of section 404.1 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.404a).

### C. *Background and Purpose*

In a previous rulemaking published at 34 Pa.B. 6530 (December 11, 2004), the Commission consolidated duplicative prelicensure and continuing education provisions and amended outdated, burdensome and unnecessary provider requirements in §§ 35.203, 35.228, 35.229, 35.271—35.273, 35.275, 35.341—35.363 and 35.381—35.392. Since that time, the Commission has reviewed the effectiveness of its regulations and determined that several provisions require additional amendment. Specifically, the Commission determined that the provider provisions in §§ 35.271—35.273 and 35.275 require additional consolidation; the continuing education provider requirements in §§ 35.352(b), 35.353(a), 35.355, 35.358(a) and 35.359(b) require cross-referencing in § 35.385 (relating to continuing education providers); the transcript/certificate requirements in § 35.359 (relating to course documentation) require amendment; and a required course needs to be added for new licensees in § 35.384(b) (relating to qualifying courses).

As part of its prior amendments, the Commission removed the requirement in § 35.359 that continuing education providers give transcripts or certificates of instruction to attendees because, at the time, a roster of attendees was being provided to the Commission directly by the providers following the courses. The Commission believed that this would eliminate an unnecessary paperwork requirement for providers and assist licensees and the Commission during renewal. However, having completed two renewals applying this method, the Commission determined that the electronic transfer system created additional administrative problems and abandoned electronic transfer in favor of the renewal and audit system used by other licensing boards within the Bureau of Professional and Occupational Affairs.

Another change made in the prior amendments was to eliminate the mandatory course requirement in § 35.384(b) in all but prenotified instances and replace it with all elective courses. As the Commission explained, except for instances when the RELRA or the regulations have been substantively modified or when, in the Commission's view, licensees require specific Commission guidance, the Commission believed that licensees should be able to take continuing education in subjects that directly benefit their practice or interest. The Commission continues to hold this belief generally; however, it believes that new licensees require additional guidance about agency, real estate law and real estate documents

regarding their specific practice area during their first years of practice that is not included in the prelicensure courses. Instead of allowing these new licensees to take elective courses to satisfy their continuing education requirement, the Commission believes that these licensees should take a required 14-hour course designed specifically for new licensees during the first renewal cycle in which they are required to complete continuing education. The Commission discussed this requirement with real estate education providers, its Voluntary Education Advisory Committee, real estate companies and licensees who agree that a required continuing education course for new licensees is beneficial. A course has been developed and is being offered during the 2009-2011 biennial period.

### D. *Description of Proposed Amendments*

#### § 35.201. *Definitions*

The Commission proposes adding a definition for “accredited college” in § 35.201 (relating to definitions) to simplify the educational requirements in Subchapter D (relating to licensing examinations).

#### *Subchapter D. Licensing examinations*

The Commission proposes consolidating the provider requirements in §§ 35.271(b)(iii) and (iv), 35.272(b)(2) and (3), 35.273(b)(2), (3) and (4) and 35.275(b)(2) and (3). In addition, in each of these sections, the Commission proposes cross-referencing the new definition of “accredited college” in § 35.201. Also, the Commission proposes adding the course transcript information currently in §§ 35.271, 35.272 and 35.275 (relating to examination for broker's license; examination for salesperson's license; and examination for rental listing referral agent's license) to § 35.273 (relating to examination for cemetery broker's license).

For each licensure class, the Commission determined that prelicensure education courses shall be taken from one of four sources: an accredited college; a real estate education provider in this Commonwealth; a real estate education provider outside of this Commonwealth that has been approved by the Commission in the jurisdiction where the provider is located; or a real estate industry organization outside of this Commonwealth that has been approved by the Commission in the jurisdiction where the organization is located. In this proposed rulemaking, the Commission consolidated § 35.271(b)(3)(iii) and (iv) and added “industry organizations” to §§ 35.272(b)(3)(iii), 35.273(b)(4)(iii) and 35.275(b)(3)(iii). In addition, the Commission proposes removing redundant language and consolidating the requirements in §§ 35.272(b)(2) and (3), 35.273(b)(2), (3) and (4) and 35.275(b)(2) and (3).

#### § 35.341—*Approval of real estate education provider*

Because real estate education providers can be limited liability corporations and limited liability partnerships as well as corporations, the Commission proposes amending the documentation required to be submitted with a provider application in § 35.341(6)(iv) (relating to approval of real estate education provider) to require a copy of the registration documentation approved by the Department of State's Corporation Bureau.

#### § 35.359—*Course documentation*

The Commission proposes amending the continuing education documentation requirements in § 35.359(b) by removing the electronic transfer requirement and requiring continuing education providers to again provide signed course transcripts/certificates of instruction to

course attendees and instructors. Proposed paragraph (1) institutes a 2-year retention requirement for continuing education documentation. Proposed paragraph (2) imposes an affirmative requirement on licensees to produce the transcripts/certificates verifying completion of the continuing education requirement to the Commission if audited.

§ 35.384—Qualifying courses

§ 35.385—Continuing education providers

The Commission proposes amending § 35.384(b) to require that in addition to required courses mandated by the Commission, licensees complete the Commission developed 14 hour post-licensure education course as satisfaction of the continuing education requirement within the first biennial period in which continuing education is required for new licensees. Additionally, the Commission proposes adding § 35.385(b) to cross reference §§ 35.352(b), 35.353(a), 35.355, 35.358(a) and 35.359(b) pertaining to standards for real estate education providers, because those sections are equally applicable to continuing education providers.

E. Fiscal Impact and Paperwork Requirements

The proposed rulemaking should not have fiscal impact on the Commonwealth, its political subdivisions or the public. The proposed rulemaking will impose a paperwork requirement which may have a slight fiscal impact on the regulated community because the amendments require real estate education providers to provide signed transcripts/certificates of completion to continuing education participants/instructors at the end of each course, and licensees are required to retain this documentation for 2 years following the end of the biennial renewal period for purposes of audit.

F. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing basis. Therefore, a sunset date has not been assigned.

G. Regulatory Review

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 27, 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.

I. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Judith Pachter Schulder, Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, jschulderstate.pa.us within 30 days

of publication of this proposed rulemaking. Reference No. 16A-5613 (Continuing Education) when submitting comments.

JOSEPH TARANTINO, Jr.,  
Chairperson

**Fiscal Note:** 16A-5613. 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 35. STATE REAL ESTATE COMMISSION

Subchapter B. GENERAL PROVISIONS

§ 35.201. Definitions.

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

**Accredited college**—A college, university or institute of higher learning accredited by the Middle States Commission on Higher Education or an equivalent accrediting body.

\* \* \* \* \*

Subchapter D. LICENSING EXAMINATIONS

§ 35.271. Examination for broker's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

\* \* \* \* \*

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

(i) An accredited college [ , university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

\* \* \* \* \*

(iii) A real estate education provider or industry organization outside this Commonwealth, that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion [ shall ] must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[ (iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it. ]

\* \* \* \* \*

§ 35.272. Examination for salesperson's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

\* \* \* \* \*

(2) Credits will be allowed for [ each of the Commission-developed real estate courses—]Real Estate Fundamentals and Real Estate Practice[—when offered by:

(i) An accredited college, university or institution of higher learning located outside this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for ] and all acceptable basic real estate courses when offered by:

(i) An accredited college[ , university or institution of higher learning located outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[ (4) ] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

§ 35.273. Examination for cemetery broker's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(3):

\* \* \* \* \*

(2) Credits will be allowed for [ each of the Commission-developed real estate courses—]Real Estate Fundamentals and Real Estate Practice[—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider approved by the Commission in this Commonwealth.

(3) Credits will be allowed for ], cemetery courses [ when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(4) Credits will be allowed for acceptable ] and all basic real estate courses when offered by:

(i) An accredited college[ , university or institute of higher learning located outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

[ (iii) ] (iv) A cemetery association outside this Commonwealth, if the course taught by the cemetery association is equivalent to a course taught by a real estate [ school ] education provider in this Commonwealth approved by the Commission.

[ (5) ] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

§ 35.275. Examination for rental listing referral agent's license.

\* \* \* \* \*

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

\* \* \* \* \*

(2) Credits will be allowed for [ each of the Commission-developed real estate courses—]Real Estate Fundamentals and Real Estate Practice[—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for ] and all acceptable basic real estate courses when offered by:

(i) An accredited college[ , university or institute of higher learning in this Commonwealth ] as defined in § 35.201 (relating to definitions).

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located. The course transcript or certificate of completion must state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider is located.

[ (4) ] (3) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

\* \* \* \* \*

**Subchapter F. REAL ESTATE EDUCATION PROVIDERS**

**APPROVAL OF REAL ESTATE EDUCATION PROVIDERS**

**§ 35.341. Approval of real estate education provider.**

A real estate education provider shall obtain the Commission's approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the real estate education provider shall:

\* \* \* \* \*

(6) Submit a completed real estate education provider approval application to the Commission with:

\* \* \* \* \*

(iv) A [ certificate of incorporation ] copy of the registration documentation approved by the Department's Corporation Bureau, if the real estate education provider is a corporation, limited liability partnership, limited partnership or limited liability company.

\* \* \* \* \*

**ADMINISTRATION OF REAL ESTATE EDUCATION PROVIDERS**

**§ 35.359. Course [ transcripts ] documentation.**

\* \* \* \* \*

(b) *Continuing education.* [ Effective with the renewal period commencing June 1, 2004, within ] Within 30 days after a continuing education course has ended, the continuing education provider shall provide [ the Commission with a roster in a format approved by the Commission, listing ] each licensee who satisfactorily completed/taught the course[ . Continuing education providers shall be required to issue course ] transcripts/certificates of instruction [ to students only upon request ] that contain the information in § 35.360(a)(5)(i)—(viii) signed by the provider.

(1) Licensees shall retain the transcripts/certificates of instruction for 2 years following the biennial renewal period during which the courses were taken to renew the license.

(2) Licensees shall provide a copy of the transcripts/certificates of instruction to the Commission verifying completion of the continuing education requirement upon request.

**Subchapter H. CONTINUING EDUCATION**

**§ 35.384. Qualifying courses.**

(a) Except as provided in subsection (b), a licensee shall complete 14 hours of continuing education in acceptable courses in a minimum of 2-hour increments. [ A standard license holder shall satisfy the continuing education requirement by doing one of the following: ]

(b) The Commission may, for a given biennial license period and with adequate notice to standard license holders, require that all or part of the 14 hours be completed in required topics. In addition, during the first biennial period that continuing education is required, a new licensee shall complete the Commission-developed 14-hour required course for new licensees in satisfaction of the continuing education requirement.

\* \* \* \* \*

**§ 35.385. Continuing education providers.**

(a) The following providers may offer instruction for continuing education:

(1) An accredited college[ , university of institute of higher learning, whether in this Commonwealth or outside this Commonwealth ] as defined in § 35.201 (relating to definitions).

\* \* \* \* \*

(3) A real estate education provider or industry organization outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider or industry organization is located.

(b) Continuing education providers shall comply with the standards for real estate education providers in §§ 35.352(b), 35.353(a), 35.358(a), 35.355 and 35.359(b).

[Pa.B. Doc. No. 10-1683. Filed for public inspection September 10, 2010, 9:00 a.m.]



# NOTICES

## DEPARTMENT OF AGRICULTURE

### Year 2011 Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$550,000 in grants under its Year 2011 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$15,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are hereby declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

The Department hereby gives notice that although it proposes the Program for year 2011, there is not likely to be a similar program in 2012. Humane societies or associations for the prevention of cruelty to animals are hereby provided notice of this fact and—for budgeting and financial planning purposes—should proceed on the assumption that the Department will not be offering a year-2012 version of the Program or, at best, will be offering a significantly scaled-back version of the Program.

In fulfillment of 7 Pa. Code § 23.4 (relating to guidelines and conditions), the Department invites public and legislative review of the proposed guidelines and conditions set forth as follows. Commentators should submit their comments, in writing, so they are received by the Department no later than October 11, 2010—30 days from the date the proposed guidelines and conditions are published in the *Pennsylvania Bulletin*. Comments should be directed to Sue West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

The Department will review and consider all written comments in preparing the final guidelines and conditions for the Program. The final guidelines and conditions for the Program will be published in the *Pennsylvania Bulletin* after the close of the comment period referenced. The Department will invite the submission of grant applications at that time.

The proposed guidelines and conditions for the Program are as follows.

#### Proposed Guidelines and Conditions for the Year 2011 Dog Control Facility Bill Reimbursement Grant Program

##### 1. *Definitions.*

The following words and terms, when used in these guidelines and conditions, have the following meanings:

*Department*—The Department of Agriculture.

*Dog control*—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

*Eligible Bill*—A document seeking payment for materials, services (other than veterinary services and spaying/neutering services) or utilities from a grant recipient, setting forth the following:

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers, computer equipment or software. Examples of eligible materials include the following:
  - Cleaning supplies;
  - Office supplies—typical supplies used to carry on daily office duties;
  - Materials for building and repair projects; and
  - Purchases of medication, needles, and the like.
- iv. If for services, the services must be other than veterinary services or spaying/neutering services, and shall include a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:
  - Labor charges with respect to which the invoice details the exact service performed and the date of performance;
  - Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.
  - Exterminator services with respect to which the invoice identifies the date of the service and identifies location of the service.
  - Property, casualty and liability insurance services (excluding workers compensation insurance).

v. If for utilities (such as electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.

vi. The name, address and telephone number of the entity issuing the invoice or receipt.

*Humane society or association for the prevention of cruelty to animals* (SPCA)—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

*Program*—The Year 2011 Dog Control Facility Bill Reimbursement Program.

##### 2. *Eligibility.*

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

a. Has been in operation for at least 1 year immediately preceding the application date.

b. Has performed dog control functions for at least 1 year immediately preceding the application date.

c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.

d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2011.

e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2011.

f. Agrees—as a condition of receiving any grant money under the Program—to accept stray or unwanted dogs as described in the preceding paragraph without regard to whether the stray or unwanted dog originates from a county other than the county in which the humane society or association for the prevention of cruelty to animals is located.

g. Has a valid Pennsylvania 2011 "Non Profit" kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.

h. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2011 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2011, the maximum grant amount will not exceed \$15,000.

i. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2011 calendar year or, if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2011, the maximum grant amount will not exceed \$10,000.

### 3. Use of Grant Funds.

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$15,000 with respect to any application.

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2011, through December 31, 2011. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2011, or after December 31, 2011, that bill is not an eligible bill and will not be reimbursed by the Department under the Program.

### 4. Application Process.

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request, or the application may be downloaded from the Department's web site: [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us).

Requests for application forms should be directed to Susan West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

i. The name and address of the applicant.

ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.

iii. The maximum grant amount sought by the applicant—not to exceed \$15,000 (or \$10,000, if Paragraph 2(i) is applicable).

iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2010 for the same type of materials, services (other than veterinary services and spaying/neutering services) or utilities for which reimbursement will be sought under the grant agreement.

v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities, and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2011.

vi. Other information as the Department might reasonably require.

### 5. Review and approval of grant application.

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 30 days from the date the Bureau of Dog Law Enforcement receives the grant application, to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant within 30 days from the date it receives the grant application.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

i. The number of applications received and the availability of funds for the grants sought.

ii. The relative contribution of the applicant to dog control activities in the area it serves.

iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.

iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.

v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.

vi. The relative contribution of the applicant in terms of the number of stay or unwanted dogs it accepts from the Department's State Dog Wardens performing dog control functions.

6. *Grant agreement.*

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions pursuant to which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By July 15, 2011, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1,

2011, and June 30, 2011; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 6-month period.

By January 15, 2012, the grant recipient will: (1) deliver copies of the eligible bills it has paid between July 1, 2011, and December 31, 2011; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 6-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 60 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

RUSSELL C. REDDING,  
*Secretary*

[Pa.B. Doc. No. 10-1684. Filed for public inspection September 10, 2010, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 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 24, 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

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-19-2010	Community First Bank Reynoldsville Jefferson County	601 Main Street Clarion Clarion County	Approved
8-20-2010	CNB Bank Clearfield Clearfield County	Mountain View Shopping Center 111 Rolling Stone Road Kylertown Clearfield County	Approved
8-20-2010	Somerset Trust Company Somerset Somerset County	228 West Main Street Ligonier Westmoreland County	Approved
8-20-2010	Susquehanna Bank Lititz Lancaster County	900 Kenilworth Drive Towson Baltimore County, MD	Approved

**Branch Relocations**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-16-2010	Northwest Savings Bank Warren Warren County	<i>To:</i> 850 Pittsburgh Avenue Erie Erie County  <i>From:</i> 2256 West 8th Street Erie Erie County	Effective

**Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-20-2010	Orrstown Bank Shippensburg Cumberland County	201 South Cleveland Avenue Hagerstown Washington County, MD	Approved
8-20-2010	Susquehanna Bank Lititz Lancaster County	806 Dulaney Valley Road Towson Baltimore County, MD	Approved

**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. 10-1685. Filed for public inspection September 10, 2010, 9:00 a.m.]

**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 31, 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****Section 112 Acquisitions**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
8-25-2010	George W. Connell Revocable Trust  Application for approval to acquire 100% of the common stock of Drexel Morgan & Co., Radnor, the parent financial holding company of The Haverford Trust Company, Radnor.	Filed

**Branch Applications****De Novo Branches**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-25-2010	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	1071 Baltimore Pike Glen Mills Delaware County	Filed
8-30-2010	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	475 Ben Franklin Road South Indiana Indiana County	Filed

**Articles of Amendment**

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
8-30-2010	Standard Bank, PaSB Murrysville Westmoreland County	Filed

Articles of Amendment provide for the institution's Articles of Incorporation to be amended and restated in their entirety to: (i) provide that a liquidation account be established in Standard Bank, PaSB (Standard Bank) for certain depositors of Standard Bank in connection with the conversion (the Conversion) of Standard Mutual Holding Company, the current mutual holding company for Standard Bank, from the mutual to the stock form of organization; (ii) to prohibit any person or entity other than Standard Financial Corp., the Maryland corporation that will become the new holding company for Standard Bank upon completion of the Conversion, from acquiring beneficial ownership of over 10% of Standard Bank for a period of 5 years following the Conversion; and (iii) to remove from Standard Bank's Articles of Incorporation information relating to the incorporators and the first directors of Standard Bank.

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Branch Applications****Branch Discontinuances**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
8-31-2010	Viriva Community Credit Union Warminster Bucks County	205 West Germantown Pike Norristown Montgomery County	Closed

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. 10-1686. Filed for public inspection September 10, 2010, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION****Applications, Actions and Special Notices****APPLICATIONS**


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

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

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PAS232210 (Storm Water)	Consolidated Container Company Allentown 6831 Ruppsville Road Allentown, PA 18106	Lehigh County Upper Macungie Township	Tributary to Iron Run 2-C	Y

*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>
PA0088269 (Sew)	Quincy Township Sewer Authority 7575 Mentzer Gap Road Waynesboro, PA 17268	Franklin County Quincy Township	West Branch Antietam Creek 13-C	Y
PA0247839 (Sew)	King's River Haven Mobile Home Park and Campsite 2379 River Road Bainbridge, PA 17502	Lancaster County Conoy Township	Snitz Creek 7-G	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0239682	Philip Nastasi 160 Pleasant Valley Road Portersville, PA 16051	Butler County Muddycreek Township	Unnamed Tributary of Muddy Creek 20-C	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.*

**PA0058939**, Industrial Waste, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This facility is located in Schuylkill Township, **Chester County**.

Description of Activity: Renewal of NPDES permit for the discharge of stormwater from a Ready-Mix Concrete Batch Plant property. This property is located at Route 23, Schuylkill Road at Pickering Valley Road, Phoenixville, PA 19460. This is an existing discharge.

The receiving stream, unnamed tributary to French Creek (PA stream code 1550), is in the State Water Plan Watershed 3D and is classified for: TSF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Philadelphia Suburban Water Company—Pickering Creek Plant is located on the Schuylkill River. This discharge is not expected to impact the water supply.

The proposed effluent limits for Outfalls 001 and 002 are based on a stormwater discharge.

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum mg/l
	Average Monthly	Maximum Daily	Average Annual	Maximum Daily	
Total Suspended Solids			50	100	100
pH	Within 6.0 and 9.0 Standard Units				
Oil and Grease			Monitor	Monitor	

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

1. Remedial Measures Required if Public Nuisance.
2. Small Stream Discharge.
3. BAT/BCT Standards.
4. Transfer of Ownership.
5. Proper Disposal of Solids.
6. TMDL/WLA Analysis is Necessary.
7. Requirements Applicable to Stormwater Discharge/ Best Management Practices.
8. Certified Laboratory.

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

**PA0064041**, Industrial Waste, SIC Code 3462, **Lehigh Heavy Forge Corp.**, 1275 Daly Avenue, Bethlehem, PA 18015. Facility Name: Lehigh Heavy Forge Corp. This proposed facility is located in Bethlehem City, **Northampton County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated Industrial Waste.

The receiving stream(s), Lehigh River, is located in State Water Plan watershed and 2-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, 005, 007, 108 and 304. Stormwater.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
CBOD <sub>5</sub>	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Total Iron	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 104 are based on a design flow of 0.0085 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15	XXX	30
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0

The proposed effluent limits for Outfall 202 are based on a design flow of 0.0175 MGD.

Parameters	Mass (lb/day)			Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0

The proposed effluent limits for Outfall 204 are based on a design flow of 0.0085 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	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0

The proposed effluent limits for Outfall 208 are based on a design flow of 0.245 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	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0

The proposed effluent limits for Outfall 308 are based on a design flow of 0.245 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0

The proposed effluent limits for Outfall 402 are based on a design flow of 0.0175 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	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0

The proposed effluent limits for Outfall 408 are based on a design flow of 0.245 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	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Dissolved Iron	XXX	XXX	XXX	XXX	XXX	7.0

In addition, the permit contains the following major special conditions:

- Stormwater

You may make an appointment to review the Department of Environmental Protection's files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA waiver is in effect.

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

**PA0021792**, Sewage, SIC Code 4952, **Edinboro Borough Municipal Authority Erie County**, 124 Meadville Street, Edinboro, PA 16412-2502. Facility Name: Edinboro Borough Municipal Authority STP. This existing facility is located in Edinboro Borough, **Erie 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, Conneauttee Creek, is located in State Water Plan watershed 16-A and is classified for trout stocking 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 1.8 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>			<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	4	XXX	XXX	XXX
Total Residual Chlorine	XXX	XXX	XXX	0.24	XXX	0.77



Parameters	Mass (lb/day)		Minimum	Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
CBOD <sub>5</sub>						
May 1 - Oct 31	150	225	XXX	10	15	20
Nov 1 - Apr 30	375	600	XXX	20	30	40
Total Suspended Solids	450	676	XXX	30	45	60
Fecal Coliform (CFU/100 ml)				200		
May 1 - Sep 30				Geometric Mean	XXX	XXX
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geometric Mean	XXX	XXX
Ammonia-Nitrogen						
May 1 - Oct 31	30	XXX	XXX	2	XXX	4
Nov 1 - Apr 30	90	XXX	XXX	6	XXX	12

In addition, the permit contains the following major special conditions:

- Whole Effluent Toxicity testing for the renewal permit.
- Stormwater Best Management Practices.
- Total Residual Chlorine minimization.

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.

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

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

**WQM Permit No. 2110406**, Sewerage, **Silver Spring Township Authority**, P. O. Box 1001, New Kingstown, PA 17072. This proposed facility is located in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Seeking permit approval for the Lambs Gap Forcemain and Pump Station Upgrade.

**WQM Permit No. 6797407, Amendment 10-1**, Sewerage, **Jackson Township Municipal Authority**, 439 Roth's Chruch Road, Spring Grove, PA 17362. This proposed facility is located in Jackson Township, **York County**.

Description of Proposed Action/Activity: Seeking permit approval to modify the existing treatment by adding a second sludge storage tank/aeration basin. This addition to the existing plant will provide operational flexibility and efficiency. The proposed tank is a 131,000 gallon Aquastore steel, glass-lined tank. Dimensions of the tank are 41.96' diameter with a 14.58' sidewall height; no cover is proposed. Aeration and mixing will be provided by a positive displacement blower package constructed adjacent to the tank, and air introduced into the tank through a fine bubble diffuser rack system.

**WQM Permit No. 3604201, Amendment 10-1**, Industrial Waste, **Frey Brothers, Inc.**, 372 Puseyville Road, Quarryville, PA 17566. This proposed facility is located in East Drumore Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit amendment to include monitoring well requirements in their existing Part II permit.

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

**WQM Permit No. 1110410**, 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.

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1505034-R	Archdiocese of Philadelphia— Saint Peter Church 1080 North Manor Road Honeybrook, PA 19344-9610	Chester	West Brandywine Township	Beaver Creek CWF-MF
PAI01 511005	Congreso deLatinos Unidos 216 West Somerset Street Philadelphia, PA 19133	Philadelphia	City of Philadelphia	Delaware River/Delaware Direct WWF
PAI01 511006	The Hankin Group 707 Eagleview Boulevard P. O. Box 562 Exton, PA 19341	Philadelphia	City of Philadelphia	Schuylkill River WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q200R(2)	Mark Feiertag P. O. Box 38 Macungie, PA 18062	Lehigh County	Upper Milford Township	Little Lehigh Creek HQ-CWF, MF
PAS10S124R	Briland Development, LLC 8 Abeel Road East Stroudsburg, PA 18301	Monroe County	Pocono Township	Pocono Creek HQ-CWF, MF Cranberry Creek HQ-CWF, MF

*Wayne County Conservation District: Agricultural Service Center, 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>
PAI026409007(1)	Central Wayne Regional Authority 100 Fourth Street Suite 8 Honesdale, PA 18431	Wayne County	Honesdale Borough	Lackawaxen River HQ-TSF, MF WB Lackawaxen River HQ-TSF, MF UNT Lackawaxen River HQ-CWF, MF Dyberry Creek HQ-CWF, MF

*Pike Conservation District: 556 Route 402, Suite 1, Hawley, PA 18428.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025210007	Sean Finan Finan Family Irrevocable Trust 830 Twin Lakes Road Shohola, PA 18458	Pike County	Shohola Township	Walker Lake Creek HQ-CWF, MF UNT to Walker Lake Creek HQ-CWF, MF Twin Lakes Creek HQ-CWF, MF UNT to Twin Lakes Creek HQ-CWF, MF Delaware River WWF, MF UNT to Delaware River HQ-CWF, MF Shohola Creek HQ-CWF, MF UNT to Shohola Creek HQ-CWF, MF

Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701.  
 Clearfield County Conservation District: 650 Leonard Street, Clearfield, PA 16830, (814) 765-2629.

**NPDES**

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041710002	American Towers, Inc. c/o Jared Morley 10 Presidential Way Woburn, MA 01810	Clearfield	Union Township	Blanchard Run, Montgomery Run and Anderson Creek HQ-CWF, MF

Northumberland County Conservation District: R. R. 3, Box 238-C, Sunbury, PA 17801, (570) 286-7114, Ext. 4.

**NPDES**

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI044910001	Milton Regional Sewer Authority 5585 South PA Route 405 P. O. Box 433 Milton, PA 17847	Northumberland	West Chillisquaque Township Milton Borough	West Branch Susquehanna River WWF

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

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

**PUBLIC WATER SUPPLY (PWS)  
 PERMIT**

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

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

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

<b>Application No. 6610501</b> , Public Water Supply.
Applicant <b>Aqua Pennsylvania, Inc.</b> (Factoryville Water System) 1 Aqua Way White Haven, PA
Township or Borough <b>Factoryville Borough Wyoming County</b>
Responsible Official <b>Patrick R. Burke</b>
Type of Facility <b>Public Water System</b>
Consulting Engineer <b>CET Engineering Services 1240 North Mountain Road Harrisburg, PA</b>
Application Received Date <b>8/6/10</b>
Description of Action <b>The installation of a manganese dioxide pressure filter to remove hydrogen sulfide from the well water.</b>

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

<b>Permit No. 0610509</b> , Public Water Supply.
Applicant <b>Cornell Companies, d/b/a Abraxas Academy</b>
Municipality <b>New Morgan Borough</b>
County <b>Berks</b>
Responsible Official <b>Michael D. Sweeney Business Manager 1000 Academy Drive P. O. Box 645 Morgantown, PA 19543-0645</b>
Type of Facility <b>Public Water Supply</b>
Consulting Engineer <b>Charles A. Kehew II, P. E. James R. Holley &amp; Assoc., Inc. 18 South George Street York, PA 17401</b>
Application Received: <b>6/14/2010</b>

Description of Action Project consist of addition of an blended orthopolyphosphate for general corrosion control. Also included are improvements to insure the system provides 4-log treatment of viruses.

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

**Application No. 2510503, Public Water Supply.**

Applicant **Millfair Heights Association**  
 Township or Borough Millcreek Township  
**Erie County**  
 Responsible Official William J. Stephens II, President  
 Consulting Engineer Chapin S. Storrar, P. E.  
 Deiss & Halmi Engineering, Inc.  
 105 Meadville Street  
 Edinboro, PA 16412  
 Application Received Date 08/25/2010

Description of Action Reconfigure PWS System at the Deerfield Well and update system at West 52nd Well to add disinfection, sequestration for manganese, gravity storage and distribution pumps to serve the subdivision.

**MINOR AMENDMENT**

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

**Application No. 4810505MA, Minor Amendment.**

Applicant **Pennsylvania American Water Co.**  
 (West Bangor System)  
 800 West Hersheypark Drive  
 Hershey, PA  
 Township or Borough Plainfield Township  
**Northampton County**  
 Responsible Official David Kaufman  
 Type of Facility Public Water System  
 Consulting Engineer James P. Connor, P. E.  
 Pennsylvania American Water Co.  
 Application Received Date 8/13/10  
 Description of Action The modification of disinfection facilities serving several wells to meet the groundwater rule.

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

**Application No. 0410510GWR, Minor Amendment.**

Applicant **Municipal Water Authority of Aliquippa**  
 160 Hopewell Avenue  
 Aliquippa, PA 15001  
 Township or Borough City of Aliquippa

Responsible Official Dennis Bires, Superintendent  
 Municipal Water Authority of Aliquippa  
 160 Hopewell Avenue  
 Aliquippa, PA 15001

Type of Facility Water treatment plant

Consulting Engineer Widmer Engineering, Inc.  
 806 Lincoln Place  
 Beaver Falls, PA 15010

Application Received Date August 25, 2010

Description of Action Demonstration of 4-log removal of viruses for groundwater sources.

**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.*

**Spaz Beverage Company**, West Goshen Township, **Chester County**. Jessica L. Fox, Vertex Environmental Services, 400 Libbey Parkway, Weymouth, MA 02189 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of inorganic. The intended future use of the property is residential.

**Sunoco Twin Oaks Terminal 0234 3267**, Upper Chichester Township, **Delaware County**. Michael Sarchinello, Aquarterra Technologies, Inc., P. O. Box 144, West Chester, PA 19381, William Brochu, Sunoco, Inc., (R & M) P. O. Box 4209, Concord, NH 03302-4209 on behalf of Gus Borkland, Sunoco Logistics, LP, 1818 Market Street, Suite 1500, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of leaded gasoline. The future use of the site will remain the same.

**One Bala Plaza**, Lower Merion Township, **Montgomery County**. Jeffrey K. Walsh, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19460, Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of James Rementer, Bala Plaza Property, Inc., 231 Saint Asaph's Road, Bala Cynwyd, PA 19004 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of No. 2 fuel oil. The future use of the property will continue to be non-residential for use as commercial office space.

**Chelsea Pipeline Station & Tank Farm**, Upper Chichester Township, **Delaware County**. Jeff W. Brudereck, GES, 440 Creamery Way, Exton, PA 19341, Katherine Schenderlein, Buckeye Pipe Line Company, 9999 Hamilton Boulevard, TEK Park 5, Breinigsville, PA 18031 on behalf of Deborah LaMond, ConocoPhillips, 1400 Park Avenue, Room DT-254, Linden, NJ 07036 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of unleaded gasoline. The intended use of the properties impacted are as a pipe line station and tank farm, and a public road respectively, for the foreseeable future.

**Sunoco Pipeline Twin Oaks Pump Station**, Upper Chichester Township, **Delaware County**. Tiffani Doerr, Aquarterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Gus Borkland, Sunoco Logistics, LP, 1735 Market Street, Suite LL, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of unleaded gasoline. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Times* on January 11, 2010.

**Lonza, Inc.**, Upper Merion Township, **Montgomery County**. Michael Gonshor, Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Deptford, NJ 08066, on behalf of Paul Sieracki, Lonza America, Inc., 90 Boroline Road, Allendale, NJ 07401 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of inorganic. The current and anticipated future use of the property is nonresidential pharmaceutical and specialty chemical manufacturing.

**Park N. Dry Cleaners**, City of Philadelphia, **Philadelphia County**. David B. Farrington, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, Victoria M. Ryan, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Refael & Eli Nachmani, Imports Realty, LLC, 911 Montgomery Avenue, Penn Valley, PA 19072 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of chlorinated solvents. The future use of the site will be as part of an automobile dealership.

**Richards Apex, Inc.**, City of Philadelphia, **Philadelphia County**. Douglas Schott, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382, Christina Ruble, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of David Richards, Richards Apex, Inc., 4202-4224 Main Street, Philadelphia, PA 19127 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of inorganic. The future use of the site will remain the same.

**Atkinson Residence**, Morrisville Borough, **Bucks County**. Thomas Hippensteal, Envirosearch Consultants, Inc., P. O. Box 940, Springhouse, PA 19477 on behalf of Mr. and Ms. Christian Atkinson, 679 Hillcrest Avenue, Morrisville, PA 19067 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.

**2800 North American Street**, City of Philadelphia, **Philadelphia County**. Michelle Flowers, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142, Mark Kuczynski, REPSG, 6901 Kingessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Stephanie Hernandez, Congreso de Latinos Unidos, Inc., 2800 North American Street, Philadelphia, PA 19133 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted with the release of other organics. The future use of the land will be a multi use education and training facility.

**1104 Greentree Lane**, Lower Merion, **Montgomery County**. Michael S. Welsh, Welsh Environmental, Inc., 131 Clearview Drive, Downingtown, PA 19335, Staci Cottone, J & J Spill Service and Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422 on behalf of Bruce Lev, 1104 Greentree Lane, Narberth, PA 19072 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with the release of unleaded gasoline. The intended use of the property is residential.

*Northeast Region: Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Pocono MHP-Lot 29**, 740 Jumper Road, Plains Township, **Luzerne County**. David Fife and Daniel Nealon, Quad Three Group, Inc., 72 Glenmaura National Boulevard, Moosic, PA 18507 have submitted a Notice of Intent to Remediate (on behalf of their client, Property Management, Inc., 1300 Market Street, Suite 201, Lemoyne, PA

17043-1420), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a slow leak in the copper line fitting at the base of a 275-gallon aboveground storage tank. The applicant proposes to remediate the site to meet the residential Statewide Health Standard for soil. The proposed future use of the property will be residential. A summary of the Notice of Intent to Remediate was published in *The Times Leader* on August 26, 2010.

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

**Lancaster Literary Guild Property**, Lancaster City, **Lancaster County**. Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of Elizabeth Hurley, 113 North Lime Street, Lancaster, PA 17603, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil released from a ruptured aboveground storage tank. The site will be remediated to a Residential Statewide Health Standard and will remain residential/light commercial.

**Stoner Business Center**, Quarryville Borough, **Lancaster County**. Earth Data Northeast, Inc., Whiteland Technology Center, 924 Springdale Drive, Exton, PA 19341, on behalf of Robert Ecklin, Stoner Solutions, Inc., 1070 Robert Fulton Highway, Quarryville, PA 17556, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with VOCs and Chlorinated Solvents. The site, which was a former ink company that had been destroyed by fire, will be remediated to a combination of Statewide Health and Site-Specific Standards. Current and future use is a commercial business center.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

**Applications received or withdrawn under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

#### *Renewal Applications Received*

**Med-Flex, Inc.**, P. O. Box 357, Hainesport, NJ 08036. License No. PA-HC 0207. Received on June 29, 2010.

**Environmental Transport Group, Inc.**, P. O. Box 296, Flanders, NJ 07836-0296. License No. PA-HC0023. Received on August 16, 2010.

**Cole Care, Inc.**, 1001 East Second Street, Coudersport, PA 16915-8161. License No. PA-HC0178. Received on August 17, 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.**

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

**09-0059A: Saint Mary Medical Center** (1201 Langhorne-Newtown Road, Langhorne, PA 19047) for installation of one (1) 1,000 kW internal combustion generator used for Peak Shaving and emergency use, at their facility in Middletown Township, **Bucks County**. Saint Mary Medical Center is a Synthetic Minor facility, operating under SMOP 09-00059. The Plan Approval will contain monitoring, recordkeeping and operating restrictions designed to minimize emissions and 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.*

**39-399-067: Buckeye Pipeline Co., LP** (5 TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in Lower Macungie Township, **Lehigh County**.

**40-399-067: Transcontinental Gas Pipeline Co., LLC** (P. O. Box 1396, Houston, TX 77251-1396) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in Buck Township, **Luzerne County**.

**48-399-067: PPL Martins Creek, LLC** (2 North Ninth Street, Allentown, PA 18101-1179) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in Lower Mt Bethel Township, **Northampton County**.

**48-399-068: RRI Energy Mid-Atlantic Power Holdings, LLC** (121 Champion Way, Suite 200, Canonsburg, PA 15317-7625) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in Lower Mt. Bethel Township, **Northampton County**.

**48-399-066: Keystone Cement Co.** (P. O. Box A, Bath, PA 18067-0058) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in East Allen Township, **Northampton County**.

**54-399-047: Northeastern Power Co.** (P. O. Box 7, McAdoo, PA 18237) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in Kline Township, **Schuylkill County**.

**54-399-046: Gilberton Power Co.** (50 Eleanor Avenue, Frackville, PA 17931) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in West Mahanoy Township, **Schuylkill County**.

**66-399-009: Procter and Gamble Paper Products Co.** (P. O. Box 32, Mehoopany, PA 18629-0032) for the case-by-case boiler MACT determination, 40 CFR 63, Subpart DDDDD, at their site in Washington Township, **Wyoming County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**20-305A: Crawford Renewable Energy, LLC** (Keystone Regional Industrial Park, Greenwood Township, PA 16335) for construction of a tire-derived-fuel fired power generation facility that is designed to generate up to 100 MW gross, 90 MW net of electrical power using circulating fluidized bed boiler technology in Greenwood Township, **Crawford County**. This is a Title V facility.

**25-029B: Erie Coke Corp.** (925 East Bay Drive, Erie, PA 16507) for the post construction of a 1.1 MW diesel fuel-fired emergency generator (EGen). This generator will be used to provide power to the facility during periods of utility power outages. This facility is located in the City of Erie, **Erie County**.

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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.*

**38-0.03058A: Lebanon Industries** (3000 State Drive, Lebanon, PA 17042) for installation of an aluminum sweat furnace equipped with an afterburner at their vacant Alcoa building in South Lebanon Township, **Lebanon County**. The furnace and afterburner will be fired on waste derived liquid fuels (WDLF). The plan approval will include emissions limits, monitoring, recordkeeping, reporting and work practice standards 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.*

**49-00064A: Milton Regional Sewer Authority** (P. O. Box 433, 5585 SR 405, Milton, PA 17847-0433) for construction of waste water to energy plant that consists of an anaerobic digestion system, a biogas conditioning system, an 881 bhp/633 kW GE/Jenbacher engine/generator set and an 1,175 bhp/848 kW GE/Jenbacher engine/generator set each equipped with oxidation catalysts, an Andritz biosolids dryer, a biosolids dryer dry product handling system each equipped with wet scrubbers, and an enclosed flare in **Northumberland County**. The proposed waste water to energy system is intended to provide electricity for the Milton Regional Sewer Authority treatment plant and heat for the biosolids dryer within the treatment plant.

The Department of Environmental Protection's (Department) review of the information submitted by Milton Regional Sewer Authority indicates that the air contamination sources to be constructed will comply with all regulatory 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 control devices associated with the engine/generator sets, biosolids dryer and biosolids dryer dry product handling system will not exceed on a 12-consecutive month period (CMP) basis; 11.91 tons of nitrogen oxides, 3.59 tons of carbon monoxide, 1.40 tons of volatile organic compounds, 2.32 tons of sulfur oxides, 6.52 tons of total particulate matter. Additionally, total formaldehyde emissions will not exceed 0.79 ton in any 12 CMP. To demonstrate compliance with the emissions limitations, Milton Regional Sewer Authority is required to conduct EPA reference method testing on the exhausts of the control devices associated with the waste water to energy plant for nitrogen oxides, carbon monoxide, sulfur oxides, volatile organic compounds, formaldehyde and particulate matter emission limitations as stated as follows:

nitrogen oxides—0.60 g/BHP-hr  
carbon monoxide—0.18 g/BHP-hr  
volatile organic compounds—0.07 g/BHP-hr  
sulfur oxides—0.12 g/BHP-hr  
formaldehyde—0.04 g/BHP-hr  
particulate matter: 0.90 lb/hr (Source ID P201/C201)  
0.59 lb/hr (Source ID P301/C301)

In addition to the emission limitations previously-listed, the following is a summary of the types of conditions the Department intends to place in the Plan Approval to ensure compliance applicable Federal and State regulatory requirements including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Work practice requirements to construct and operate the anaerobic digesters, biogas conditioning system, engine/generators, biosolids dryer, biosolids dryer dry product handling system, and the enclosed flare in accordance with the manufacturer's recommendations and good air pollution control practices.

Recordkeeping and Reporting conditions to verify compliance with the emission limitations and all applicable requirements.

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 shall 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, 570-327-0512 within 30 days of the publication date for this notice.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**10-265B: Iron Mountain—The Underground** (P. O. Box 6, Boyers, PA 16020) for 13 existing emergency generators at their facility in Cherry Township, **Butler County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 10-265B to Iron Mountain for 13 existing emergency generators at their facility located at 1137 Branchton Road, Boyers, PA 16020, Cherry Township, Butler County. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 10-265B is for the 13 existing diesel fired emergency generators, ranging from 168 to 2,346 BHP. Based on the information provided by the applicant and the Department's own analysis, the subject sources will have the potential to emit approximately 22.36 tons of nitrogen oxides, 3.79 tons of carbon monoxide, 0.72 ton of volatile organic compounds (VOCs), 0.31 ton of particulate matter, 0.29 ton of which will be particulate matter less than 10 microns (PM<sub>10</sub>), 0.46 ton of sulfur oxides and 0.01 ton of total Hazardous Air Pollutants (HAP) per year.

The Plan Approval will contain additional fuel and operating hours restrictions, and testing, monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements. Portions of the facility will also be subject to the requirements of New Source Performance Standards, 40 CFR Part 60, Subpart IIII, for Stationary Compression Ignition Internal Combustion Engines.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays

at the address shown. To make an appointment, contact Records Management at 814-332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 10-265B.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

**42-1580: TIN, Inc.—Temple Inland—Mt. Jewett Complex** (P. O. Box 369, Thomson, GA 30824) to increase in permitted hours of operation of an existing log chipper and engine and the use of polymeric diphenylmethane diisocyanate resin (pMDI) in the existing MDF press operation at their facility in Mt. Jewett Borough, **McKean County**. This is a Title V facility.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 42-1580 to TIN, Inc. for the increase in permitted hours of operation of an existing log chipper and engine and the use of polymeric diphenylmethane diisocyanate resin (pMDI) in the existing MDF press operation at the company's Temple Inland Mt. Jewett Complex facility located at R. R. 1, Hutchins Road, Mt. Jewett, PA 16740, Mt. Jewett Borough, McKean County. The facility currently has a Title V permit No. 42-00158. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 42-1580 is for the increase in permitted hours of operation of the existing log chipper and engine (Source ID 218M) and the use of polymeric diphenylmethane diisocyanate resin (pMDI) in the existing MDF press operation (Source ID 124M). Based on the information provided by the applicant and the Department's own analysis, the proposed modifications will result in a potential emissions increase of 8.8 tons of nitrogen oxides (NO<sub>x</sub>), 2.04 tons of carbon monoxide, 0.59 ton of particulate matter, 0.56 ton of which will be particulate matter less than 10 microns (PM-10), 0.56 ton of volatile organic compounds (VOC), 0.01 ton of sulfur oxides (SO<sub>x</sub>), and 0.1 ton of polymeric diphenylmethane diisocyanate (pMDI) per year.

The Plan Approval will contain additional testing, monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements. The affected sources



will additionally be subject to 40 CFR 63, Subpart DDDD, the applicable requirements of which are contained in the Plan Approval.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at 814-332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 42-1580.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, 814-332-6940.

#### 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.**

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**55-00002: Department of Public Welfare** (P. O. Box 500, 1000 U.S. Highway 522, Selinsgrove, PA 17870-8707) for renewal of a Title V Operating Permit at the Selinsgrove Center in Penn Township, **Snyder County**. The facility is currently operating under Title V Operating Permit 55-00002, issued February 23, 2006. The facility's main sources include three coal-fired, boilers that supply domestic steam to the campus buildings at the facility. The facility has the potential to emit major quantities of sulfur dioxide emissions. The proposed Title V operating permit contains monitoring, recordkeeping, and reporting conditions to ensure compliance with applicable Federal and State regulations.

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

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

**46-00234: Conshohocken Steel Products, Inc.** (301 Randolph Avenue, Ambler, PA 19002) for operation of their facility in Upper Dublin Township, **Montgomery County**. This action is a renewal of the permit for a non-Title V (Synthetic Minor) facility. The facility is a Synthetic Minor for VOC. Site-wide emissions of VOC are restricted to 19.5 tons per 12-month rolling period. The facility is a manufacturer of roll-off containers/dumpsters. Under the current operating permit, the facility has been utilizing one spray booth to spray paint containers/dumpsters, along with manually brushing some materials outside the spray booth. Under a Request for Determination, the facility has also added two additional water-based spray paint booths to their operation. These two water-based spray paint booths shall be included in the permit renewal. The operating permit will continue to include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**15-00111: Safety-Kleen Systems, Inc.** (1140—1142 Green Hill Road, West Chester, PA 19380) for operation of a drum washing and solvent recovery facility in West Goshen Township, **Chester County**. This action is an operating permit renewal for a non-Title V (State-only) facility. The major sources of air emissions are four washing/fill stations and four volatile organic liquid storage tanks. The renewal 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.*

**39-00085: Victaulic Co. of America, Inc.** (4901 Kesslerville Road, Easton, PA 18045) for a valve and pipe fitting manufacturing plant in the City of Allentown, **Lehigh County**. The facility's main sources of emissions include four spray paint booths. The facility has the potential to emit Volatile Organic Compounds (VOCs) above Title V thresholds and is taking limits on VOC emissions to maintain Synthetic Minor status. 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 also included.

*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.*

**22-05051: The Hershey Co.** (19 East Chocolate Avenue, Hershey, PA 17033) for operation of their chocolate candy manufacturing facility in Derry Township, **Dauphin County**. The facility is a non-Title V (State-only) facility that is subject to 40 CFR Part 60, Subparts Dc (relating to standards of performance for combustion units). The State-only operating permit contains emission restrictions, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**06-05008: SFS Intec, Inc.** (P. O. Box 6326, Wyomissing, PA 19610) for operation of a fastener manufacturing facility in Wyomissing Borough, **Berks County**. The facility is a non-Title V (State-only) facility. The permit will include emission restrictions, monitoring, work prac-

tices, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements. This is a renewal of the facility's State-only operating permit issued in 2005.

**7-03038: Amerway, Inc.** (3701 Beale Avenue, Altoona, PA 16601) for their smelting operation in the City of Altoona, **Blair County**. This is a renewal of a State-only Operating Permit issued in 2004.

**07-05037: HH Brown Shoe Company, d/b/a Cove Shoe Company** (107 Highland Street, Martinsburg, PA 16662) for their shoe and boot manufacturing operation in Martinsburg Borough, **Blair County**. This is a renewal of a State-only Operating Permit issued in 2004.

**31-05013: New Enterprise Stone & Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664) for their Tyrone Forge asphalt plant in Warriors Mark Township, **Huntingdon County**. This is a renewal of a State-only Operating Permit issued in 2004.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**49-00012: Northumberland Terminals Corporation** (P. O. Box 2621, Harrisburg, PA 17105), for their Northumberland Terminal facility located in Point Township, **Northumberland County**. The facility has the following air contaminant sources; aboveground storage tanks, bulk terminal storage tanks, and distillate and gasoline loading racks. The total potential particulate matter (PM10), nitrogen oxides (NOx), volatile organic compounds (VOC), sulfur oxides (SOx), and combined and individual hazardous air pollutants (HAP) emissions from all sources at the facility for are less than the respective major thresholds. The facility elected to restrict the VOC and HAP emissions below 50 tpy and 25/10 tpy, respectively. Proposed State-only (Synthetic Minor) Operating Permit 49-00012 contains monitoring, recordkeeping and reporting conditions to ensure compliance with applicable Federal and State regulations.

**12-00010: Pennsylvania Sintered Metals, Inc., d/b/a PSM Brown Co.** (2950 Whittimore Road, P. O. Box 308, Emporium, PA 15834-2032) for issuance of the State-only operating permit for their facility located in Emporium Borough, **Cameron County**. The facility's sources include three electric-fired sintering furnaces, a sizing operation and a parts washer. The potential emission of all air contaminants are below their respective major emission thresholds. The proposed State-only operating permit issuance contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00045: Department of Corrections** (P. O. Box 1000, Houtzdale, PA 16698-1000) for a State-only (Synthetic Minor) operating permit renewal for their Houtzdale Correctional Institution located in Woodward Township, **Clearfield County**. The facility's sources include one bituminous coal/No. 2 fuel oil-fired boiler, two No. 2 fuel oil-fired boilers, two emergency generators and lime and ash silos, which have the potential to emit major quantities of nitrogen oxides (NOx) and sulfur oxide (SOx) emissions. The facility has taken an elective throughput restriction not to exceed the major threshold for NOx and SOx. The facility has the potential to emit carbon monoxide (CO), volatile organic compounds (VOCs), volatile hazardous air pollutants (VHAPs) and particulate matter (PM/PM10) below the major emission thresholds. The proposed State-only (Synthetic Minor)

operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00054: Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 17830) for a State-only operating permit renewal for their coal processing facility located in Bigler Township, **Clearfield County**. The facilities main sources includes one coal crusher with integral screener and two belt conveyors, one secondary impact crusher/screener powered by a diesel-fired engine, one screener powered by a gasoline-fired engine. These sources have the potential to emit particulate matter (PM/PM10), Nitrogen Oxides (NOx), Sulfur Oxides (SOx), Hazardous Air Pollutants (HAPs), and Carbon Monoxide (CO) below the major emission thresholds. The proposed State-only operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and report conditions.

**14-00031: Glenn O. Hawbaker** (711 East College Avenue, Bellefonte, PA 16823-6854) for reissuance of the State-only (synthetic minor) operating permit for their facility located in Rush Township, **Centre County**. The facility's sources include primary, secondary and tertiary crushing operations, which have the potential to emit major quantities of PM10. The facility has taken an elective yearly restriction not to exceed the major threshold for PM10. The proposed State-only (synthetic minor) operating permit issuance contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00039: Clearfield County SPCA** (541 Graham Station Road, Philipsburg, PA 16866-8107) for issuance of the state only operating permit for their facility located in Decatur Township, **Clearfield County**. The facility's sources include one animal crematory incinerator. The potential emission of all air contaminants are below their respective major emission thresholds. The proposed State-only operating permit issuance contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**08-00034: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090), for the Cuddy Compressor Station located in the Monroe Township, **Bradford County**. The facility's main sources include five natural gas-fired compressor engines, three of which equipped with oxidation catalysts and three glycol dehydrators. The facility has the potential to emit particulate matter (PM10), nitrogen oxides (NOx), carbon monoxide (CO), volatile organic compounds (VOC), and combined and individual hazardous air pollutants (HAP) emissions below the major thresholds. The facility has taken a synthetic minor restriction to limit the carbon monoxide (CO), nitrogen oxides (NOx), and volatile organic compounds (VOCs) emissions below the major threshold. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**08-00035: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090), for the God Compressor Station located in the Monroe Township, **Bradford County**. The facility's main sources include five natural gas-fired compressor engines, three of which equipped with oxidation catalysts and two glycol dehydrators. The facility has the potential to emit particulate matter (PM10), nitrogen oxides (NOx), carbon monoxide (CO), volatile organic compounds (VOC), and combined and individual hazardous air pollutants (HAP) emissions below the major thresholds. The facility has taken a

synthetic minor restriction to limit the carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), and volatile organic compounds (VOCs) emissions below the major threshold. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

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

**65-00549: Comptec, Inc.—Irwin Plant** (8291 Pennsylvania Avenue, Irwin, PA 15642) for a Natural Minor Operating Permit to manufacture fiberglass impregnated electric insulators. The operation of the facility's air contamination source consisting of three grinding booths, six machining lathes, three casters, two resin mixers, sander, paint booth, and two parts washers. The facility is limited to a particulate matter rate of 0.04 grain/dry standard cubic foot from any exhaust point. The permit includes emission, restrictions, operation requirements, monitoring requirements and recordkeeping requirements for the facility located in North Huntingdon Township, **Westmoreland County**.

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

**42-00182: Allegheny Store Fixtures, Inc.** (P. O. Box 215, Bradford, PA 16701) for a Natural Minor operating permit to manufacture wooden advertising display fixtures and furniture for outlet stores in the City of Bradford, **McKean County**.

**42-00175: Federal Corrections Institution—Bradford Facility** (P. O. Box 5000, Bradford, PA 16701) for a Natural Minor Operating Permit for the corrections facility near Lewis Run, **McKean County**.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department

at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

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

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

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

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

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

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

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

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

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

*Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal Applications Received*

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

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <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.

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

**11940201 and NPDES No. PA0212831. AMFIRE Mining Co., LLC**, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface mine in Adams Township, **Cambria County**, affecting 76.9 acres. Receiving stream(s): unnamed tributary to South Fork of the Little Conemaugh River classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: August 19, 2010.

**56663098 and NPDES No. PA0607932. PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, permit renewal for continued operation and restoration of a bituminous surface mine in Shade Township, **Somerset County**, affecting 412.3 acres. Receiving stream(s): Dark Shade Creek and Little Dark Shade Creek classified for the following use(s): cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received: August 19, 2010.

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

**40763206R5. Heavy Media, Inc.**, (160 Nesbitt Street, Plymouth, PA 18651), renewal of an existing anthracite coal refuse reprocessing operation in Larksville Borough, **Luzerne County** affecting 77.2 acres, receiving stream: none. Application received: August 16, 2010.

#### *Noncoal Applications Received*

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

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

\* 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.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08100304 and NPDES No. PA0257435. Insinger Excavating, Inc.** (3046 Dushore-Overton Road, Dushore, PA 18614). Commencement, operation and restoration of a large non-coal surface mine (overburden, shale/bluestone) located in Pike Township, **Bradford County** affecting 40.6 acres. Receiving stream: unnamed tributary to Ross Creek classified for warm water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: August 12, 2010.

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

**45950302C6 and NPDES Permit No. PA0613037. Haines & Kibblehouse, Inc.,** P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Tobyhanna Township, Monroe County, receiving stream: unnamed tributary to Trout Creek, classified for the following use: High Quality cold water fishes. Application received: August 16, 2010.

**58090829. Diaz Stone & Pallet, Inc.** (7686 SR 167, Kingsley, PA 18826), Stages I and II bond release of a quarry operation in Brooklyn Township, **Susquehanna County** affecting 2.0 acres on property owned by Diaz Family Limited Partnership. Application received: August 16, 2010.

**40080801. Piacenti Trucking & Excavating, Inc.** (Rear 538 Putnam Street, West Hazleton, PA 18202), Stages I and II bond release of a quarry operation in Butler Township, **Luzerne County** affecting 5.0 acres on property owned by Donald and Mary Cook. Application received: August 17, 2010.

**38870301C10 and NPDES Permit No. PA0595543. Pennsy Supply, Inc.** (P. O. Box 3331, Harrisburg, PA 17105), incidental boundary correction to an existing quarry to add 1.51 acres for a total of 1,039.9 permitted acres and a bridge replacement over Quittapahilla Creek in North Annville and North Londonderry Townships, Palmyra and Annville Boroughs, **Lebanon County**, receiving streams: Killinger and Quittapahilla Creeks, classified for the following use: trout stock fishery. Application received: August 17, 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 Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E46-1057. Upper Moreland Township,** 117 Park Avenue, Willow Grove, PA 19090, Upper Moreland Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a 37-foot long, 6-foot wide and 3.5-foot high pedestrian bridge across Mill Creek in Mill Creek Park.

The site is located approximately 1,600 feet west of the intersection of SR 263 and York Road (Hatboro, PA USGS Quadrangle N: 6.8 inches; W: 16.4 inches).

*Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.*

**E01-295: Department of Transportation, Engineering District 8-0,** 2140 Herr Street, Harrisburg, PA 17103-1699, Huntington Township, **Adams County**, ACOE Baltimore District.

The applicant proposes to remove the existing structure and construct and maintain a two-span bridge, having spans of 75.17 feet and 72.0 feet, and a width of 28.0 feet and an underclearance of 5.0 feet, across Bermudian Creek (WWF, MF) for the purpose of improving transportation safety and roadway standards. The project is located on SR 1099 (Wiermans Mill Road) between White Church and South Ridge Roads (Hampton, PA Quadrangle N: 17.6 inches; W: 16.5 inches, Latitude: 39° 58' 21"; Longitude: 77° 07' 02") in Huntington Township, Adams County.

**E38-168: Tulpehocken Stream Restoration, Dino Faiola, Pennsy Supply, Inc.,** 1 Clear Spring Road, Annville, PA 17003, Jackson Township, **Lebanon County**, ACOE Baltimore District.

To: (1) relocate and maintain 1,500.0 feet of the Tulpehocken Creek (CWF) including the installation and maintenance of 1,500 linear feet of 42.0-foot wide PVC liner, a 20.0-foot long by 3.5-foot high concrete weir, nine rock arch structures, and a temporary rip rap ford crossing; and (2) remove an existing structure and construct and maintain a 1.0-foot depressed, 15.0-foot wide by 5.0-foot high concrete box culvert with fish baffles, all for the purpose of preventing loss of stream flow through sink hole prone area and stream restoration. The project is located off of SR 422 (Richland, PA Quadrangle North 20.9 inches; West 12.8 inches, Latitude: 40° 21' 53.1" N; Longitude: 76° 20' 25" W) in Jackson Township, Lebanon County.

**E36-874: Ephrata Borough Authority Waste Water Treatment Plant No. 1, Stephen Bonner,** 124 South State Street, Ephrata, PA 17522-2792, Ephrata Borough, **Lancaster County**, ACOE Baltimore District.

To place and maintain 142.0 cubic yards of fill in the floodplain of the Cocalico Creek (WWF) for the purpose of constructing a driveway to access proposed upgrades to the Ephrata Borough Waste Water Treatment Plant (WWTP) No. 1 located approximately 3.2 miles north of the intersection of Routes 772 and 272 (Oregon Pike) on Route 272 (Ephrata, PA Quadrangle N: 7.5 inches; W: 5.75 inches, Latitude: 40° 10' 25.84"; Longitude: 76° 11' 53.87") in Ephrata Borough, Lancaster County. No wetland impacts will occur as a result of this project.

**E36-875: Vertex Internet, Inc., Howard W. Cramer,** 529 East Main Street, Lititz, PA 17543, Lititz Borough, Lancaster County, ACOE Baltimore District.

To construct and maintain a 975.0-square foot paved parking area in the floodway of Lititz Run (CWF) for the purpose of expanding an existing commercial facility located on Main Street 0.04 mile northwest of its intersection with Oak Street (Lititz, PA Quadrangle N: 5.5 inches; W: 6.3 inches, Latitude: 40° 09' 18.84"; Longitude: 76° 17' 34.42") in Lititz Borough, Lancaster County. No wetland impacts will occur as a result of this project.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E14-535. Walker Lumber Company,** P. O. Box 60, Route 322, Woodland, PA 16881. Heintzelman Tract, in Union Township, Centre County, ACOE Baltimore District (Julian, PA Quadrangle N: 40° 53' 0.85"; W: -77° 54' 13.33").

To use an existing ford in Bald Eagle Creek and maintain its two 20-foot wide by 30-foot long approaches with No. 3 clean limestone located 1,000 feet southeast of the intersection of Poor Farm Lane and SR 220. This project proposes no direct impact on the below normal water level of Bald Eagle Creek and to have 20 linear feet indirect impact on the stream bank of Bald Eagle Creek, which is classified as a Cold Water Fishery.

**E41-607. Borough of South Williamsport,** 329—331 West Southern Avenue, South Williamsport, PA 17702. Small Projects Water Obstruction and Encroachment Joint Permit Application, in South Williamsport Borough, Lycoming County, ACOE Susquehanna River Basin District (Montoursville South, PA Quadrangle N: 41° 14' 20"; W: 76° 59' 33").

To construct and maintain a 285 square foot building, which is located in the floodplain of the West Branch of Susquehanna River, all of which is located off Main Street, south of the intersection of Second Street, in South Williamsport Borough, Lycoming County.

**E41-609. Anadarko E & P Company, LP,** 1201 Lake Robins Drive, The Woodlands, TX 77380. Pine Creek Surface Water Withdrawal (PC-2) Project, McHenry Township, Lycoming County. ACOE Baltimore District (Cammal, PA Quadrangle Latitude: 41° 23' 46.28"; Longitude: 77° 27' 29.43").

The applicant has proposed to construct, operate and maintain water intake structure and appurtenances in and along Pine Creek (High Quality-Stocked Trout and Migratory Fishery) for withdrawing surface water for natural gas extraction. The water intake appurtenances would include two utility poles, a six-inch diameter water supply and electrical conduit, an aerial electrical line crossing wetlands, and a 72-inch diameter manhole all within the Pine Creek 100-year floodway. The intake for water withdrawal would be constructed as a 20-inch (diameter) by 36-inch (long) structure protruding from the streambed of Pine Creek. The proposed project will not permanently impact wetlands, but poses a reduction in public recreational use of Pine Creek adjacent to the intake structure. The project is located along the western right-of-way of SR 0414 and Pine Creek Rail Trail, approximately 0.5-mile north of Truman Run Road and SR 0414 intersection.

#### APPLICATIONS RECEIVED UNDER THE LIMITED POWER ACT

The following permit applications have been received by the Department of Environmental Protection (Department) under the Limited Power Act of June 14, 1923, P. L. 704 (as amended by the Act of July 19, 1935, P. L. 1363). Persons objecting to the issuance of a Limited Power Permit must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above the application. Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1-800-654-5984.

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

**LP15-273. Green Valleys Association,** 1368 Prizer Road, Pottstown, PA 19465. To operate and maintain a Micro Hydro Power Unit with the capacity to generate 700 watts of electrical power to charge a bank of batteries at the Welkinweir Dam located across a tributary to Beaver Run (HQ-TSF, MF) Pottstown, PA Quadrangle N: 5.0 inches; E: 9.65 inches) in East Nantmeal Township, Chester County.

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## ACTIONS

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### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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## **I. NPDES Renewal Permit Actions**

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*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>
PAS222203	Stanley Vidmar Storage Technologies, Inc. 11 Grammes Road Allentown, PA 18105-1151	Allentown City Lehigh County	Little Lehigh Creek 02C	Y
PA0063045 (Industrial Waste)	Polarized Meats Route 438 Dalton, PA 18414	Lackawanna County Scott Township	South Branch Tunkhannock Creek 4-F	Y
PAS602202 (Storm Water)	Denco Tire Recycling P. O. Box 100 1212 Industrial Boulevard Stockertown, PA 18083	Northampton County Stockertown Borough	Unnamed Tributary to Bushkill Creek 1-F High Quality-Cold Water Fishes	Y
PAS602203 (Storm Water)	Einfalt Recycling & Salvage, Inc. Einfalt Tire Recycling 1212 Industrial Boulevard P. O. Box 100 Stockertown, PA 18083-0100	Northampton County Stockertown Borough	Unnamed Tributary to Bushkill Creek 1-F High Quality-Cold Water Fishes	Y
PA0027201 (Industrial Waste)	PPL Holtwood, LLC Two North Ninth Street Allentown, PA 18101-1179	Pike County Palmyra Township	Lackawaxen River 01B	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0029106 (SEW)	Greenfield Township Municipal Authority P. O. Box 372 Claysburg, PA 16625	Blair County Greenfield Township	Frankstown Branch Juniata River 11-A	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N
PA0098531 Sewage	Chesla Investment Group, LLC 2114 Nicholas Lane Greensburg, PA 15601	Westmoreland County Hempfield Township	UNT of Little Sewickley Creek	Y
PA0035882 Sewage	S-2 Properties P. O. Box 24509 Pittsburgh, PA 15234	Hempfield Township Westmoreland County	UNT of Little Sewickley Creek	Y
PA0218456 Sewage	Dale R. and Elaine L. Wright 432 Lakeview Drive New Brighton, PA 15066	New Sewickley Township Beaver County	Brush Creek	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0221481 (Sewage)	Norfolk Southern Meadville Yard Linden and Water Streets Meadville, PA 16335	Crawford County Meadville City	French Creek 16-D	Y
PA0102717 (Sewage)	Sandy Hill Estates MHP 120 Deer Run Road Middlesex, PA 16059	Butler County Middlesex Township	Glade Run 20-C	Y
PA0239542 (Industrial Waste)	Geothermal Energy Systems, Inc. 5960 Susquehanna Trail Turbotville, PA 17772-8555	Warren City Warren County	Allegheny River 16-B	Y
PA0103021 (Sewage)	Ronald V. Schenck, d/b/a Bear Lake Inn P. O. Box 132 Bear Lake, PA 16402	Warren County Bear Lake Borough	Unnamed Tributary to Pine Valley Creek 16-B	Y
PA0103934 (Sewage)	David J. Gralak, d/b/a The Well Restaurant 4894 Ridgeway Saint Marys Road Ridgeway, PA 15853-7634	Ridgeway Township Elk County	Elk Creek 17-A	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. PA0058858**, Sewage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 20,225 gpd of treated sewage from a facility known as Reeve Tract WWTP to an Unnamed Tributary to Jericho Creek in Watershed 2E.

**NPDES Permit No. PA0024376**, Sewage, **Borough of Boyertown**, 100 South Washington Street, Boyertown, PA 19512-1521. The proposed facility is located in Douglass Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 0.75 MGD of treated sewage from a facility known as Boyertown STP to Swamp Creek in Watershed 3-E.

**NPDES Permit No. PA0056430**, Industrial Waste, **Sunoco Partners Marketing & Terminals, LP**, 4041 Market Street, Aston, PA 19014. This proposed facility is located in Tinicum Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater from a facility known as Fort Mifflin Terminal to an Unnamed Tributary to Delaware River in Watershed 3-F.



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

**NPDES Permit No. PA0020851, Amendment No. 1, Sewage, Hyndman Borough Municipal Authority, P. O. Box 445, Hyndman, PA 15545.** This proposed facility is located in Hyndman Borough, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to Wills Creek in Watershed 13-A.

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

**NPDES Permit No. PA0263702, Sewage, Daniel and Tracy Scott, d/b/a Rainbow Valley Restaurant, 70 Baker Road, Greenville, PA 16125.** This proposed facility is located in Perry Township, **Mercer County**.

Description of Proposed Action/Activity: This application is for a new NPDES permit for a new discharge of treated Sewage.

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

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

**WQM Permit No. 0510401, Sewage, Hyndman Borough Municipal Authority, P. O. Box 445, Hyndman, PA 15545.** This proposed facility is located in Hyndman Borough, **Bedford County**.

Description of Proposed Action/Activity: Permit authorization for the construction/operation of a new influent pumping station; construction of two new Sequencing Batch Reactor tanks, control building to house new recirculation/mixing, and waste sludge pumps and new process blowers; conversion of the existing aeration tanks to aerobic digesters and demolition of existing chlorine contact tank; construction of a new 16' by 38' arch building to house new UV units; construction of a new 12' diameter outfall.

**WQM Permit No. 0788401, Amendment 10-1, Sewage, Altoona Water Authority, Easterly Treatment Plant, 20 Greenwood Road, Altoona, PA 16602.** This proposed facility is located in Logan Township, **Blair County**.

Description of Proposed Action/Activity: Permit authorization for the construction/operation of a pretreatment building to house two new fine screens and vortex grit units; conversion of the aeration units to Biological Nutrient Removal (BNR) Reactors 1 and 2; construction of two new BNR reactors 3 and 4; construction of one additional 105' diameter clarifier; construction of a new clarifier influent distribution/re-aeration Box; construction of a new Sludge holding tank; construction of a new Chemical feed system building; replacement of clarifier mechanism in the existing three clarifiers; installation of a new centrifuge for sludge thickening and dewatering; replacement of the existing aeration/digester blowers with new blowers and replacement of all six sludge pumps with new progressive cavity pumps.

**WQM Permit No. 2210201, CAFO, Noah W. Kreider and Sons, LLP, 1461 Lancaster Road, Manheim, PA 17545.** This proposed facility is located in Lower Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of egg washwater facilities consisting of an earthen, HDPE-lined basin with leak detection to an observation well/recirculation pump. Basin will be rectangular (170' by 200'), 15 feet deep including 2-foot freeboard and store 1.987 MG of liquid.

**WQM Permit No. 2910201, CAFO, Huston Hollow Partnership, 410 East Lincoln Avenue, Myerstown, PA 17067-2213.** This proposed facility is located in Taylor Township, **Fulton County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of manure storage facilities consisting of approximately 38,000 gallons of storage capacity will be added to the 82 by 435 foot center farrowing barn with 82' by 21.5' by 2' deep addition on the north end and a 82' by 44.5' by 2' deep addition on the south end. Each end will be designed as shallow storage pits with a pull plug system similar to the existing design. Construction will include water tight reinforced concrete slab and walls and a perimeter foundation leak detection system. The leak detection system of each end will daylight separately.

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

**WQM Permit No. 1110408, Sewerage, Johnstown Redevelopment Authority, 4th Floor, Public Safety Building, 401 Washington Street, Johnstown, PA 15901.** This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers to replace existing sewers in the Sell Street area of Johnstown.

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

**WQM Permit No. WQG018766, Sewerage, Rusty C. Barnes, P. O. Box 155, Waterford, PA 16441.** This existing facility is located in Summit Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility to replace a malfunctioning onlot system.

**WQM Permit No. 2710401, Sewerage, Jenks Township, P. O. Box 436, 135 Pine Street, Marienville, PA 16239.** This proposed facility is located in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: The project will install grinder pumps at existing residences and businesses and low pressure sewer mains into the Village of Roses and connect to the Marienville Sewage System.

**WQM Permit No. WQG018768**, Sewerage, **Denise and Richard E. Blanton**, 15303 Ridge Road, Meadville, PA 16335. This proposed facility is located in Hayfield Township, **Crawford County**.

Description of Proposed Action/Activity: A Single Residence Small Flow Treatment Facility.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 091002	Robert and Sandra Mockoviak 2727 Aquetong Road New Hope, PA 18938	Bucks	Solebury Township	Aquetong Creek HQ-CWF
PAI01 091003	James Baker 1748 Central Park Orefield, PA 18069	Bucks	Springfield Township	Cooks Creek EV
PAI01 1505017-R	Chrome Road, LTD 157 West Locust Street Oxford, PA 19363	Chester	Oxford Borough	Little Elk Creek HQ-TSF-MF
PAI01 1508076	Mark A. Rossi 704 North Whiteford Road Exton, PA 19341	Chester	Uwchlan Township	Shamona Creek HQ-TSF-MF
PAI01 151009	Department of Veterans Affairs Medical Center 1400 Black Horse Hill Road Coatesville, PA 19320	Chester	Caln Township	Unnamed Tributary West Branch Brandywine Creek HQ-TSF-MF
PAI01 151011	Stroud Water Research Center, Inc. 970 Spencer Road Avondale, PA 19311	Chester	West Marlborough Township	White Clay Creek EV
PAI01 151012	West Grove Hospital Corp 1015 West Baltimore Pike West Grove, PA 19390	Chester	Penn Township	East Branch Big Elk Creek HQ-TSF-MF
PAI01 151016	Ronald L. Keene 1118 Summer Lane Pottstown, PA 19465	Chester	East Nantmeal Township	Tributary Beaver Run EV
PAI01 151017	West Bradford Township 1385 Campus Drive Downingtown, PA 19335	Chester	West Bradford Township	East and West Branches Brandywine Creek WWF-MF Beaver Creek EV-MF
PAI01 2308002	Wawa, Inc. 260 West Baltimore Pike Wawa, PA 19063	Delaware	Ridley Township	Little Crum Creek WWF
PAI01 461002	Glenn Springs Holdings, Inc. 375 Armand Hammer Boulevard Pottstown, PA 19464	Montgomery	Lower Pottsgrove Township	Schuylkill River WWF-MF

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#### VII. Approvals to Use NPDES and/or Other General Permits

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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

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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>
Orwigsburg Borough West Brunswick Township Schuylkill County	PAG2005410005	Schuylkill County Municipal Authority 221 South Centre Street Pottsville, PA 17901	Pine Creek CWF, MF	Schuylkill County Conservation District 570-622-3742
Deer Lake Borough West Brunswick Township Schuylkill County	PAG2005410006	Schuylkill County Municipal Authority 221 South Centre Street Pottsville, PA 17901	Pine Creek CWF, MF	Schuylkill County Conservation District 570-622-3742
Bethlehem Township Northampton County	PAG2004810009	Santino Calantoni Nancy Run Estates Family Limited Partnership 6065 William Penn Highway Easton, PA 18042	Nancy Run CWF, MF	Northampton County Conservation District 610-746-1971
Tinicum Township Bucks County	PAG0200 0909103	Philip Herman 41 Stagecoach Road Pipersville, PA 18947	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Warrington Township Bucks County	PAG0200 091016	Pal's Building, LLC 3470 Limekiln Pike Chalfont, PA 18914	Mill/Neshaminy Creek Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Doylestown Township Bucks County	PAG0200 091038	James D. Morrissey, Inc. 9119 Frankford Avenue Philadelphia, PA 19114	Neshaminy Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Bensalem Township Bucks County	PAG0200 0903046-3	Keystone Turf Club & Bensalem Racing Association—DAB Philadelphia Park 3001 Street Road Bensalem, PA 9020-2006	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Newtown Township Delaware County	PAG0200 231007	Aronimink Golf Club 3600 St. Davids Road Newtown Square, PA 19073	Thomas Run CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Towamencin Township Montgomery County	PAG0200 4609059	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Salford Township Montgomery County	PAG0200 4605042-R	Tevil Corporation 527 Main Street Harleysville, PA 19438	West Branch Skipack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Salford Township Montgomery County	PAG0200 4604135-R	Scott Clemens 620 Quarry Road P. O. Box 19438 Harleysville, PA 19438	West Branch Skipack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Merion Township Montgomery County	PAG0200 4609080	ATA Development, LLC 311 Wynne Lane Penn Valley, PA 19072	Mill Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Whitpain Township Montgomery County	PAG0200 461030	Lago D Argento, LLC 2580 Muirfield Way Lansdale, PA 19446	Stony Creek TSF/MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAG0201 5109017	School District of Philadelphia 440 North Broad Street Philadelphia, PA 19130	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
McSherrystown Borough Adams County	PAG2000110008	Dan Gebhart Thomas Land Investment, LP 180 Airport Road Hanover, PA 17331	Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Elizabethtown Borough Lancaster County	PAG2003610031	Elizabethtown Area School District 600 East High Street Elizabethtown, PA 17022	UNT to Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
East Hempfield Township Lancaster County	PAG20003610033	B. R. Kreider & Son, Inc. 63 Kreider Lane Manheim, PA 17454	Little Conestoga Creek TSF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
West Donegal Township Lancaster County	PAG20003610034	Joseph Murphy Masonic Village One Masonic Drive Elizabethtown, PA 17022	Conoy Creek TSF-MF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Marietta Borough Lancaster County	PAG2003610041	Marietta Market Street, LLC 221 East Mifflin Street Lancaster, PA 17602	Susquehanna River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Brecknock Township Lancaster County	PAG2003610042	Don Longenecker Maria Kawulych 286 Conestoga Creek Road East Earl, PA 17519	Muddy Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5

## NOTICES

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<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>
Mount Joy Township Lancaster County	PAG2003610043	Dick Snyder 119 West Lancaster Avenue Shillington, PA 19607	UNT to Charles Run CWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Manheim Township Lancaster County	PAG2003610044	Presbyterian Homes, Inc. One Trinity Drive Suite 201 Dillsburg, PA 17019	UNT to Conestoga River WWF-MF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Upper Leacock Township Lancaster County	PAG2003610045	Melvin H. Weaver 1011 Dry Tavern Road Denver, PA 17517	UNT to Mill Creek CWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Manheim Township Lancaster County	PAG2003610046	Faulkner BMW 121 Granite Run Drive Lancaster, PA 17601	UNT to Swarr Run CWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717-299-5361 Ext. 5
Caernarvon Township Berks County	PAG2000610037	The Hankin Group 707 Eagleview Boulevard Exton, PA 19341	UNT to Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
Reading City Berks County	PAG2000610031	George Eisenhauer Reading Housing Authority 400 Hancock Avenue Reading, PA 19611	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
Washington Township Berks County	PAG2000610039	Eric Williams Spring Valley Village 1590 Canary Road Quakertown, PA 18951	Swamp Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
Jefferson Township Berks County	PAG2003609043-1	Rick Triest Tulpehocken Area School District 27 Rehrersburg Road Bethel, PA 19507	UNT to Little Northkill Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201

*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>
Upper Allen Township Cumberland County	PAG2002105033-R	Rhodes Development Group 1300 Market Street P. O. Box 622 Lemoyne, PA 17043	Cedar Run	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717-240-7812
Cumberland Township Freedom Township Adams County	PAG2000110007	Tucker Ferguson Department of Transportation Engineering District 8-0 2140 Herr Street Harrisburg, PA 17103	Marsh Creek CWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717-334-0636
Caernarvon Township Berks County	PAG2000610037	The Hankin Group 707 Eagleview Boulevard Exton, PA 19341	UNT to Conestoga River WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610-372-4657 Ext. 201
City of Williamsport Lycoming County	PAG2004110012	John Grado Williamsport Parking Auth 245 West Fourth Street Williamsport, PA 17701	Susquehanna River WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
East Buffalo Township Union County	PAG2006010007	Christopher Baylor 1131 Pheasant Ridge Road Lewisburg, PA 17837	Turtle Creek WWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Beaver County New Sewickley Township	PAG2000405021-R	Robert R. Walsh The Buncher Company Penn Liberty Plaza 1 1300 Penn Avenue Suite 300 Pittsburgh, PA 15222	North Fork Big Sewickley Creek TSF	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 724-378-1701
Jackson Township Butler County	PAG02 0010 10 009	Mashuda Corporation 21101 Route 19 Cranberry Township, PA 16066	Little Connoquenessing Creek CWF	Butler County Conservation District 724-284-5270
Cranberry Township Butler County	PAG02 0010 10 010	North Boundary Partners, LP Attn: Dominic Gigliotti 11279 Perry Highway Suite 509 Wexford, PA 15090	UNT Brush Creek WWF	Butler County Conservation District 724-284-5270

*General Permit Type—PAG-3*

*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>
York County Newberry Township	PAR603599	Wintermyer's Auto Salvage, Inc. 2790 Lewisberry Road York Haven, PA 17370	UNT Bennett Run WWF 7F	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707

*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>
Berks County Hereford Township	PAG043604	Daniel McQuire 52 Hunter Forge Road Barto, PA 19504	West Branch Perkiomen Creek CWF 3E	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 717-705-4707
Ligonier Township Westmoreland County	PAG046213	Alberto Jablonski 138 Shannon Lane Ligonier, PA 15658-3575	Loyalhanna Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Summit Township Erie County	PAG049598	Rusty C. Barnes P. O. Box 155 Waterford, PA 16441	LeBoeuf Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942
Hayfield Township Crawford County	PAG049600	Denise and Richard E. Blanton 15303 Ridge Road Meadville, PA 16335	Unnamed Tributary to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 814/332-6942

*General Permit Type—PAG-7**Facility Location:  
Municipality &  
County*

<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>
West Providence Township Bedford County	PAG070003 PAG070005 PAG073508	Synagro 1605 Dooley Road P. O. Box B Whiteford, MD 21160	Jim Jett Farm West Providence Township Bedford County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707

*General Permit Type—PAG-8 (SSN)**Facility Location:  
Municipality &  
County*

<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>
North Branch Township Wyoming County	PAG08-2203 PAG07-0003 PAG08-0008 PAG08-3501 PAG08-0002 PAG08-3535 PAG08-3551 PAG08-3517 PAG08-9903 PAG08-3596 PAG08-3510 PAG08-2211 PAG08-3506 PAG08-3522 PAG08-3515 PAG08-3502 PAG08-9904 PAG08-3547 PAG08-0006 PAG08-3540 PABIG-9903 PAG08-3547 PAG08-3600 PAG08-3565 PAG07-3508	Synagro 1605 Dooley Road P. O. Box B Whiteford, MD 21160	Poole Farm R. R. 2 Box 262 Mehoopany, PA 18629	DEP—NERO 2 Public Square Wilkes-Barre, PA 18701-1915 570-826-2511

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Site Name &  
Location*

*Contact Office &  
Phone No.*

	PAG07-0005			
	PAG08-0003			
	PAG08-3825			
	PAG08-3542			
	PAG08-0004			
	PAG08-3518			
	PAG08-9905			
	PAG08-3556			
	PAG08-0018			
	PAG08-3573			
	PAG08-3597			
	WMGR-099			
North Branch Township Wyoming County	PAG08-2203	Synagro	Poole Farm	DEP—NERO
	PAG07-0003	1605 Dooley Road	R. R. 2	2 Public Square
	PAG08-0008	P. O. Box B	Box 262	Wilkes-Barre, PA
	PAG08-3501	Whiteford, MD 21160	Mehoopany, PA 18629	18701-1915
	PAG08-0002			570-826-2511
	PAG08-3535			
	PAG08-3551			
	PAG08-3517			
	PAG08-9903			
	PAG08-3596			
	PAG08-3510			
	PAG08-2211			
	PAG08-3506			
	PAG08-3522			
	PAG08-3515			
	PAG08-3502			
	PAG08-9904			
	PAG08-3547			
	PAG08-0006			
	PAG08-3540			
	PABIG-9903			
	PAG08-3547			
	PAG08-3600			
	PAG08-3565			
	PAG07-3508			
	PAG07-0005			
	PAG08-0003			
	PAG08-3825			
	PAG08-3542			
	PAG08-0004			
	PAG08-3518			
	PAG08-9905			
	PAG08-3556			
	PAG08-0018			
	PAG08-3573			
	PAG08-3597			
	WMGR-099			
West Providence Township Bedford County	PAG080002	Synagro	Jim Jett Farm	DEP—SCRO
	PAG080003	1605 Dooley Road	West Providence	909 Elmerton Avenue
	PAG080004	P. O. Box B	Township	Harrisburg, PA
	PAG080006	Whiteford, MD 21160	Bedford County	17110-8200
	PAG080008			717-705-4707 PAG083535
	PAG080018			
	PAG082203			
	PAG082211			
	PAG083501			
	PAG083502			
	PAG083506			
	PAG083510			
	PAG083515			
	PAG083517			
	PAG083518			
	PAG083522			



*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Site Name &  
Location*

*Contact Office &  
Phone No.*

PAG083540  
PAG083542  
PAG083547  
PAG083551  
PAG083556  
PAG083565  
PAG083567  
PAG083573  
PAG083596  
PAG083597  
PAG083600  
PAG083825  
PAG086106  
PAG089903  
PAG089904  
PAG089905  
PABIG9903

East Donegal  
Township  
Lancaster County

PAG083601

Marietta-Donegal  
Joint Authority  
50 Furnace Road  
Marietta, PA 17547

Dennis Drager Farm  
East Donegal Township  
Lancaster County

DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
717-705-4707

Salem Township  
Westmorland  
County

Synagro  
264 Prisani Street  
P. O. Box 35  
Bovard, PA 15619

Perrone Farm  
No. 1

728388

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

*General Permit Type—PAG-10*

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water / Use*

*Contact Office &  
Phone No.*

Vanport Township  
Beaver County

PAG106104

Interstate Chemical  
Company, Inc.  
2797 Freedland Road  
Hermitage, PA 16148

Ohio River

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

## 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 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>
Clark Crest Dairy Ron Clark 754 Solanco Road Quarryville, PA 17566	Lancaster	241.1	861	Dairy	HQ	Renewal

**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. 0910516**, Public Water Supply.  
 Applicant **Township of Falls Authority**  
 557 Lincoln Highway  
 Fairless Hill, PA 19030  
 Township Falls  
 County **Bucks**

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Type of Facility PWS  
 Consulting Engineer Remington, Vernick & Beach Engineers  
 922 Fayette Street  
 Conshohocken, PA 19428  
 Permit to Construct Issued June 2, 2010  
*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*  
**Permit No. 0609513 MA, Minor Amendment**, Public Water Supply.  
 Applicant **Borough of Topton**  
 Municipality Topton Borough  
 County **Berks**  
 Responsible Official Anthony Branco  
 Borough Manager  
 205 South Callowhill Street  
 Topton, PA 19562  
 Type of Facility Application for the ability to add sodium bicarbonate post filtration to raise the alkalinity of the finished water.  
 Consulting Engineer Darryl A. Jenkins, P. E.  
 Great Valley Consultants  
 75 Commerce Drive  
 Wyomissing, PA 19610  
 Permit to Construct Issued: 8/24/2010  
**Permit No. 0609514**, Public Water Supply.  
 Applicant **Christman Lake**  
 Municipality Windor Township  
 County **Berks**  
 Responsible Official Dennis C. Christman, Owner  
 183 Christman Road  
 Lenhartsville, PA 19534  
 Type of Facility This project consists of construction of two new sources (Well Nos. 1 and 2), a treatment building and a finished water storage tank to serve the existing Christman Lake development.

Consulting Engineer Angelika B. Forndran, P. E.  
Cowan Associates, Inc.  
120 Penn-Am Drive  
Quakertown, PA 18951

Permit to Construct 8/19/2010  
Issued:

**Permit No. 6710512 MA, Minor Amendment, Public Water Supply.**

Applicant **Dover Borough**  
Municipality Dover Borough  
County **York**  
Responsible Official Bradley Lentz,  
Dover Borough Manager  
46 Butter Road  
Dover, PA 17315  
Type of Facility Installation of contact pipe for  
Wells 4 and 5. 4-log  
demonstration for Wells 4, 5  
and 6.

Consulting Engineer Charles A. Kehew II, P. E.  
James A. Holley &  
Associates, Inc.  
18 South George Street  
York, PA 17401

Permit to Construct 8/19/2010  
Issued:

**Permit No. 6710514 MA, Minor Amendment, Public Water Supply.**

Applicant **Stewartstown Borough Authority**  
Municipality Stewartstown Borough  
County **York**  
Responsible Official Ida D. Walker Jr.  
Sewer/Water Supervisor  
6 North Main Street  
Suite A  
Stewartstown, PA 17363

Type of Facility Install chlorine contact pipe at  
Well No. 4. 4-log demonstration  
for Wells 4—7. Rescind the  
operation permit for Wells 1—3.

Consulting Engineer Charles A. Kehew II, P. E.  
James R. Holley & Assoc., Inc.  
18 South George Street  
York, PA 17401

Permit to Construct 8/26/2010  
Issued:

**Operations Permit** issued to **McConnellsburg Borough Municipal Authority**, 4290005, Todd Township, **Fulton County** on 8/23/2010 for the operation of facilities approved under Construction Permit No. 2908501.

**Operations Permit** issued to **Borough of Bally**, 3060002, Bally Borough, **Berks County** on 8/19/2010 for the operation of facilities approved under Construction Permit No. 0608505.

**Operations Permit** issued to **Orchard Hills Management, LLC**, 7500010, Carroll Township, **Perry County** on 8/19/2010 for the operation of facilities approved under Construction Permit No. 7500010.

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

**Permit No. 4907501**—Operation Public Water Supply.

Applicant **The Meadows at Watsonstown**  
Township or Borough Delaware Township  
County **Northumberland**  
Responsible Official Alvin C. Thompson  
The Meadows at Watsonstown  
2814 Walbert Avenue  
Allentown, PA 18104  
Type of Facility Public Water Supply—Operation  
Consulting Engineer N/A  
Permit Issued Date August 26, 2010  
Description of Action Operation of Well No. 3.

**Permit No. Minor Amendment**—Operation Public Water Supply.

Applicant **Beavertown Municipal Authority**  
Township or Borough Beavertown Borough  
County **Snyder**  
Responsible Official Darren L. Loss  
Beavertown Municipal Authority  
419 Old Orchard Drive  
Beavertown, PA 17813  
Type of Facility Public Water Supply—Operation  
Consulting Engineer N/A  
Permit Issued Date August 30, 2010  
Description of Action 4-log inactivation of viruses at  
Entry Point 100 (Well Nos. 6 and  
7).

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

**Permit No. 3210501**, Public Water Supply.

Applicant **Indiana County Municipal Services Authority**  
602 Kolter Drive  
Indiana, PA 15701  
Borough or Township Conemaugh, Cherry Hill and  
Armstrong Townships  
County **Indiana**  
Type of Facility Transmission lines, water  
storage tank and pump station  
Consulting Engineer Gibson-Thomas  
Engineering Co., Inc.  
1004 Ligonier Street  
P. O. Box 853  
Latrobe, PA 15650  
Permit to Construct August 25, 2010  
Issued

**Permit No. 6510501**, Public Water Supply.

Applicant **Authority of the Borough of Charleroi**  
3 McKean Avenue  
P. O. Box 211  
Charleroi, PA 15022

Borough or Township   Cokeburg Borough  
Somerset Township

County                   **Washington**

Type of Facility        Transmission lines

Consulting Engineer    Chester Engineers  
501 McKean Avenue  
Third Floor  
Charleroi, PA 15022

Permit to Construct    August 26, 2010  
Issued

**Operations Permit** issued to **Monroeville Municipal Authority**, 219 Speelman Lane, Monroeville, PA 15146, (PWSID No. 5020027) Monroeville Borough, **Allegheny County** on August 26, 2010, for the operation of facilities approved under Construction Permit No. 0209514MA.

**Operations Permit** issued to **Cresson Township Municipal Authority**, 730 Portage Road, Cresson, PA 16630, (PWSID No. 4110038) Cresson Township, **Cambria County** on August 26, 2010, for the operation of facilities approved under Construction Permit No. 1110503MA.

**Operations Permit** issued to **East Taylor Municipal Authority**, 403 Donruth Lane, Johnstown, PA 15909, (PWSID NO. 4110043) East Taylor Township, **Cambria County** on August 26, 2010, for the operation of facilities approved under Construction Permit No. 1108501.

**Operations Permit** issued to **Municipal Authority of Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15672, (PWSID No. 5020025) City of McKeesport, **Allegheny County** on August 26, 2010, for the operation of facilities approved under Construction Permit No. 0208511.

**Operations Permit** issued to **Indian Lake Borough**, 1301 Causeway Drive, Central City, PA 15926, (PWSID No. 4560025) Indian Lake Borough, **Somerset County** on August 26, 2010, for the operation of facilities approved under Construction Permit No. 5609502MA.

**Permit No. 3209505MA, Minor Amendment**, Public Water Supply.

Applicant               **Indiana County Municipal Services Authority**  
602 Kolter Drive  
Indiana, PA 15701

Borough or Township   Conemaugh, Cherry Hill and  
Armstrong Townships

County                   Indiana

Type of Facility        Transmission lines

Consulting Engineer    Gibson-Thomas  
Engineering Co., Inc.  
1004 Ligonier Street  
P. O. Box 853  
Latrobe, PA 15650

Permit to Construct    August 25, 2010  
Issued

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

**Permit No. 4310502**, Public Water Supply.

Applicant               **Aqua PA, Inc.—Shenango Valley Division**

Township or Borough   Shenango Township

County                   **Mercer County**

Type of Facility        Public Water Supply

Consulting Engineer    Brian T. Bissson, P. E.

Permit to Construct    07/19/2010  
Issued

**Permit No. 3788503-C-MA2**, Public Water Supply.

Applicant               **Sisters of the Humility of Mary**

Township or Borough   Pulaski Township

County                   **Lawrence County**

Type of Facility        Public Water Supply

Consulting Engineer    Eric T. Buzza, P. E.

Permit to Construct    08/23/2010  
Issued

#### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

#### Plan Location:

Borough or Township	Borough or Township Address	County
Jenks Township	135 Pine Street P. O. Box 436 Marienville PA 16239	Forest

*Plan Description:* The approved plan provides for the construction of pressure sewer lines with individual grinder pumps to collect wastewater from the South District portion of Jenks Township. The lines will service 110 customers with treatment at the existing Marienville WWTP. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results

which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Verizon Bryn Mawr Garage**, Lower Merion Township, **Montgomery County**. Langan Engineering & Environmental, P. O. Box 1569, Doylestown, PA 18901, James McElman, Verizon Environmental Management, 7701 East Telecom Drive, MC:FLTDSB1M, Temple Terrace, FL 33637 on behalf of Paul Aschkenasy, Blank Aschkenasy Properties, LLC, 300 Four Falls Corporate Center, 300 Conshohocken, State Road, Suite 360, West Conshohocken, PA 19428 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**Baker Petrolite Eddystone**, Eddystone Borough, **Delaware County**. Steven Gerritsen, SE Technologies, LLC, 98 Vanadium Road, Bridgeville, PA 15017 on behalf of Lacy Rosson, 12645 West Airport Boulevard, Sugar Land, TX 77478 has submitted a Remedial Investigation/Final Report concerning remediation of site groundwater contaminated with organics report is intended to document remediation of the site to meet the Site-Specific Standard.

**Sunoco Pipeline Twin Oaks Pump Station**, Upper Chichester Township, **Delaware County**. Tiffani Doerr, Aquaterra Technologies, Inc., P. O. Box 744, West Chester, PA 19381 on behalf of Gus Borkland, Sunoco Logistics, LP, 1735 Market Street, Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with unleaded gasoline. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

**US Steel Corporation KIPC 3900 Acre Parcel**, Falls Township, **Bucks County**. Colleen Costello, Langan Engineering and Environmental Services, Inc., 2700 Kelly Road, Suite 200, Warrington, PA 18976 on behalf of Kathleen Mayher, United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15219 has submitted a Remedial Investigation/Final Report concerning remediation of site groundwater contaminated with chlorinated

solvents. The Report is intended to document remediation of the site to meet the Site-Specific Standard.

**Gasoline Station**, City of Philadelphia, **Philadelphia County**. Jeffery Bauer, Whitestone Associates, Inc., 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Arnold S. Lurie, Tremont Partnership, Two Neshaminy Interplex, Suite 305, Trevoise, PA 19053 has submitted a Final Report concerning remediation of site soil contaminated with unleaded gasoline. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Roaring Spring Bottled Water**, Roaring Spring Borough, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Roaring Spring Bottling Company, 740 Spang Street, Roaring Spring, PA 16673, submitted a Final Report concerning remediation of site soils and groundwater contaminated with gasoline from a leaking underground storage tank. The Report is intended to document remediation of the site to meet the Statewide Health and Site-Specific Standards.

**William Osburn Property**, 20 Miller Road, Providence Township, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602 on behalf of Susan Moore, 20 Miller Road, Willow Street, PA 17548-9734 and William Osburn, 7720 Newport Road, Catawba, VA 24070, submitted a Final Report concerning remediation of groundwater contaminated with No. 2 fuel oil released from an underground storage tank. The Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

**John Bucher Property**, Lancaster City, **Lancaster County**. Jonathan Bucher, 427 North Mulberry Street, Lancaster, PA 17603 submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil release during removal of 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. The site will remain residential.

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

**ITT Water & Wastewater Leopold**, Zelenpole Borough, **Butler County**. AECOM, 4 Neshaminy Interplex Suite 300, Trevoise, PA 19053 on behalf of ITT Water & Wastewater, 227 South Division Street, Zelenpole, PA 16063 has submitted a Final Report concerning remediation of site soils contaminated with Mercury and Arsenic; site groundwater contaminated with Benzo[a]pyrene, Lead, Bis[2-ethylhexyl]phthalate, Dizena[a,h]anthracene, Benzo[g,h,i]perylene, Benzo[k]fluoranthene. The Report is intended to document remediation of the site to meet the Statewide Health 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 Stan-

dards 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.*

**New Kensington High School**, City of Philadelphia, **Philadelphia County**. Joanne Van Rensselaer, Envirosearch Consultants, P. O. Box 940, Spring House, PA 19477, Kenneth D'Aurizio, BSI Construction, LLC, 735 Birch Road, Bensalem, PA 19020 on behalf of Lee Norelli, AP/BSI—A Joint Venture, LLC, 1080 North Delaware Avenue, Suite 1500, Philadelphia, PA 19125 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on July 14, 2010.

*Northeast Region: Environmental Cleanup Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**UGI East Northampton Street (UGI-PNG Empire Garage)**, 511 East Northampton Street, Wilkes-Barre City, **Luzerne County**. Jeffrey C. Thomas, EPSYS, LLC, 1414 North Cameron Street, Harrisburg, PA 17103 submitted a Final Report (on behalf of his client, UGI Penn Natural Gas, Inc., One UGI Center, Wilkes-Barre, PA 18711), concerning the remediation of soil found to have been impacted by used motor oil as a result of incidental drippings over several years, which were due to the manual transfers of oil into an aboveground storage tank. The Report documented attainment of the Residential Statewide Health Standard for soil and was approved on August 20, 2010.

**GEO Specialty Chemicals, Inc.**, 2409 North Cedar Crest Boulevard, South Whitehall Township, **Lehigh County**. Patrick Crawford, Center Point Tank Services, Inc., 536 East Benjamin Franklin Highway, Douglassville, PA 19518 submitted a Final Report (on behalf of his client, GEO Specialty Chemicals, Inc., 2409 North Cedar Crest Boulevard, Allentown, PA 18014), concerning the remediation of soil found to have been impacted by No. 6 fuel oil and No. 2 fuel oil due to historical releases from a heating oil No. 6 remote fill (located outside the containment area) of a 300,000 gallon underground storage tank and from an additive tank (No. 2 heating oil), which is adjacent to the remote fill. The Report document attainment of the Statewide Health Standard for soil and was approved on August 20, 2010. The report was originally submitted within 90 days of the release.

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

**Former Department of Transportation Stockpile**, Topton Borough, **Berks County**. Department of Transportation, P. O. Box 2957, Harrisburg, PA 17105, and East Penn Manufacturing, Deka Road, P. O. Box 147, Lyon Station, PA 19536 submitted a Final Report concerning remediation of site soils and groundwater contaminated with Petroleum Hydrocarbons, PAHs, and Inorganics. The Final Report demonstrated attainment of the non-residential Statewide Health Standard, and was approved by the Department of Environmental Protection on August 27, 2010.

*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 Cleanup Plan was approved by the Department of Environmental Protection on August 23, 2010.

**Former TRW Danville Site**, Danville Borough, **Montour County**. Northrop Grumman Corporation, 1840 Century Park East, Los Angeles, CA 90067 has submitted a Remedial Investigation Report, Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with PCBs, solvents, BTEX, PHCs and PAHs. The Remedial Investigation, Risk Assessment, and Cleanup Plan were approved by the Department of Environmental Protection on August 19, 2010.

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

**Revised Pennzoil Rouseville Refinery (Plant 2)**, Cornplanter Township, **Venango County**. URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, MD 20878 on behalf of Pennzoil Quaker State Company, Environmental Services, 910 Louisiana OSP 687, Houston, TX 77002 has submitted a Cleanup Plan concerning the remediation of site soil contaminated with volatile and semi-volatile organic compounds including but not limited to, benzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, benzo[a]pyrene, 1,2,3-trichloropropane, 1,1,2,2-tetrachloroethane, dibenzofuran, and inorganic compounds including but not limited to arsenic, iron, thallium, lead and site groundwater contaminated with volatile and semi-volatile organic compounds including but not limited to 1,3,5-trimethylbenzene, 1,2,4-trimethylbenzene, methyl tert-butyl ether, benzene, and 2-hexanone. The Cleanup Plan was approved by the Department of Environmental Protection on July 20, 2010.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

##### *Hazardous Waste Transporter License Renewed*

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Wills Trucking, Company**, P. O. Box 501, Richfield, OH 44286. License No. PA-AH 0749. Effective July 12, 2010.

**Maumee Express, Inc.**, 297 Zimmerman Lane, Langhorne, PA 19047. License No. PA-AH 0420. Effective July 13, 2010.

**Pioneer Tank Lines, Inc.**, 12501 Hudson Road South, Afton, MN 55001-9751. License No. PA-AH 0600. Effective July 13, 2010.

**Eldredge, Inc.**, 898 Fern Hill Road, West Chester, PA 19380. License No. PA-AH 0056. Effective July 30, 2010.

**On R Own Trucking, Inc.**, 30468 Speidel Road, Hanoverton, OH 44423. License No. PA-AH 0751. Effective July 30, 2010.

**Suttles Truck Leasing, Inc.**, P. O. Box 129, Demopolis, AL 36723. License No. PA-AH 0332. Effective July 30, 2010.

**Siemens Water Technologies Corporation**, 170 Wood Avenue South, Iselin, NJ 08830. License No. PA-AH 0722. Effective August 3, 2010.

**Hazleton Oil & Environmental, Inc.**, 300 Tamaqua Street, Hazleton, PA 18201. License No. PA-AH 0713. Effective August 4, 2010.

**Enpro Services, Inc.**, 12 Nulliken Way, Newburyport, MA 01950. License No. PA-AH 0696. Effective August 4, 2010.

**Biomedical Waste Services, Inc.**, 7833 Golden Pine Circle, Severn, MD 21144. License No. PA-AH 0753. Effective August 4, 2010.

**Stat, Inc., d/b/a Sparks Transportation**, P. O. Box 1443, Lenoir, NC 28645. License No. PA-AH 0532. Effective August 10, 2010.

**American Environmental Services, Inc.**, 2100 Georgetown Drive, Suite 303, Sewickley, PA 15143. License No. PA-AH 0671. Effective August 10, 2010.

**Consolidated Transportation, Inc.**, 23 Perrine Street, P. O. Box 768, Auburn, NY 13021. License No. PA-AH 0059. Effective August 10, 2010.

**Aquilex Hydrochem, Inc.**, 900 Georgia Avenue, Deer Park, TX 77536. License No. PA-AH 0694. Effective August 16, 2010.

**Cousins Waste Control, LLC**, 1701 East Matzinger Road, Toledo, OH 43612. License No. PA-AH 0344. Effective August 20, 2010.

**Chemical Solvents, Inc.**, 3751 Jennings Road, Cleveland, OH 44109. License No. PA-AH 0049. Effective August 20, 2010.

**Gary W. Gray Trucking, Inc.**, P. O. Box 48, Delaware, NJ 07833. License No. PA-AH 0474. Effective August 24, 2010.

**Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

##### *Hazardous Waste Transporter License Expired*

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Siemens Water Technologies, Corporation**, 170 Wood Avenue South, Iselin, NJ 08830. License No. PA-AH 0722. Effective June 30, 2010.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

**Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.**

##### *Infectious and Chemotherapeutic Waste Transporter License Renewed*

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**Med-Flex, Inc.**, P. O. Box 357, Hainesport, NJ 08036. License No. PA-HC 0207. Effective date July 7, 2010.

**Environmental Transport Group, Inc.**, P. O. Box 296, Flanders, NJ 07836-0296. License No. PA-HC0023. Effective date August 25, 2010.

**Cole Care, Inc.**, 1001 East Second Street, Coudersport, PA 16915-8161. License No. PA-HC0178. Effective date August 24, 2010.

**Infectious and Chemotherapeutic Waste Transporter License, actions taken under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.**

##### *Infectious and Chemotherapeutic Waste Transporter License Expired*

*Central Office: Bureau of Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

**The Cardinal Group, Inc.**, 828 North Hanover Street, Pottstown, PA 19464-4253. License No. PA-HC 0213. Effective April 30, 2010.

**MARCOR Remediation, Inc.**, 24 Cockeysville Road, Hunt Valley, MD 21030. License No. PA-HC 0218. Effective June 30, 2010.

#### REGISTRATION FOR GENERAL PERMIT-RESIDUAL WASTE

**Registration Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Northwest Region: Regional Solid Waste manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**General Permit Registration No. WMGR109NWR04.** Green Energy Biofuels, 169 West Creek Road, St. Marys, PA 15857, St. Marys, **Elk County**. Registration to operate under General Permit No. WMGR109 for the beneficial use or processing of restaurant oil, yellow grease, grease trap waste, oils and animal fats, waste from ethanol production, soybean soap stock, float grease, and off-specification vegetable oils to produce biofuels and biodiesel. The Registration was approved and issued by the Regional Office on August 30, 2010.

#### DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

**Applications for 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 Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**General Permit No. WMGR028NWD02A.** Glenn O. Hawbaker Inc.—Barkeyville Plant, 157 Hawbaker Industrial Boulevard, Grove City, PA 16127, Barkeyville Borough, **Venango County**. The General Permit authorizes the beneficial use of baghouse fines and/or scrubber pond precipitate generated by hot-mix asphalt plants as roadway aggregate, soil additive, or an ingredient in manufacturing of construction products. The Department of Environmental Protection agreed with the Determination of Applicability request and issued the general permit on August 24, 2010.

**Determination of Applicability for General Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); and Residual Waste Regulations for a General Permit To Operate Residual Waste Processing Facilities (25 Pa. Code § 287.611 relating to authorization for general permit).**

*Southcentral Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.*

**General Permit No. WMGR028-SC02C.** Highway Materials, Inc., 1750 Walton Road, Blue Bell, PA 19422-

0465. On August 24, 2010 the Department of Environmental Protection issued a Determination of Applicability under General Permit WMGR028 to Highway Materials for the use of baghouse fines and scrubber pond precipitates for use as an aggregate in roadway construction, a soil additive, a soil conditioner or a component or ingredient in the manufacturing of construction products. This Determination of Applicability is for their plant located at St. Thomas Asphalt Plant, 8135B Lincoln Way, St. Thomas, PA in St. Thomas Township, **Franklin County**.

Persons interested in reviewing the general permit may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP3-46-0088: Limestone Properties, LLC** (1020 Broad Run Road, Landenberg, PA 19350) on August 19, 2010, to operate an extec portable nonmetallic mineral processing plant in West Conshohocken Borough, **Montgomery County**.

**GP9-46-0044: Limestone Properties, LLC** (1020 Broad Run Road, Landenberg, PA 19350) on August 19, 2010, to operate diesel-fired internal combustion engines in West Conshohocken Borough, **Montgomery County**.

**GP3-46-0089: Limestone Properties, LLC** (1020 Broad Run Road, Landenberg, PA 19350) on August 19, 2010, to operate an extec portable nonmetallic mineral processing plant in West Conshohocken Borough, **Montgomery County**.

**GP14-15-0095: Campbell-Ennis-Klotzbach Funeral Home, Inc.** (610 Main Street, Phoenixville, PA 19460) on August 24, 2010, to operate a human crematory in Phoenixville Borough, **Chester County**.

**GP14-46-0241: Accupac, Inc.** (1501 Industrial Boulevard, Mainland, PA 19451) on August 27, 2010, to operate a combustion unit in Towamencin Township, **Montgomery 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.*

**GP9-28-03023: Valley Quarries, Inc.** (P. O. Box 2009, Chambersburg, PA 17201) on August 25, 2010, for a diesel internal combustion engine at their Mt. Cydonia II Quarry in Greene Township, **Franklin County**.

**GP3-28-03023: Valley Quarries, Inc.** (P. O. Box 2009, Chambersburg, PA 17201) on August 25, 2010, for an Extec S6 portable screen at their Mt. Cydonia II Quarry in Greene Township, **Cumberland County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*



**GP5-17-486A: EOG Resources, Inc.** (400 Southpointe Boulevard, Canonsburg, PA 15317) on August 16, 2010, for construction and operation of one natural gas-fired compressor engine rated at 1,340 brake-horsepower under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the PHC Compressor Station in Lawrence Township, **Clearfield County**.

**GP5-53-105A: Ultra Resources, Inc.** (304 Inverness Way South, Suite 295, Englewood, CO 80112) on August 23, 2010, for construction and operation of one 1,340 bhp natural gas-fired compressor engine, one 40 MMscf/day glycol dehydration unit, one natural gas-fired line heater rated at 2.0 mmBtu/hr, two natural gas-fired line heaters each rated at 0.75 mmBtu/hr, one natural gas-fired glycol reboiler rated at 0.65 mmBtu/hr and one glycol still vent combustor rated at 0.65 mmBtu/hr under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Button Pad Compressor Station in West Branch Township, **Potter County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**GP2-10-021C: INDSPEC Chemical Corp.** (133 Main Street, Petrolia, PA 16050) on August 23, 2010, for storage tanks for volatile organic liquids (BAQ-GPA/GP-2) in Petrolia, **Butler 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.**

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

**46-0147C: Chemalloy Company, Inc.** (1301 Conshohocken Road, Conshohocken, PA 19428) on August 24, 2010, for authorization to process chromium-containing alloys in Plant 2 and 2A buildings of their existing natural minor facility in Plymouth Township, **Montgomery County**. The proposal requests processing of non-hazardous as well as hazardous minerals at four existing sources (ID No. 105, 106, 107 and 108). The pollutant of concern from the proposed operations is particulate matter (PM) emissions. There will be no increase in currently permitted PM emission limits from the existing sources. All sources of PM emissions are controlled by existing wet scrubbers. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

*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.*

**22-05012C: Arcelormittal Steelton, LLC** (215 South Front Street, Steelton, PA 17113-2538) on August 24, 2010, to construct a natural gas-fired walking beam reheat furnace to replace three soaking pit batteries and a heated roller table at the steel manufacturing facility in Steelton Borough, **Dauphin County**.

**67-03162A: Church & Dwight Co., Inc.** (5197 Commerce Drive, York, PA 17408-9511) on August 24, 2010, for to construct a new cat litter manufacturing line at their facility in Jackson Township, **York County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**53-00001E: Tennessee Gas Pipeline Co.** (197 Tennessee Road, Coudersport, PA 16915) on August 23, 2010, to construct a replacement generator-engine at the Station 313 in Hebron Township, **Potter County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**46-0274: Ratoskey and Trainor, Inc.** (396 River Road, Bridgeport, PA 19405) on August 26, 2010, to operate a nonmetallic mineral processing plant in Upper Merion Township, **Montgomery County**.

**46-0200B: John Middleton Co.** (418 West Church Road, King of Prussia, PA 19406) on August 26, 2010, to operate a chewing and smoking tobacco operation in Upper Merion Township, **Montgomery County**.

**46-0241A: Gibraltar Rock, Inc.** (355 Newbold Road, Fairless Hills, PA 19030) on August 26, 2010, to operate a nonmetallic mineral processing plant in New Hanover Township, **Montgomery County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00002B: E.I. DuPont de Nemours & Co.** (Patterson Boulevard, Towanda, PA 18848), on August 17, 2010, to authorize the construction and operation of a 15 million Btu per hour thermal fluid heater to February 12, 2011 in North Towanda Township, **Bradford County**. The plan approval has been extended.

**18-00001B: Columbia Gas Transmission, Corp.** (1700 MacCorkle Avenue, SE, Charleston, WV 25314-1518) on August 24, 2010, to extend the authorization to operate a Caterpillar G3512LE engine (Source ID P109, Engine No. 6) on a temporary basis to February 8, 2011 at their Renovo Compressor Station facility in Chapman Township, **Clinton County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481. Contact: Mark Gorog, New Source Review Chief—Telephone: 814-332-6940.*

**10-333B: Penn United Technologies, Inc.** (799 North Pike Road, Cabot, PA 16023-2223) on August 31, 2010, for a change to existing solvent being used in the batch vapor solvent degreasing unit, from a halogenated hazardous air pollutant (HAP) to a non-HAP solvent at facility located in Jefferson Township, **Butler County**.

**25-025N: General Electric Transportation Systems—Erie Plant** (2901 East Lake Road, Room 9-201, Erie, PA 16531) on August 31, 2010, for replacement of the existing VPI system (Source 178) and expansion of

the source by adding another VPI tank and six ovens in Lawrence Park Township, **Erie County**. This is a Title V facility.

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

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**14-00005: Department of Corrections** (P. O. Box 598, Camp Hill, PA 17001-0598) on August 4, 2010, issued a renewal of the Title V operating permit for their Rockview State Correctional Institution located in Benner Township, **Centre County**. The facility's sources include three bituminous coal-fired boilers, two natural gas-fired and No. 2 fuel oil-fired boilers and four emergency generators, which have the potential to emit major quantities of sulfur oxide (SOx) emissions. The facility has the potential to emit carbon monoxide (CO), nitrogen oxides (NOx) volatile organic compounds (VOCs), volatile hazardous air pollutants (VHAPs) and particulate matter (PM/PM10) below the major emission thresholds. The Title V operating permit renewal contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**46-00266: Hanson Pipe and Pre-cast, LLC** (201 South Keim Street, Pottstown, PA 19348) on August 24, 2010, to operate a concrete surface coating plant in Pottstown Borough, **Montgomery County**. Volatile organic compound (VOC) emissions are limited to 24.9 tons per year. This facility is a State-only synthetic minor facility. The Operating Permit will contain monitoring and recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**15-00103: Christiana Cabinetry** (504 Rosemont Avenue, Atglen, PA 19310-9449) on August 26, 2010, for a renewal of the original State-only Operating Permit (Natural Minor), which was last modified on May 15, 2008, and expires on July 31, 2010, in Atglen Borough, **Chester County**. There have been no other changes made to the permit since it was issued. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00159: US Chrome Corporation of PA** (750 West Washington Street, Norristown, PA 19404) on August 26, 2010, for renewal of the original State-only Operating Permit (Natural Minor) in Norristown Borough, **Montgomery County**. There have been no other changes made to the permit since it was issued. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00019: Lockheed Martin Corp.** (230 Mall Boulevard, King of Prussia, PA 19406) on August 27, 2010, for

issuance of an initial Synthetic Minor Operating Permit in Upper Merion Township, **Montgomery County**. The facility changed status from a Title V facility to a Synthetic Minor and elected to take a 24.9 ton per year limit on NOx emissions. The facility is primarily involved in Computer programming Services. Lockheed Martin operates boilers, generators, and other lab equipment. The permit contains all applicable requirements including monitoring, recordkeeping and reporting.

**09-00077: Exelon Generation Co.—Pennsbury Power Production Plant** (1414 Bordentown Road, Morrisville, PA 19067) on August 27, 2010, for a non-Title V Facility, State-only, Synthetic Minor Operating Permit in Morrisville, Falls Township, **Bucks County**. The permit is for operation of two combustion turbines that convert landfill gas into electric power when the demand is high. This action is a renewal of the State-only Operating Permit. The initial permit was issued on August 15, 2005. The permit will include monitoring, recordkeeping, reporting and work practice standards 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.*

**39-00090: Fluoro Seal International, LP** (744 Roble Road No. 180, Allentown, PA 18109) a State-only Operating Permit for manufacturing plastics materials and resins, Hanover Township, **Lehigh County**.

**40-00035: Quebecor World Hazelton, Inc.** (Route 924 Humbolt Industrial Park, Box 409Z, Hazelton, PA 18201) a State-only Operating Permit for Commercial lithographic printing operation located in Hazelton Township, **Luzerne County**. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting, and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**41-00015: Department of Corrections** (P. O. Box 598, Camp Hill, PA 17001-0598) on August 4, 2010, issued a State-only (Synthetic Minor) operating permit for their Muncy Correctional Institution in Clinton Township, **Lycoming County**. The facility's sources include three anthracite coal-fired boilers, one No. 2 fuel oil-fired boiler, seven No. 2 fuel oil-fired small combustion units, three propane-fired plus small combustion units and six emergency generators, which have the potential to emit major quantities of nitrogen oxides (NOx) and sulfur oxide (SOx) emissions. The facility has taken an elective yearly restriction not to exceed the major threshold for NOx and SOx. The facility has the potential to emit carbon monoxide (CO), volatile organic compounds (VOCs), volatile hazardous air pollutants (VHAPs) and particulate matter (PM/PM10) below the major emission thresholds. The State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

**65-00982: T.W. Phillips Gas and Oil Co.** (205 North Main Street, Butler, PA 16001) on August 20, 2010, to operate two natural gas-fired compressor engines and two tri-ethylene glycol dehydration units at their Rubright Compressor Station in Bell Township, **Westmoreland County**. This is a new State-only Operating Permit.

**03-00238: Curran-Shaffer Funeral Home and Crematory, Inc.—Apollo** (100 Owen View Avenue, Apollo, PA 15613) on August 23, 2010, to re-issue the Natural Minor Operating Permit to operate their facility's air contamination source consisting of one 100 lb/hr human crematory incinerator, Power-Pak II natural gas-fired rated at 700 mBtu/hr primary chamber and 1.4 mmBtu/hr secondary chamber. 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 located in Kiskiminetas Township, **Armstrong County**. This is a State-only Operating Permit Renewal

**11-00279: Forest Lawn Memorial Association, Inc.—Conemaugh** (1530 Frankstown Road, Johnstown, PA 15902) on August 23, 2010, to re-issue the Natural Minor Operating Permit to operate the facility's air contamination source consisting of one 100 lb/hr human crematory incinerator. All Furnace System 1701 propane fired rated at 716 mBtu/hr primary chamber and 1.4 mmBtu/hr secondary chamber. The facility is limited to 0.10 gr/dcsf particulate matter corrected to 12% oxygen and 500 ppmv sulfur oxides. The permit includes emission, restrictions, operation requirements, monitoring requirements, and recordkeeping requirements for the facility located in Conemaugh Township, **Cambria County**. This is a State-only Operating Permit Renewal.

**04-00466: NSPC, LLC—New Brighton** (P. O. Box 311, Zelienople, PA 16063) on August 23, 2010, to re-issue the Natural Minor Operating Permit to operate the facility's air contamination source consisting of one 75 lb/hr animal crematory incinerator, Industrial Equipment and Engineering Company Model No. IE-43 propane-fired rated at 344 mBtu/hr primary chamber and 658 mBtu/hr secondary chamber. The facility is limited to 0.1 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 located in New Sewickley Township, **Beaver County**. This is a State-only Operating Permit Renewal.

**65-00596: St. Clair Cemetery Association—Greensburg** (944 St. Clair Way, Greensburg, PA 15601) on August 24, 2010, to re-issue the Natural Minor Operating Permit to operate the facility's air contamination source consisting of one 100 lb/hr human crematory incinerator. All Crematory natural gas-fired rated at 716 mBtu/hr primary chamber and 1.4 mmBtu/hr secondary chamber. The facility is limited to 0.1 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 in Hempfield Township, **Westmoreland County**. This is a State-only Operating Permit Renewal.

**65-00899: Snyder Funeral Home, Inc.—Donegal** (402 East Church Street, Ligonier, PA 15658) on August 24, 2010, to re-issue the Natural Minor Operating Permit to operate the facility's air contamination source consisting of one 150 lb/hr human crematory incinerator, B&L Cremation System N-20AA propane fired rated at 350

mBtu/hr primary chamber and 1.0 mmBtu/hr secondary chamber. The facility is limited to 0.08 gr/dcsf particulate matter corrected to 7% oxygen and 500 ppmv sulfur oxides. The facility also consists of one 74 lb/hr animal crematory incinerator, B&L Cremation System BLP200. The permit includes emission, restrictions, operation requirements, monitoring requirements, and recordkeeping requirements for the facility located in Donegal Borough, **Westmoreland County**. This is a State-only Operating Permit Renewal.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**09-00084: Grand View Hospital** (700 Lawn Avenue, Sellersville, PA 18960) on August 26, 2010, this State-only Operating Permit was administratively amended to incorporate conditions from the previously-issued Plan Approval 09-0084A for the replacement of the existing burners in three boilers with "low NOx" burners, which will result in a decrease in the amount of nitrogen oxide emissions from its medical facility located in West Rockhill Township, **Bucks County**.

This Administrative Amendment to the State-only Synthetic Minor Operating Permit is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**15-00055: Highway Materials, Inc.** (850 Quarry Road, Downingtown, PA) on August 26, 2010, for the facility in East Caln Township, **Chester County**. This State-only operating permit was administratively amended for the incorporation of PA-15-0039A into SMOP-15-00055. PA-15-0039A was for the installation of a dryer burner at their existing asphalt plant and for the removal of No. 5 fuel oil from the 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.*

**06-03005: Akzo Nobel Coatings, Inc.** (150 Columbia Street, Reading, PA 19601-1748) on August 24, 2010, for the coating manufacturing facility in Reading City, **Berks County**. This State-only Operating permit was administratively amended due to a name change. This is Revision No. 1 of the permit.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**18-00024: Excel Homes Group, LLC** (300 Corporate Center Drive, Suite 602, Camp Hill, PA 17011) issued a revised State-only (Synthetic Minor) operating permit, Revision No. 1, on August 18, 2010, for a change of ownership of the Avis facility from Excel Homes, LLC to Excel Homes Group, LLC. This facility is located in Pine Creek Township, **Clinton 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.*

**56841328 and NPDES Permit No. PA0033677, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Mine 78 in Adams and Richland Townships, **Cambria County** to add underground permit and subsidence control plan area acres for full extraction mining. Underground Acres Proposed 4,922.0, Subsidence Control Plan Acres Proposed 4,922.0. No additional discharges. Application received: October 30, 2008. Permit issued: August 23, 2010.

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

**03080102 and NPDES Permit No. PA0251399. Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201). Transfer of permit formerly issued to State Industries, Inc., for continued operation and reclamation of a bituminous surface/auger mining site located in East Franklin Township, **Armstrong County**, affecting 112.3 acres. Receiving streams: unnamed tributaries to Allegheny River to Ohio River. Application received: March 31, 2010. Transfer permit issued: August 25, 2010.

**03860111 and NPDES Permit No. PA0589144. Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201). Transfer of permit formerly issued to State Industries, Inc., for continued operation and reclamation of a bituminous surface/auger mining site located in East Franklin Township, **Armstrong County**, affecting 667.4 acres. Receiving streams: unnamed tributaries to the Allegheny River to the Ohio River. Application received: March 31, 2010. Transfer permit issued: August 26, 2010.

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

**16050109 and NPDES Permit No. PA0257966. RFI Energy, Inc.** (P. O. Box 162, Sligo, PA 16255) Renewal of an existing bituminous strip and beneficial use of coal ash operation in Perry Township, **Clarion County** affecting 71.0 acres. Receiving streams: two unnamed tributaries to the Clarion River. This renewal is issued for reclamation only. Application received: June 25, 2010. Permit Issued: August 25, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17980104 and NPDES No. PA0237922. Swisher Contracting, Inc.**, P. O. Box 1223, Clearfield, PA 16830, (correction to the surface mine permit number). Permit renewal for the continued operation and restoration of a bituminous surface mine located in Lawrence Township, **Clearfield County** affecting 84.0 acres. This renewal includes a request to revise the baseline pollution load for pre-existing Subchapter F discharge MP14. Receiving streams: unnamed tributary to Moose Creek, Moose Creek and Orr's Run classified for Cold Water Fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: May 14, 2010. Permit issued: August 18, 2010.

**17040110 and NPDES No. PA0243884. Myers & Supko Contracting**, P. O. Box 51, Osceola Mills, PA 16666. Permit renewal for the continued operation and restoration of a bituminous surface mine located in Decatur Township, **Clearfield County** affecting 97.6 acres. Receiving streams: Big and Coal Runs, unnamed tributary to Coal Run and Moshannon Creek classified for Cold Water Fisheries. Application received: June 21, 2010. Permit issued: August 19, 2010.

### Noncoal Permits Actions

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

**33100804. John R. Yenzi, Jr.** (149 Walnut Street, P. O. Box 287, Anita, PA 15711) Commencement, operation and restoration of a small shale operation in McCalmont Township, **Jefferson County** affecting 5.0 acres. Receiving streams: Big Run. Application received: April 23, 2010. Permit Issued: August 26, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**1475302 and NPDES No. PA0112275. Con-Lime, Inc.**, 965 East College Avenue, Pleasant Gap, PA 16823. Renewal of the NPDES Permit for discharges of treated mine drainage from a quarry operation in Benner Township, **Centre County**. Receiving streams: Buffalo Run classified for High Quality Cold Water Fishery. Application received: April 30, 2010. Permit issued: August 20, 2010.

**59100801, Greg Cross** (435 Ashley Hill Road, Mansfield, PA 16933), commencement, operation and restoration of a small non-coal gravel operation in Sullivan Township, **Tioga County** affecting 1.0 acres. Receiving stream(s): Unnamed Tributary to Unnamed Tributary to Cory Creek to Tioga River. Application received: September 29, 2009. Permit issued: August 17, 2010.

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

**52100801. John S. McKay**, (112 Mast Hope Avenue, Lackawaxen, PA 18435), commencement, operation and restoration of a quarry operation in Lackawaxen Township, **Pike County** affecting 5.0 acres, receiving stream: none. Application received: April 7, 2010. Permit issued: August 27, 2010.

**58102806. Alan C. Gage**, (R. R. 1, Box 1275, Lawton, PA 18828-8730), commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 3.0 acres, receiving stream: none. Application received: June 4, 2010. Permit issued: August 27, 2010.

**58102807. Alan C. Gage**, (R. R. 1, Box 1275, Lawton, PA 18828-8730), commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: June 4, 2010. Permit issued: August 27, 2010.

**40930301C2 and NPDES Permit No. PA0224472. Meckley's Limestone Products, Inc.**, (1543 SR 225, Herndon, PA 17830), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Hazle Township, **Luzerne County**, receiving stream: Hazle and Big Black Creeks. Application received: June 28, 2010. Renewal issued: August 27, 2010

**6174SM5A2C10 and NPDES Permit No. PA0594423. Meckley's Limestone Products, Inc.**, (1543 SR 225, Herndon, PA 17830), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Mahanoy and Jordan Townships, **Northumberland County**, receiving stream: Upper Fiddler Run. Application received: July 9, 2010. Renewal issued: August 27, 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*

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

**03104002. Precision Geophysical, Inc.** (2695 SR 83 South, Millersburg, OH 44654). Blasting activity permit for the construction of the EXCO 2-D lines 74-77 to conduct seismic activity, located in Manor Township, **Armstrong County**. The duration of blasting is expected to last 60 days. Blasting permit issued: August 25, 2010.

**65104010. Wampum Hardware Co.** (636 Paden Road, New Galilee, PA 16141). Blasting activity permit for the construction of the Uschak No. 1 Well Pad to conduct seismic activity, located in Derry Township, **Westmoreland County**. The duration of blasting is expected to last 60 days. Blasting permit issued: August 25, 2010.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**41104005. Pennsylvania General Energy Co., LLC**, 120 Market Street, Warren, PA 16365. Blasting for a stone pit for roads and drill pads located in Cummings Township, **Lycoming County**. Permit issued: August 23, 2010. Permit expires: July 1, 2011.

**53104006. Pennsylvania General Energy Co., LLC**, 120 Market Street, Warren, PA 16365. Blasting for a stone pit for roads and drill pads located in Pleasant Valley Township, **Potter County**. Permit issued: August 23, 2010. Permit expires: July 1, 2011.

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

**15104109. Maine Drilling & Blasting**, (P. O. Box 279, Auburn, NH 03032), construction blasting for Ewing Tract

in West Vincent Township, **Chester County** with an expiration date of August 9, 2011. Permit issued: August 19, 2010.

**40104112. Dyno-Nobel, Inc.**, (1320 Galiffa Drive, Donora, PA 15033), construction blasting for Center Point East in Pittston Township, **Luzerne County** with an expiration date of August 30, 2011. Permit issued: August 19, 2010.

**45104118. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for South Ridge Estates in Price Township, **Monroe County** with an expiration date of August 31, 2011. Permit issued: August 19, 2010.

**45104119. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Evergreen Estates in Middle Smithfield Township, **Monroe County** with an expiration date of August 31, 2011. Permit issued: August 19, 2010.

**45104120. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Sunrise Village in Smithfield Township, **Monroe County** with an expiration date of August 31, 2011. Permit issued: August 19, 2010.

**52104109. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Oak Ridge Estates in Dingman Township, **Pike County** with an expiration date of August 31, 2011. Permit issued: August 19, 2010.

**64104111. Holbert Explosives, Inc.**, (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for a single dwelling in Sterling Township, **Wayne County** with an expiration date of October 30, 2010. Permit issued: August 19, 2010.

**15104106. J Roy's, Inc.**, (P. O. Box 125, Bowmansville, PA 17507), construction blasting for Sawmill Phase 2 in West Bradford Township, **Chester County** with an expiration date of August 16, 2011. Permit issued: August 20, 2010.

**15104107. J Roy's, Inc.**, (P. O. Box 125, Bowmansville, PA 17507), construction blasting for Swinehart Village in West Brandywine Township, **Chester County** with an expiration date of August 16, 2011. Permit issued: August 20, 2010.

**15104108. J Roy's, Inc.**, (P. O. Box 125, Bowmansville, PA 17507), construction blasting for quarry development in East Caln Township, **Chester County** with an expiration date of August 15, 2011. Permit issued: August 20, 2010.

**58104114. Meshoppen Blasting, Inc.**, (P. O. Box 127, Meshoppen, PA 18630), blasting for a short term construction project at Wright Construction site in Auburn Township, **Susquehanna County** with an expiration date of July 1, 2011. Permit issued: August 25, 2010.

**09104112. Austin Powder Northeast, LLC**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for ECMS 47395 SR 202 Sec 721 project in Chalfont Borough, Warwick, Washington and Doylestown Townships, **Bucks County** with an expiration date of May 24, 2011. Permit issued: August 26, 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.*

**E23-473. Wawa, Inc.**, 260 West Baltimore Avenue, Red Roof Building, Wawa, PA 19063, Ridley Township, **Delaware County**, ACOE Philadelphia District.

To construct and maintain the following water obstruction and encroachment activities across/along an unnamed tributary to Little Crum Creek (WWF) associated with the proposed Wawa Food Market:

1. To relocate approximately 160 linear feet of the stream approximately five feet north of the original path to accommodate the stream enclosure design.

2. To extend and maintain an existing 12-foot span, 6-foot rise open bottom culvert enclosure by approximately 259 feet on the downstream side.

3. To construct and maintain temporary cofferdams.

4. To construct and maintain a stormwater outfall structure.

The project will impact approximately 259 linear feet of the stream. The site is located approximately 920 feet south of the intersection of Morton Avenue and Macdade Boulevard in Ridley Township, Delaware County (Lansdowne, PA USGS Quadrangle N: 1.59 inches; W: 11.20 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)).

**E09-944. Chalfont Borough**, 40 North Main Street, Chalfont, PA 18914, Chalfont Borough, **Bucks County**, ACOE Philadelphia District.

To construct and maintain a 130-foot long by 8-foot wide pedestrian bridge across the North Branch of the Neshaminy Creek (PMF) in Twin Streams Park associated with the construction of the proposed trail system in the floodplain.

The site is located approximately 1,000 feet southeast of the intersection of Route 202 and South Limekiln Pike (SR 0152) (Doylestown, PA USGS Quadrangle N: 6.3 inches; W: 11.3 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)).

**E15-805. Willistown Conservation Trust**, 925 Providence Road, Newtown Square, PA 19073, East Goshen Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain nineteen 16-inch by 16-inch concrete stepping stones across Ridley Creek and its tributary associated with the trail crossing within the Ashbridge Preserve. The site is located near the intersection of Dutton Mill and Strasburg Roads (West Chester, PA, USGS Quadrangle N: 19.5 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.*

**E39-497. Department of Transportation, Engineering District 5-0**, 1002 Hamilton Street, Allentown, PA 18101-1013. Whitehall Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain a stream enclosure consisting of an 18-foot wide by 7.5-foot high reinforced concrete box culvert depressed 1.0-foot below streambed elevation, including 3 stormwater outfall structures within a tributary to Copley Creek (CWF) for the purpose of the SR 145, Section 08S Safety Improvement Project. The project is located at SR 145, Segment 0170, Offset 0000, at the intersection with Municipal Drive (Cementon, PA Quadrangle Latitude: 40° 39' 22" N; Longitude: 75° 30' 25" W).

**E66-148. Department of Transportation, Engineering District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512. Mehoopany Township, **Wyoming County**, Army Corps of Engineers Baltimore District.

To place fill in a de minimis area of wetlands equal to 0.01 acre; to remove the existing structure; and to construct and maintain a two-span, pre-stressed concrete bulb-tee I-beam bridge having a total normal clear span of 231 feet and an underclearance of 35 feet over Mehopeny Creek (CWF, MF) approximately 200 feet downstream of the existing bridge. The project is located at SR 3003 (Sugar Hollow Road), Segment 0150, Offset 1374, just west of the intersection of SR 3003 and SR 87 (Meshoppen, PA Quadrangle Latitude: 41° 33' 52"; Longitude: -76° 3' 33").

**E66-147. Department of Transportation, Engineering District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512. Noxen Township, **Wyoming County**, Army Corps of Engineers Baltimore District.

To place fill in a de minimis area of wetlands equal to 0.05 acre; to remove the existing structure; and to construct and maintain a single-span, pre-stressed concrete spread box beam bridge having a total normal clear span of 49.6 feet and a minimum underclearance of 7.6 feet over Beaver Run (HQ-CWF, MF). The project also includes the relocation of 85 feet of a tributary to Beaver Run. The project is located at SR 29, Segment 0050, Offset 0000, just southeast of the intersection of SR 29 and Keiper Road (Noxen, PA Quadrangle Latitude: 41° 24' 03"; Longitude: -76° 4' 18").

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

**E21-414: Fish and Boat Commission, Charlie McGarrell**, 844 Big Spring Road, Newville, PA 17241, Big Spring Creek Habitat Enhancement, North Newton and West Pennsboro Townships, **Cumberland County**, ACOE Baltimore District.

To construct and maintain 6 riffles, 365.0 feet of rock bank toe protection, 1,050.0 feet of mud sill/log bank toe protection, 37 log structures and 70 habitat rocks/anchor rocks for log deflectors, in Big Spring Creek (CWF, MF); to place and maintain 2,095.0 cubic yards of fill in the floodway of Big Spring Creek (CWF, MF); and to fill approximately 0.21 acre and submerge 0.02 acre of Exceptional Value wetlands in the floodway/floodplain of Big Spring Creek (CWF, MF). The project location starts approximately 0.1 mile north of the intersection of Springfield and Big Spring Roads and ends approximately 0.1 mile north of the intersection of T351 and Big Spring Road (Newville, PA Quadrangle from N: 1.51 inches; W: 4.58 inches, Latitude: 40° 7' 60"; Longitude: 77° 24' 28" to N: 2.72 inches; W: 4.43 inches, Latitude: 40° 8' 24"; Longitude: 77° 24' 24") in North Newton and West Pennsboro Townships, Cumberland County. The project purpose is to improve Brook Trout habitat on approximately 2,129.0 feet of Big Spring Creek (CWF, MF). The permittee is required to provide a minimum of 0.46 acre of replacement wetlands on site.

**E36-869: Donegal Chapter of Trout Unlimited, Bob Kutz**, P. O. Box 8001, Lancaster, PA 17604, Conowingo Creek Stream Restoration (Project No. 6), East Drumore Township, **Lancaster County**, ACOE Baltimore District.

To restore and stabilize 3,700.0 linear feet between a combination of three watercourses: Conowingo Creek (HQ-CWF), an unnamed tributary to Conowingo Creek (HQ-CWF and PAFBC Wild Trout List), and MacFarlands Run (HQ-CWF), including the construction and maintenance of 15 rock deflectors, 14 moundsills, one toe riprap location, ten cover logs, six random boulder placements, eight boulder walls, one cattle crossing, one wetland

pocket extension in Conowingo Creek (HQ-CWF), two R-5 rip rap installation locations totaling 80.0 linear feet in an unnamed tributary to Conowingo Creek (HQ-CWF), one rock deflector, one boulder wall, and three cattle crossings in MacFarlands Run (HQ-CWF), a herbaceous/forested riparian buffer having a varied width of 35.0 feet to 180.0 feet in and along Conowingo Creek (HQ-CWF), an unnamed tributary to Conowingo Creek (HQ-CWF), and MacFarlands Run (HQ-CWF) for the purpose of implementing part of the Conowingo Creek TMDL Implementation Plan of 2006. The project is located on the Herb Weaver Farm approximately 0.39 mile east from the intersection of Conowingo and Spring Valley Roads (Wakefield, PA Quadrangle N: 14.5 inches; W: 9.0 inches, Latitude: 39° 49' 45.26"; Longitude: 76° 11' 25.99") in East Drumore Township, Lancaster County. There are no proposed wetland impacts.

*Northcentral Region: Watershed Management Program Manager, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E49-310. Patrice Hirt**, 14 East Mill Street, Elysburg, PA 17824. Hirt Culvert, in Shamokin Township, **Northumberland County**, ACOE Baltimore District (Trevorton, PA Quadrangle Latitude: 40° 51' 2.5"; Longitude: 76° 38' 38.9").

To construct, operate and maintain two 48-inch culverts side by side along with being depressed 6 inches within the channels flow and two 24 inch culverts set two feet above the bed elevation on the flood plain bench of an Unnamed Tributary to Shamokin Creek, Warm Water Fishery. The crossing will have two feet clean rock placed on top of it for wearing surface of the private driveway in addition to rock headwalls and end walls. The footprint of the crossing will impact 0.05 acre of floodplain wetlands and will not require mitigation. This project is located 1.5 miles east of Stonington on SR 006. This permit also includes 401 Water Quality Certification.

**E53-430. Coudersport Borough Authority**, 201 South West Street, Coudersport, PA 16915-1047. Water Main Relocation Project, Coudersport Borough, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle Latitude: 41° 46' 45.2"; Longitude: 78° 01' 11.3").

The applicant proposes to construct, operate and maintain an eight inch diameter public water supply pipeline crossing beneath the Allegheny River to accommodate relocation of the Fourth Street Bridge. Installation of the water supply pipeline shall be accomplished by either standard boring or directional drilling beneath the Allegheny River, which also serves as the Coudersport Borough Flood Control Project. The water supply pipeline shall be installed at a maximum depth below the flood control channel, so that flood control structure is not comprised. The project is located approximately 500 feet east off the Fourth Street and SR 0049 intersection. This permit application was issued under Section 105.13(e) "Small Projects." A permit issued for this application will also include 401 Water Quality Certification.

**E53-431. Coudersport Area Municipal Authority**, 201 South West Street, Coudersport, PA 16915-1047. Water Main Relocation Project, Coudersport Borough, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle Latitude: 41° 46' 45.2"; Longitude: 78° 01' 11.3").

The applicant proposes to construct, operate and maintain a 12-inch diameter public sanitary sewer line crossing beneath the Allegheny River to accommodate reloca-

tion of the Fourth Street Bridge. Installation of the sanitary sewer shall be accomplished by boring beneath the Allegheny River, which also serves as the Coudersport Borough Flood Control Project. The sanitary sewer line and its 18-inch diameter steel encasement shall be installed at a maximum depth below the flood control channel, so that flood control structure is not comprised. The project is located approximately 500-feet east of Fourth Street and SR 0049 intersection. This permit application was issued under Section 105.13(e) "Small Projects." A permit issued for this application will also include 401 Water Quality Certification.

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

**E02-1634. U.S. Coast Guard Civil Engineering Unit Cleveland**, 1240 East 9th Street, Room 2179, Cleveland, OH 44199-2060. To operate and maintain the existing mooring facility and to construct and maintain a new floating dock in Osborne Borough, **Allegheny County**, Pittsburgh ACOE District (Ambridge, PA Quadrangle N: 5.55 inches; W: 6.65 inches, Latitude: 40° 31'50"; Longitude: 80° 10' 22"). To operate and maintain the existing mooring facility and to construct and maintain a new floating dock 220.0 feet long by 9.0 feet wide in the channel and along the right bank of the Ohio River (WWF) for the purpose of providing safe and efficient mooring for USCGC Osage. The new docking facility will replace the existing docking facility which is located just downstream from the proposed docking facility. The new docking facility is located approximately 4,200.0 feet upstream from the Sewickley Bridge.

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

**E33-239, Open Flow Gas Supply Corporation**, 90 Beaver Drive, Suite 110 B, P. O. Drawer J, DuBois, PA 15801-0297, Pittsburgh ACOE:

To construct and maintain a 6-inch diameter natural gas pipeline and a 20-inch diameter bore sleeve crossing of Beaver Meadow Run in Warsaw Township, Jefferson County as part of the installation of an approximately 11,000 feet long natural gas gathering pipeline. The pipeline crossing will be bored approximately 250 lineal feet with approximately 20 lineal feet being bored a minimum of 3 feet below the bottom of Beaver Meadow Run.

**E62-422, Game Commission**, 2001 Elmerton Avenue, Harrisburg, PA 17110. State Game Lands 86-Thompson Run Bridge, in Deerfield Township, **Warren County**, ACOE Pittsburgh District (Youngsville, PA Quadrangle N: 41° 46' 18"; W: 79° 19' 42").

To construct and maintain a bridge with steel I-beam superstructure, concrete abutments and timber deck having a clear span of 30 feet and an underclearance of approximately 3.8 feet on Thompson Run in State Game Lands No. 86 approximately 2.0 miles northeast of the intersection of Davey Hill and Youngsville Roads. Thompson Run is a perennial stream classified as a cold water fishery.

#### 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: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

8/4/10 Major Rev.

ESCGP-1 No.: ESX10-125-0029

Applicant Name: EQT Production Company

Contact: Todd Klaner

Address: 455 Racetrack Road

City: Washington State: PA Zip Code: 15301

County: Washington and Greene Township(s): West Bethlehem and Morgan

Receiving Stream(s) And Classifications: UNT to Barr's Run—TSF, other

8/4/10 Major Rev.

ESCGP-1 No.: ESX10-125-0012

Applicant Name: Chesapeake Appalachia, LLC

Contact Person: Tal Oden

Address: P. O. Box 18496

City: Oklahoma City State: OK Zip Code: 73154-0496

County: Washington Township(s): Independence

Receiving Stream(s) and Classifications: First UNT—

Cross Creek (before Avella intake) (HQ-WWF)—Cross

Creek (beyond Avella water intake) (WWF)—WV

Border-Ohio River

Second UNT (WWF)—Cross Creek (WWF)—Ohio River,

HQ

8/4/10 Major Rev.

ESCGP-1 No.: ESX09-005-0008

Applicant Name: EQT Production Company

Contact Person: Todd Klaner

Address: 455 Racetrack Road, Suite 101

City: Washington State: PA Zip Code: 15301

County: Armstrong Township(s): Plumcreek

Receiving Stream(s) and Classifications: Sugar and

Fagley Runs (WWF), other

8/11/10

ESCGP-1 No.: ESX10-059-0060

Applicant Name: Coal Gas Recovery, LLC

Contact Person: Joanne Reilly

Address: P. O. Box 1020

City: Waynesburg State: PA Zip Code: 15370

County: Greene Township(s): Center

Receiving Stream(s) and Classifications: UNT to Hargus Creek/Monongahela River, HQ



8/19/2010

ESCGP-1 No.: ESX10-059-0062  
 Applicant Name: CNX Gas Company  
 Contact Person: Daniel Bitz  
 Address: 200 Evergreene Drive City: Waynesburg  
 State: PA  
 COUNTY Greene Township(s): Morris  
 Receiving Stream(s) and Classifications: UNT to Bates  
 Fork and Browns Creek/South Fork Tenmile Creek, HQ

08/16/2010

ESCGP-1 No.: ESX10-051-0026  
 Applicant Name: Burnett Oil Co., Inc.  
 Contact Person: Bart J. Walker  
 Address: 601 Technology Drive  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Fayette Township(s):  
 German and Nicholson Townships Receiving Stream(s)  
 and Classifications: South Branch—WWF, other  
 Secondary Water Browns Run—WWF

8/13/10

ESCGP-1 No.: ESX10-125-0069  
 Applicant Name: Markwest Liberty Midstream &  
 Resources, LLC  
 Contact Person: Robert Mchale  
 Address: 100 Plaza Drive, Suite 102  
 City: Altasburg State: PA Zip Code: 15004  
 County: Washington Township(s): Buffalo  
 Receiving Stream(s) and Classifications: UNT to Wolf  
 Run, HQ

8/9/10

ESCGP-1 No.: ESX10-129-0024  
 Applicant Name: Burnett Oil Company, Inc.  
 Contact Person: Bart Walker  
 Address: 601 Technology Drive, Pointe Plaza Building,  
 Suite 120  
 City: Canonsburg State: PA Zip Code: 15317  
 County: Westmoreland Township(s): Fairfield  
 Receiving Stream(s) and Classifications: UNT to Tubmill  
 Creek, EV

8/9/10

ESCGP-1 No.: ESX10-021-0002  
 Applicant Name: Chief Oil & Gas, LLC  
 Contact Person: Michael Hirtz  
 Address: 6051 Wallace Road Extension, Suite 21  
 City: Wexford State: PA Zip Code: 15090  
 County: Cambria Township(s): Clearfield  
 Receiving Stream(s) and Classifications: Slate Lick Run,  
 Beaverdam Run, other

8/06/2010

ESCGP-1 No.: ESX09-005-0006 Major Revision  
 Applicant Name: EXCO Resources (PA), LLC  
 Contact Person: Larry Sanders  
 Address: 3000 Ericsson Drive, Suite 200  
 City: Warrendale State: PA Zip Code: 15086  
 County: Armstrong Township(s): Manor  
 Receiving Stream(s) and Classifications: Campbell  
 Run WWF, other Secondary Water Crooked  
 Creek Watershed

*Northwest Region: Oil and Gas Program Manager, 230  
 Chestnut Street, Meadville, PA 16335.*

ESCGP-1 #ESX10-065-0011

Applicant Name Phillips Exploration, Inc.—J A Newcome  
 Nos. 5—7  
 Contact Person Gary A. Clark  
 Address 502 Keystone Drive  
 City Warrendale State PA Zip Code 15086

County Jefferson Township(s) Perry  
 Receiving Stream(s) and Classification(s) UNT Big  
 Run—CWF

ESCGP-1 #ESX10-083-0025

Applicant Name SM Energy Corporation—Potato Creek  
 Well Pad 2H  
 Contact Person Marlon Wells  
 Address 7060 South Yale, Suite 800  
 City Tulsa State OK Zip Code 74136  
 County Norwich Township(s) McKean  
 Receiving Stream(s) and Classification(s) UNT Hamlin  
 Run (HQ-CWF)

ESCGP-1 #ESX10-031-0009

Applicant EQT Production Company—Hepler Project  
 Contact Todd Klaner  
 Address 344 Racetrack Road, Suite 101  
 City Washington State PA Zip Code 15301  
 County Clarion Township(s) Elk  
 Receiving Stream(s) and Classification(s) UNT East  
 Sandy Creek—CWF, UNT Judith Run (Deer Creek  
 Basin)—CWF

ESCGP-1 #ESX10-047-0008

Applicant Flatirons Development, LLC—Dannic 3A  
 Contact Todd A. Huey  
 Address 910 Beaver Drive  
 City Dubois State PA Zip Code 15801  
 County Elk Township(s) Horton  
 County Jefferson Township(s) Snyder  
 Receiving Stream(s) and Classification(s) Rattlesnake  
 Creek, Whetstone Branch—Other

ESCGP-1 #ESX10-019-0045

Applicant BLX, Inc.—Worthington Marcellus Project  
 Contact Walt Elmquist  
 Address 233 North Park Drive  
 City Kittanning State PA Zip Code 16201  
 County Butler Township(s) Clearfield and Winfield  
 Receiving Stream(s) and Classification(s) North Branch  
 Rough Run, Sarver Run, UNT Buffalo Creek, Little  
 Buffalo Creek—HQ—TSF

ESCGP-1 #ESX10-073-0001

Applicant East Resources Management, LLC—McKinney  
 Unit 1  
 Contact Jefferson Long  
 Address 190 Thorn Hill Road  
 City Warrendale State PA Zip Code 15086  
 County Lawrence Township(s) Little Beaver  
 Receiving Stream(s) and Classification(s) UNT Jenkins  
 Run/Ohio River Basin in PA—Ohio River (List W)—  
 other—WWF

ESCGP-1 #ESX10-019-0031B

Applicant Rex Energy Corp.—Southwest Butler County  
 Project Phase VB  
 Contact Timothy Beattie  
 Address 476 Rolling Ridge Drive, Suite 300  
 State College, PA 16801  
 County Butler Township(s) Jackson  
 Receiving Stream(s) and Classification(s) UNT to  
 Connoquenessing Creek, WWF; UT to Breakneck WWF

ESCGP-1 #ESX09-065-0004A

Applicant Exco Resources PA, Inc.—Brookville Wood  
 Products  
 Contact Larry Sanders  
 Address 300 Ericsson Drive, Suite 200  
 Warrendale, PA 15086  
 County Jefferson Township(s) Pine Creek  
 Receiving Stream(s) and Classification(s) Five Mile Run  
 (CWF); UNT O'Donnell Run (CWF)

## ESCGP-1 # ESX10-019-0036

Applicant Phillips Exploration, Inc.—Holy Trinity  
 Monastery et al No. 1  
 Contact Gary Clark  
 Address 502 Keystone Drive  
 Warrendale, PA 15086  
 County Butler Township(s) Butler  
 Receiving Stream(s) and Classification(s) Patterson Run  
 (WWF); UNT Thorn Creek (WWF)

## ESCGP-1 # ESX10-019-0039

Applicant Phillips Exploration, Inc.—Holy Trinity  
 Monastery et al No. 5  
 Contact Gary Clark  
 Address 502 Keystone Drive  
 Warrendale, PA 15086  
 County Butler Township(s) Jefferson  
 Receiving Stream(s) and Classification(s) Patterson Run  
 (WWF); UNT Thorn Creek (WWF)

## ESCGP-1 # ESX10-019-0042

Applicant Phillips Exploration, Inc.—Holy Trinity  
 Monastery et al No. 8  
 Contact Gary Clark  
 Address 502 Keystone Drive  
 Warrendale, PA 15086  
 County Butler Township(s) Penn  
 Receiving Stream(s) and Classification(s) Patterson Run  
 (WWF); UNT Thorn Creek (WWF)

## ESCGP-1 # ESX10-031-0008

Applicant EQT Production Company—Huey Project  
 Contact Todd A. Klaner  
 Address 455 Racetrack Road, Suite 101  
 Washington, PA 15301  
 County Clarion Township(s) Toby  
 Receiving Stream(s) and Classification(s) Cherry Run  
 (Licking Creed Basin), Little Licking Creek—other

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**SPECIAL NOTICES**


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*Southwest Regional Office, Water Management Program  
 Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-  
 4745.*

**Categorical Exclusion**

Location: **Johnstown Redevelopment Authority**, 4th  
 Floor, Public Safety Building, 401 Washington Street,  
 Johnstown, PA 15901, City of Johnstown, **Cambria  
 County**.

Description: The Pennsylvania Infrastructure Invest-  
 ment Authority which administers

Pennsylvania's State Revolving Fund is intended to be  
 the funding source for this project.

The Authority proposes to replace existing sanitary  
 sewers in the Sell Street area of Johnstown with larger  
 sized sewers.

The Department of Environmental Protection's (Depart-  
 ment) review of the project and the information received  
 has not identified any significant, adverse environmental  
 impact resulting from this proposal. The Department  
 hereby categorically excludes this project from the State  
 Environmental Review Process.

[Pa.B. Doc. No. 10-1687. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Alternative Fuels Incentive Grant Program Electric  
 Vehicle Infrastructure Solicitation; Program Op-  
 portunity**

The Department of Environmental Protection (Depart-  
 ment), Office of Energy and Technology Deployment  
 announces an opportunity to apply for grants under a  
 special electric vehicle infrastructure solicitation of the  
 Alternative Fuels Incentive Grant Program (AFIG). The  
 purpose of AFIG is to improve this Commonwealth's air  
 quality and reduce consumption of imported oil through  
 the use of homegrown alternative fuels that will help this  
 Commonwealth's economy and environment. The Depart-  
 ment is seeking applications for the installation and  
 operation of eligible electric vehicle charging stations in  
 densely populated areas of this Commonwealth.

Funding is available for school districts, municipal  
 authorities, political subdivisions, incorporated nonprofit  
 entities, corporations, limited liability companies or part-  
 nerships incorporated or registered in this Common-  
 wealth for the installation of eligible electric vehicle  
 charging stations in targeted areas of high population  
 density.

Project costs cannot be incurred before July 1, 2010.

The program guidelines and application instructions  
 are available for download on the Department's web site  
 at <http://www.depweb.state.pa.us> (click on "DEP Pro-  
 grams" and then "Alternative Fuels").

The application period will open on September 13,  
 2010. Applications must be received by 4 p.m. on Novem-  
 ber 12, 2010. Faxes and e-mails will not be accepted. Use  
 staples only, no binding or cover pages.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1688. Filed for public inspection September 10, 2010, 9:00 a.m.]

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**Bid Opportunity**


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**OSM 17(7184)102.1, Water Line Extension Project,  
 Goshen Church West, Goshen and Lawrence Town-  
 ships, Clearfield County.** The principal items of work  
 and approximate quantities include site preparation and  
 restoration; installation of 8" ductile iron pipe including  
 fittings; service lateral connections; highway crossings  
 and stream crossings; 2" automatic air release and blow-  
 off valves; repaving; Mount Joy steel welded water stor-  
 age tank including foundation; Baney settlement pressure  
 reducing vault; and preparation and implementation of  
 erosion and sediment pollution control. This bid issues  
 September 10, 2010, and bids will be opened on October  
 7, 2010, at 2 p.m. Bid documents cost \$25 per set and will  
 not be mailed until payment has been received. This  
 project is financed by the Federal government under the  
 authority given it by the Surface Mining Control and  
 Reclamation Act of 1977 (act) (30 U.S.C.A. §§ 1201—  
 1328), and is subject to the act, and to the Federal grant  
 for this project. Contact the Construction Contracts Sec-  
 tion at (717) 787-7820 or [joelmiller@state.pa.us](mailto:joelmiller@state.pa.us) for more  
 information on this bid.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1689. Filed for public inspection September 10, 2010, 9:00 a.m.]

### **Board of Coal Mine Safety; Change of Meeting Date**

The September 15, 2010, meeting of the Board of Coal Mine Safety has been rescheduled. The meeting will now take place at 10 a.m. on October 26, 2010, in the Fayette County Health Center, Uniontown, PA.

Questions concerning the meetings can be directed to Allison D. Gaida at (724) 439-7289 or [agaida@state.pa.us](mailto:agaida@state.pa.us).

The agenda and meeting materials for the meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.us> (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Allison Gaida directly at (724) 439-7289, 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. 10-1690. Filed for public inspection September 10, 2010, 9:00 a.m.]

### **Climate Change Advisory Committee; Tourism and Outdoor Recreation Working Group; Change of Meeting Date**

The Department of Environmental Protection (Department) announces the following meeting change:

The Tourism and Outdoor Recreation Working Group Meeting scheduled for Tuesday, September 21, 2010, from 1 to 3 p.m. has been moved to the following Thursday, September 30, 2010, from 10 a.m. to 12 p.m. The location of the meeting has not changed, it will be held in the Delaware Room of Fish and Boat Commission Headquarters, 1601 Elmerton Avenue, Harrisburg, PA.

Each Adaptation Working Group will focus on a specific area of impact: Infrastructure; Public Health and Safety; Natural Resources; and Tourism and Outdoor Recreation. They will work to identify vulnerabilities to climate change, adaptation efforts already underway and practical actions the Commonwealth and other stakeholders can undertake to address the risks of climate change. They will also work to share information and knowledge across impacted areas and identify opportunities for collaboration.

For the latest on meeting details and materials, visit [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (Keyword: Climate Change). Questions concerning these meetings should be directed to Kim Hoover, Office of Energy and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-5161 or [khoover@state.pa.us](mailto:khoover@state.pa.us).

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Kim Hoover at (717) 772-5161 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. 10-1691. Filed for public inspection September 10, 2010, 9:00 a.m.]

### **Marsh/Rock Creek Water Resources Management Plan; Project Kick-Off Meeting**

The pilot Water Resources Management Plan for Marsh and Rock Creeks kick-off meeting will be held Tuesday, September 21, 2010, from 7 p.m. to 9 p.m. at the Adams County Agricultural Center.

The Interstate Commission on the Potomac River Basin is partnering with concerned stakeholders of Adams County and the Department of Environmental Protection (Department) under 27 Pa.C.S. Chapter 31 (relating to water resources planning) to assist with a pilot assessment of Rock and Marsh Creeks. Local input from the watershed's many stakeholders (local government, water suppliers, agricultural users, citizens watershed groups, anglers) working together will best direct future water policy in this watershed.

As one of the first of its kind in this Commonwealth, the assessment will examine the challenges to clean, sustainable water supplies in the watershed, assess the amounts that can be safely used, and find ways to deliver a sustainable water supply while maintaining water quality and other community values. Additionally, a successful process in this watershed can be used as a template in other areas of this Commonwealth.

The purpose of this meeting is to: (1) introduce the project to prospective advisory committee members and the general public; (2) identify participants' concerns on issues facing the watersheds; (3) discuss ways for developing recommendations as an outcome of this project; and (4) nominate project advisory committee members for consideration by the Potomac Regional Committee.

The meeting schedule, an agenda and meeting materials will be available through the Public Participation Center on the Department's web site at <http://www.dep.state.pa.us> (DEP Keyword: Participate).

#### *Project Kick-off Meeting*

The September kick-off meeting will be held from 7 p.m. to 9 p.m. at the Adams County Agricultural Center, 670 Old Harrisburg Road, Gettysburg, PA 17325.

Questions concerning this meeting should be directed to Jay Braund, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-2402, [jbraund@state.pa.us](mailto:jbraund@state.pa.us).

Persons with a disability who require accommodations to attend the meeting listed should contact the Department at (717) 705-2425 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. 10-1692. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Notice of Listing on the Pennsylvania Priority List of Hazardous Sites for Remedial Response; Hazardous Sites Cleanup Act**

**Bishop Tube Site, East Whiteland Township, Chester County**

1. *Background*

The Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.101—6020.1305) was enacted in 1988 to provide for the cleanup of sites in the Commonwealth that are releasing or threatening the release of hazardous substances. Section 502(a) of HSCA (35 P.S. § 6020.502) requires that the Department of Environmental Protection (Department) publish in the *Pennsylvania Bulletin* a priority list of sites with releases or threatened releases for the purpose of taking remedial response. This list is called the Pennsylvania Priority List of Hazardous Sites for Remedial Response (PAPL). The Department places sites on the PAPL when the Department has determined through investigation that there are releases or threatened releases of hazardous substances, or releases or substantial threatened releases of contaminants, which present a substantial threat to the public health, safety and environment. In accordance with the requirements of section 502(a) of HSCA, the Hazard Ranking System (HRS); (40 CFR Part 300, Appendix A) established under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C.A. §§ 9601—9675), is utilized to rank the sites for placement on the PAPL. The HRS uses mathematical formulas that reflect the relative importance and interrelationships of the various human health and environmental factors to arrive at a final score on a scale of 0 to 100. The values are assigned using information obtained from site investigations. Section 502(a) of HSCA also directs the Department to consider its administrative, enforcement and financial capabilities when placing sites on the PAPL. HRS scores are finalized by the Department using the HRS in effect at the time the score is prepared and the proposed listing notice is issued under the statute.

The HRS was developed by the United States Environmental Protection Agency (EPA) as the method used to evaluate the relative potential of hazardous substance releases to cause health or safety problems, or ecological or environmental damage. It is the principal mechanism for placing a site on the National Priorities List, the list of priority releases for long-term remedial evaluation and response under CERCLA. The HRS is calculated by utilizing known information to establish the level of threat presented in four potential pathways of human or environmental exposure: groundwater, surface water, air and soil exposure. Within each pathway of exposure, the HRS considers three categories of factors:

- (1) Factors that indicate the presence or likelihood of a release to the environment.
- (2) Factors that indicate the nature and quantity of the substances presenting the potential threat.
- (3) Factors that indicate the human or environmental targets potentially at risk from the site.

The resultant HRS score represents an estimate of the relative probability and magnitude of harm to human populations or sensitive environments from potential exposure to hazardous substances by the groundwater, surface water, soil exposure or air pathways.

2. *Summary and Purpose*

Placement of a site on the PAPL is used to identify sites that need further study and/or remedial response decisions to address threats to the public health, safety or the environment. The Department will decide on a case-by-case basis whether to take enforcement or other actions under HSCA or other authorities, and/or to proceed directly with HSCA-funded remedial response actions and seek cost recovery after the cleanup.

Remedial response actions will not necessarily be taken in the same order as a site's ranking on the PAPL. The investigation conducted to place a site on the PAPL may not be sufficient to determine either the extent of contamination or the appropriate response actions for a site. The Department may undertake further site investigation and/or an analysis of remedial alternatives to determine appropriate response actions. The length of time needed to complete these studies will vary due to the complexity of a site. Response action decisions and implementation will proceed on individual sites regardless of the progress at other sites. Given the limited resources available in the Hazardous Sites Cleanup Fund, the Department must carefully balance the relative needs for response at the sites it has studied. The Department may decide not to immediately proceed with a HSCA remedial action or that no remedial action is necessary.

3. *Technical Evaluation Grants under Act 108*

Under section 510 of HSCA (35 P.S. § 6020.510), the Department may make available a reasonable sum as a grant to the governing body of the host municipality of a site where the Department is considering a remedial response. The host municipality shall use this sum solely to conduct an independent technical evaluation of the proposed remedial response. The grant shall not exceed \$50,000. Information and a technical evaluation grant package may be obtained from the Department's regional office in which the site is located. Refer to the Additional Information section of this notice.

A municipality will be sent grant information by the Department after a listing announcement has been published in the *Pennsylvania Bulletin*. The grant will be signed; however, the grant will not be effective until the proposed remedial response is available for public review. At that time, the municipality may proceed with the review of the Department's proposed remedial response.

**Pennsylvania Priority List of Hazardous Sites for Remedial Response**

A. *Effective Date*

The site listed is being placed on the PAPL effective upon publication of this announcement in the *Pennsylvania Bulletin*.

B. *Contact Persons*

Individual site information may be obtained by contacting the Department's regional office in which the site is located whose address can be found in the Additional Information section of this notice.

C. *Statutory Authority*

The PAPL is published under the authority of section 502(a) of the HSCA. Under section 502(b) of HSCA, a decision to place a site on the list or to remove a site from the list is not a final action subject to review under 2 Pa.C.S. § 103 (relating to the Administrative Agency Law) and section 4 of the Environmental Hearing Board Act (35 P.S. § 7514), nor shall it confer a right or duty upon the Department or any person.

*D. Review and Public Comment*

HSCA provides for a 30-day public comment period subsequent to publication of the PAPL. This *Pennsylvania Bulletin* announcement opens the 30-day comment period for the site being added with this publication. Comments concerning the placement of the Bishop Tube Site (Site) on the PAPL should be directed to Dustin Armstrong, Environmental Cleanup Program, Department of Environmental Protection, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401, darmstrong@state.pa.us. Comments received by facsimile will not be accepted. Public comments must be received by the Department by October 11, 2010.

The regional office Site file contains all information considered by the Department in placing the Site on the PAPL. Persons interested in reviewing the Site file should contact the Southeast Regional Office at (484) 250-5900. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

All written comments and the Department's responses will be placed into the Site file and will later be incorporated into the Administrative Record.

*E. Contents of List*

This notice places one site on the PAPL. Table 1 lists the site added to the PAPL by this notice, its HRS score, municipality, county and Department region. Table 2 lists the nine sites currently on the PAPL, including the site added by this notice. The HRS score, municipality, county and Department region for each site are contained in this table. The sites are listed in decreasing order of HRS score.

*F. Site Listing Summaries*

*Bishop Tube Site*

The Site is a former steel tube manufacturing facility located in East Whiteland Township, Chester County. Land uses at the Site include industrial, commercial and residential. Groundwater, soil and surface water at the Site are contaminated with trichloroethylene (TCE), which is classified as a probable human carcinogen by the EPA. TCE has been detected in onsite groundwater at

concentrations exceeding 100,000 parts per billion (ppb). A residential well located approximately 1/3 mile from the Site contains TCE in excess of 5 ppb, the Maximum Contaminant Level for public water supplies and the Statewide Health Standard for groundwater cleanup. TCE contaminated soils on the 13.7-acre former Bishop Tube Company property are the source of the TCE contamination in the groundwater. TCE has also been detected in indoor air in four of five homes selected for indoor air sampling. Volatilization of TCE from groundwater is most likely responsible for these detections. At one home, the concentration of TCE exceeded the Indoor Air Criterion under the Statewide Health Standard of 12 micrograms per cubic meter. TCE attributed to the Site has also been detected in Little Valley Creek, which has been designated as an Exceptional Value stream by the Department.

From 2000-2008, the Department performed surface water, groundwater and soil investigations at the Site. Under the terms of a Consent Order and Agreement with the current Site owner, the Department completed a Prompt Interim Response, installing an air sparging/soil vapor extraction system to address TCE contaminated soil in three source areas at the Site. A former Site owner/operator installed a point of entry treatment system on the residential well that exceeded the MCL for TCE. A group of former Site owners/operators is currently performing a Remedial Investigation to further characterize deep groundwater and offsite contamination, including an assessment of the vapor intrusion pathway. None of the potentially responsible parties have indicated that they are willing to conduct the additional remedial action required at the Site.

*G. Additional Information*

*Bishop Tube Site*

The Department of Environmental Protection, Southeast Regional Office, Stephan Sinding, Environmental Cleanup Program Manager; Ragesh Patel, Chief, Hazardous Sites Cleanup Program; Dustin A. Armstrong, Project Manger, 2 East Main Street, Norristown, PA 19401.

**Table 1  
Sites Being Added by this Notice**

<i>Site</i>	<i>HRS</i>	<i>Municipality</i>	<i>County</i>	<i>Department of Environmental Protection Region</i>
Bishop Tube	40.79	East Whiteland Township	Chester	Southeast

**Table 2  
Pennsylvania Priority List for Remedial Response**

<i>Site</i>	<i>HRS</i>	<i>Municipality</i>	<i>County</i>	<i>Department of Environmental Protection Region</i>
Dupont/New Castle	54.75	New Castle	Lawrence	Northwest
Intercourse TCE	50	Leacock Township	Lancaster	Southcentral
Tomstown TCE	50	Quincy Township	Franklin	Southcentral
Bishop Tube	40.79	East Whiteland Township	Chester	Southeast
Chem Fab HSCA Site	39	Doylestown Borough and Township	Bucks	Southeast
Gettysburg Foundry	38.20	Cumberland Township	Adams	Southcentral
Bear Creek Area Chemical	28.46	Fairview, Parker, Concord Township, Petrolia, Fairview, Karns City, Bruin Borough, Butler County; Perry Township, Armstrong County	Butler, Armstrong	Northwest

<i>Site</i>	<i>HRS</i>	<i>Municipality</i>	<i>County</i>	<i>Department of Environmental Protection Region</i>
Schiller	24.65	Richmond Township	Crawford	Northwest
Mun. and Ind. Disp.	19.58	Elizabeth Township	Allegheny	Southwest

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1693. Filed for public inspection September 10, 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 20, 2010. For background information related 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	23,736 Nitrogen and 2,967 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, aroda@state.pa.us or visit the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Nutrient Trading").

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 10-1694. Filed for public inspection September 10, 2010, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Abstinence Education Program Grant Opportunity

The Department of Health (Department) has submitted part one of a two-part grant application to the Administration for Children and Families in the United States Department of Health and Human Services for the Title V Abstinence Education Program for states for Federal Fiscal Year (FY) 2010. Part one, the Application for Funding, was submitted for the August 30, 2010, deadline, and part two, the Post-Award State Plan, is to be submitted by December 10, 2010.

The Abstinence Education Program (Program) was extended through FY 2014 under the Patient Protection and Affordable Care Act of 2010 (Pub. L. No. 111-148). The purpose of the Program is to enable the state to provide abstinence education, and at the option of the state, when appropriate, mentoring, counseling and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out of wedlock. The Administration for Children and Families in the United States Department of Health and Human Services published the new Program grant guidance for Federal FY 2010, which can be found at <http://www.acf.hhs.gov/grants/open/foa/view/HHS-2010-ACF-ACYF-AEGP-0123>. There are several significant changes in the grant guidance published for Federal FY 2010.

The Department plans to issue a Request for Application (RFA) for institutions and organizations in this Commonwealth as part of the Department's application for Abstinence Education grant funds to the United States Department of Health and Human Services. When released, the Department's RFA, along with any supporting documentation, will be posted at <http://www.emarketplace.state.pa.us>. No questions regarding the RFA will be answered outside of the RFA process.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Amy Rothenberger, Public Health Program Manager at (717) 772-2763, or for speech and/or hearing impaired persons contact V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1695. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P. S. §§ 448.101—448-904b), for exceptions to regulations in 28 Pa. Code Part IV, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decision made on exception requests published in the *Pennsylvania Bulletin* from April, 2010, through June, 2010. Future publications of decision on exception requests will appear on a quarterly basis.

Requests for additional information on the exception requests and the Department's decision should be made to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities shall be addressed to Joanne Salsgiver, Chief, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120. Inquiries regarding long-term care facilities shall be addressed to Susan Williams, Director, Division of Nursing Care Facilities, Room 528, Health and Welfare Building, Harrisburg, PA 17120.

#### Hospitals

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Lansdale Hospital	28 Pa. Code § 51.6	identification of personnel	03/13/10	granted
Waynesboro Hospital	28 Pa. Code § 51.6	identification of personnel	05/15/10	granted
Pinnacle Health Hospitals	28 Pa. Code § 51.6	identification of personnel	07/24/10	granted
Ellwood City Hospital	28 Pa. Code § 51.23	PET scanning services	01/23/10	granted
Lancaster Regional Medical Center	28 Pa. Code § 51.23	PET scanning services	03/13/10	granted
Magee-Womens Hospital UPMC	28 Pa. Code § 101.172	patient limits	12/19/09	granted
Excelsa Health—Frick Hospital	28 Pa. Code § 103.31	chief executive officer	07/24/10	granted
St. Luke's Miners Memorial Hospital	28 Pa. Code § 103.36(b)(4)	personnel records	03/13/10	not necessary
St. Luke's Miners Memorial Hospital	28 Pa. Code § 103.39	personnel health req.	03/13/10	not necessary
Grand View Hospital	28 Pa. Code § 105.1	principle	03/13/10	denied
Lansdale Hospital	28 Pa. Code § 105.1	principle	12/19/09	denied
Williamsport Hospital	28 Pa. Code § 105.11(b)	access	05/15/10	denied
Advanced Surgical Hospital	28 Pa. Code § 107.26(2)	tissue committee	07/24/10	granted
Children's Hospital of Pittsburgh of UPMC	28 Pa. Code § 107.61	written orders	09/26/09	withdrawn
UPMC Passavant	28 Pa. Code § 107.61	written orders	09/26/09	withdrawn
UPMC Braddock	28 Pa. Code § 107.61	written orders	09/26/09	withdrawn
UPMC Horizon	28 Pa. Code § 107.61	written orders	10/10/09	withdrawn
Jefferson Regional Medical Center	28 Pa. Code § 107.61	written orders	03/13/10	withdrawn
Monongahela Valley Hospital	28 Pa. Code § 107.62(b)	oral orders	01/23/10	granted/denied
Select Specialty Hospital Laurel Highlands	28 Pa. Code § 107.62(b)	oral orders	07/24/10	granted
Select Specialty Hospital Johnstown	28 Pa. Code § 107.62(b)	oral orders	07/24/10	granted
Advanced Surgical Hospital	28 Pa. Code § 107.62(b)	oral orders	07/24/10	granted
Memorial Medical Center	28 Pa. Code § 107.64	administration of drugs	07/24/10	granted
Children's Hospital of Philadelphia	28 Pa. Code § 113.15	locked storage	07/24/10	denied
Memorial Hospital, Inc.	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	01/23/10	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Alle-Kiski Medical Center	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	03/13/10	granted
Hahnemann University Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	03/13/10	granted
Lancaster General Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	03/13/10	granted
LifeCare Hospitals of Pittsburgh	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	03/13/10	granted
Western Pennsylvania Hospital Forbes Regional Campus	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	03/13/10	granted
Thomas Jefferson University Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	03/13/10	granted
Corry Memorial Hospital	28 Pa. Code § 123.25(2)	regulation for control of anesthetic explosion hazards	05/15/10	granted
Fox Chase Cancer Center	28 Pa. Code § 123.25(2)	regulation for control of anesthetic explosion hazards	05/15/10	granted
Bucks County Specialty Hospital	28 Pa. Code § 123.25(2)	regulation for control of anesthetic explosion hazards	05/15/10	granted
Tyrone Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	05/22/10	granted
Advanced Surgical Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	07/24/10	granted
Tyrone Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	07/24/10	granted
Jersey Shore Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	07/24/10	granted
Lock Haven Hospital	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	07/24/10	granted
Indiana Regional Medical Center	28 Pa. Code § 123.25(2)	regulations for control of anesthetic explosion hazards	07/24/10	granted
Reading Hospital and Medical Center	28 Pa. Code § 127.32	written orders	03/13/10	granted
Crozer-Chester Medical Center Springfield Hospital and Taylor Hospital	28 Pa. Code § 127.32	written orders	03/14/09	granted
Delaware County Memorial Hospital (DCMH)	28 Pa. Code § 127.32	written orders	03/14/09	granted
Thomas Jefferson University Hospitals, Inc.	28 Pa. Code § 127.32	written orders	01/23/10	granted
Reading Hospital & Medical Cenetr	28 Pa. Code § 127.32	written orders	01/23/10	granted
Wilkes-Barre General Hospital	28 Pa. Code § 127.32	written orders	01/23/10	granted
Chestnut Hill Hospital	28 Pa. Code § 127.32	written orders	01/23/10	granted



<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
UPMC Passavant	28 Pa. Code § 127.32	written orders	03/13/10	granted
Thomas Jefferson University Hospital	28 Pa. Code § 127.32	written orders	03/13/10	granted
Advanced Surgical Hospital, LLC	28 Pa. Code § 127.32	written orders	07/24/10	granted
Children's Hospital of Philadelphia	28 Pa. Code § 127.32	written orders	07/24/10	granted
Tyrone Hospital	28 Pa. Code § 127.32	written orders	07/24/10	granted
Somerset Hospital	28 Pa. Code § 138.1	principle	03/13/10	withdrawn
Gettysburg Hospital	28 Pa. Code § 138.18(b)	EPS studies	03/13/10	granted
Memorial Hospital York	28 Pa. Code § 138.18(b)	EPS studies w/conditions	03/13/10	granted
Children's Hospital of Philadelphia	28 Pa. Code § 147.2	maintenance of safety & sanitation	07/24/10	denied
Pottstown Memorial Medical Center	28 Pa Code § 153.1	2.1-5.5.6.2	01/02/09	denied
DuBois Regional Medical Center Maplevale Road	28 Pa. Code § 153.1	3.1-2.1.3.1 min. floor area	01/26/08	granted
Memorial Medical Center	28 Pa. Code § 153.1	3.4.2.1(1) (room space)	05/30/09	granted
Butler Memorial Hospital	28 Pa. Code § 153.1	3.1.5.2.1 (corridor width); 3.1.5.2.1.2 (ceiling height); 3.1.5.2.1.3 (exits)	09/26/09	granted
Physicians Surgical Center	28 Pa. Code § 153.1	3.7-2.3.1.2 class B operating room size w/conditions	09/26/09	granted
Dr. Mezrow ASF	28 Pa. Code § 153.1	2.3.1.3 size & location; A1.2.1(b) single waiting room; 2.4.2.2 space req.; 2.4.1.2 phase II recovery; 2.5.7.3 gen. equip.; 2.5.7.4 stretcher storage; 2.6.2 staff clothing change; 5.2.1.1 corridor width	12/26/09	not necessary
Dr. Mezrow ASF	28 Pa. Code § 153.1	2.5.7.4 stretcher storage; 2.7.1 outpatient surgery change area	12/26/09	granted
WellSpan Specialty Hospital	28 Pa. Code § 153.1	3.1.5.9(3) stretcher shower; 5.12.3 body-holding room; 5.1 emergency service	01/23/10	not necessary
Berwick Hospital Center	28 Pa. Code § 153.1	3.1.3.2 space requirements	01/23/10	granted
Carlisle Regional Medical Center	28 Pa. Code § 153.1	3.1-5.2.1.1 corridor width	01/23/10	granted
UPMC Mercy Cancer Center	28 Pa. Code § 153.1	3.1-1.63 unrelated traffic	01/23/10	denied
DuBois Regional Medical Center Elk Medical Assoc., Ridgeway	28 Pa. Code § 153.1	3.1-5.2.1.1 corridor width	01/23/10	granted
DuBois Regional Medical Center Elk Medical Assoc., St. Marys	28 Pa. Code § 153.1	3.1-2.1.1.1.1 minimum floor area	01/23/10	granted
Calcagno & Rossi Vein Treatment Center	28 Pa. Code § 153.1	3.1-7.1.4.1 medical gas system; 3.1-7.1.4.2 vacuum system	03/13/10	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Monongahela Valley Hospital	28 Pa. Code § 153.1	3.1.3.1.3.1 (examination location treatment rooms)	03/13/10	granted
UPMC Presbyterian Shadyside— Chronic Pain Center	28 Pa. Code § 153.1	2.1.1 (general purpose exam room(s)); 2.1.1.1 (space requirements); 3.1-5.2.1.1(1) (public corridors); 3.1-2.1.1.1(2) (clearance); 3.1-2.1.7.4 (clean supply closet)	03/13/10	granted/denied
Mercy Tyler Hospital	28 Pa. Code § 153.1	5.3.3.2(2) layout	03/13/10	granted
UPMC Passavant Cranberry	28 Pa. Code § 153.1	2.1-9.2.2.2 (hospital type elevators); 2.1-9.2.3.1 (size of cars)	03/13/10	granted
WellSpan Specialty Hospital	28 Pa. Code § 153.1	A3.1.5.4 (family lounge); 5.5.8 (support areas for imaging unit)	01/23/10	denied
Geisinger Medical Center	28 Pa. Code § 153.1	3.1-2.1.8.1 toilets for patient use	05/15/10	denied
Wellspan Specialty Hospital	28 Pa. Code § 153.1	5.12.3 body holding area; 3.1.5.9(3) stretcher shower; 5.1.2.1 medical eval unit	05/15/10	not necessary
UPMC Presbyterian Shadyside	28 Pa. Code § 153.1	3.1-5.2.1.1(1) public corridor width	05/15/10	granted
Corry Memorial Hospital	28 Pa. Code § 153.1	2.1-3.1.5.9(3) tub room	05/15/10	granted
UPMC Passavant Cranberry	28 Pa. Code § 153.1	2.1-9.2.2.2 hospital-type elevators; 2.1-9.2.3.1 inside dimensions	05/15/10	granted
Soldiers & Sailors Memorial Hospital	28 Pa. Code § 153.1	3.1.7.1 visitors lounge; 3.1.1 exam and treatment room; 3.1.7.1 visitors lounge	05/15/10	granted
York Hospital	28 Pa. Code § 153.1	3.1-2.2.4.1 dressing rooms; 3.1-2.2.4 (support areas)	05/15/10	granted
UPMC Mercy Hospital	28 Pa. Code § 153.1	2.1-5.1.3.7(5)(a) decontamination room	05/15/10	granted
Western Pennsylvania Hospital	28 Pa. Code § 153.1	3.1-2.1.2.1(2) clearances	05/15/10	granted
WellSpan Specialty Hospital	28 Pa. Code § 153.1	5.11.1.2 laboratory procedures	05/15/10	denied
St. Luke's Hospital	28 Pa. Code § 153.1	5.1.2.5(2) counter space for writing	05/15/10	granted
Roxborough Memorial Hospital	28 Pa. Code § 153.1	3.1-3.1.1.1 capacity; 2.3.7 clean workroom/supply room; 2.3.8 soiled workroom/holding room	05/15/10	granted
20/20 Surgery Center	28 Pa. Code § 153.1	3.7-2.4.1.1(1) recovery area	05/15/10	granted
Geisinger Medical Center— Woodbine	28 Pa. Code § 153.1	5.3.5.11 anesthesia workroom; 3.7-2.4.2 Phase II recovery	05/15/10	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Geisinger Medical Center—Woodbine	28 Pa. Code § 153.1	3.7-2.6.3 staff shower	05/15/10	not necessary
American Access Care of SP, LLC	28 Pa. Code § 153.1	3.7-2.6.2 staff changing area; 3.7-3.1-2 medical vacuum	05/22/10	denied
Phoenixville Hospital	28 Pa. Code § 153.1	3.1.5.7 nourishment area; 3.1.5.8 ice machine; 3.1.5.10 clean room; 3.1.5.11 soiled room; 3.1.5.12 clean linen room; 3.1.5.13 janitor's closet; 3.1.7.1 visitor toilet	07/24/10	granted
St Luke's Hospital	28 Pa. Code § 153.1	5.1.2.5(2) counter space for writing	07/24/10	not necessary
Penn State Milton S. Hershey Medical Center	28 Pa. Code § 153.1	5.3.5.11 anesthesia workroom; 5.3.6.2 staff clothing change areas; 2.1-3.1(1) and (2) casting application and removal	07/24/10	granted
Hospital of University of PA	28 Pa. Code § 153.1	3.3.5.8 soiled workroom	07/24/10	granted
Chester County Hospital	28 Pa. Code § 153.1	3.6.2.2.2 privacy	07/24/10	granted
UPMC East	28 Pa. Code § 153.1	2.1-5.3.3.3 Phase II step-down recovery room	07/24/10	denied
UPMC Presbyterian Shadyside Cancer Center—Washington	28 Pa. Code § 153.1	2.1-5.9.2.5(2) hand washing sinks	07/24/10	not necessary
UPMC Presbyterian Shadyside Cancer Center—Washington	28 Pa. Code § 153.1	3.1-5.2.1.1(1) public corridors; 3.1-2.1.1.1 exam space	07/24/10	granted
UPMC Presbyterian Shadyside Cancer Center—Natrona Heights	28 Pa. Code § 153.1	2.1-5.9.2.5(2) hand washing sink	07/24/10	not necessary
UPMC Presbyterian Shadyside Cancer Center—Natrona Heights	28 Pa. Code § 153.1	3.1-5.2.1.1(1) public corridors; 3.1-2.1.1.1 exam space	07/24/10	granted
UPMC Passavant Cancer Center—Beaver	28 Pa. Code § 153.1	12.1-5.9.2.5(2) hand washing sink	07/24/10	not necessary
UPMC Passavant Cancer Center—Beaver	28 Pa. Code § 153.1	3.1-2.1.1.1(1) exam space	07/24/10	granted
UPMC Presbyterian Shadyside Cancer Center—Moon Township	28 Pa. Code § 153.1	2.1-5.9.2.5(2) hand washing sink	07/24/10	not necessary
UPMC Presbyterian Shadyside Cancer Center—Moon Township	28 Pa. Code § 153.1	3.1-5.2.1.1(1) public corridors	07/24/10	granted
UPMC Passavant Cancer Center—Beaver	28 Pa. Code § 153.1	3.1-5.2.1.1(1) exam space corridors	07/24/10	granted
UPMC Presbyterian Shadyside Cancer Center—Moon Township	28 Pa. Code § 153.1	3.1-2.1.1.1(1) exam spaces	07/24/10	granted
<b>Ambulatory Surgical Facilities</b>				
Berkshire Eye Surgery Center	28 Pa. Code § 551.3	definitions	03/13/10	granted
Plaza Surgical Center	28 Pa. Code § 551.3	definitions	03/13/10	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Laser Spine Surgery Center of Pennsylvania	28 Pa. Code § 551.3	definitions	05/15/10	granted
Hillside Endoscopy, LLC	28 Pa. Code § 551.3	definitions	07/24/10	granted
Pittsburgh Center for Reproductive Services	28 Pa. Code § 551.3	definitions	07/24/10	granted
Fairgrounds Surgical Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery	03/07/09	granted
The Neurospine Center, LP	28 Pa. Code § 551.21	criteria for ambulatory surgery	01/23/10	granted
Apple Hill Surgical Center	28 Pa. Code § 551.21(d)(3)	criteria for ambulatory surgery	01/23/10	granted
Clinical Nephrology Assoc., Ltd.	28 Pa. Code § 551.21(d)(1)	criteria for ambulatory surgery	01/23/10	granted
Metropolitan Nephrology Assoc., PC	28 Pa. Code § 551.21(d)(1)	criteria for ambulatory surgery	01/23/10	granted
Renal Endocrine Assoc. PA	28 Pa. Code § 551.21(d)(1)	reconsideration		granted
Associates in Kidney Disease & Hypertension	28 Pa. Code § 551.21(d)(1)	reconsideration		granted
Lee Ambulatory Surgery Facility	28 Pa. Code § 551.21(d)(1)	criteria for ambulatory surgery	03/13/10	granted
Wills Community Surgical Services of Center City, Inc.	28 Pa. Code § 551.21(d)(1)	criteria for ambulatory surgery	05/15/10	denied
West Shore Endoscopy Center	28 Pa. Code § 551.21(d)(1)	criteria for ambulatory surgery	05/15/10	granted
Physicians Surgical Center	28 Pa. Code § 551.21(d)(1)	criteria for ambulatory surgery	05/15/10	denied
Chambersburg Endoscopy Center	28 Pa. Code § 551.31	licensure	05/15/10	granted
Main Line Endoscopy West, East & South	28 Pa. Code § 553.3	governing body responsibilities	05/15/10	denied
Carlisle Regional Medical Center	28 Pa. Code § 553.31	administrative responsibilities	03/13/10	granted
Regional Gastroenterology	28 Pa. Code § 553.31(a)	administrative responsibilities	05/15/10	not necessary
PMA Gastroenterology Center	28 Pa. Code § 553.31(a)	administrative responsibilities	01/23/10	granted
Hillside Endoscopy, LLC	28 Pa. Code § 553.31(a)	administrative responsibilities	07/24/10	granted
Pittsburgh Center for Reproductive Services	28 Pa. Code § 555.31(a)	principle	07/24/10	granted
UPMC St. Margaret	28 Pa. Code § 555.32(a)	admin. of anesthesia	01/23/10	granted
Carlisle Outpatient Surgery Center	28 Pa. Code § 559.1	nursing department	03/28/09	granted
Regional Ambulatory Surgery Center	28 Pa. Code § 559.2	director of nursing	05/15/10	granted
Carlisle Outpatient Surgery Center	28 Pa. Code § 563.2(a) and (b)	organization and staffing	03/28/09	granted
Hanover SurgiCenter, LLC	28 Pa. Code § 567.2	committee responsibilities	03/13/10	granted
Gettysburg Hospital/Wellspan Surgical Center	28 Pa. Code § 569.35	general safety precautions	05/23/09	granted
Dermatology & Cosmetic Surgery Center PC	28 Pa. Code § 569.35	general safety precautions	01/23/10	granted
Physicians' Surgery Center, Lancaster General LLC	28 Pa. Code § 569.35	general safety precautions	01/23/10	granted

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Blue Bell Surgery Center	28 Pa. Code § 569.35	general safety precautions	01/23/10	granted
Pocono Ambulatory Surgery Center	28 Pa Code § 569.35	surgical skin preparations	05/15/10	granted
Laurel Surgical Center, LLC	28 Pa. Code § 569.35	general safety precautions	05/15/10	granted
Lawrence County Surgery Center, Edgewood Surg. Hospital	28 Pa. Code § 569.35	general safety precautions	05/15/10	granted
Aestique	28 Pa. Code § 569.35	general safety precautions	08/22/09	granted
Southwestern Ambulatory Surgery Center, LLC	28 Pa. Code § 569.35	general safety precautions	07/24/10	granted
Greater Erie Surgery Center, LLC	28 Pa. Code § 569.35	general safety precautions	07/24/10	granted
Brandywine Valley Endoscopy Center	28 Pa. Code § 571.1	4.5 examination room	05/15/10	granted
Calcagno and Rossi Vein Surgery Center, LLC	28 Pa. Code § 571.1	(2.4.2) phase II recovery	12/19/09	granted
Pittsburgh Center for Reproductive Services	28 Pa. Code § 571.1	3.7-1.5.2 layout; 3.7-2.5.5 sterilizing; 3.7-2.6.2 staff clothing change areas; 3.7-2.7.1.1 change areas; 3.7-5.2.1.1 corridor width; 3.7-2.5.7.3 general equipment and supply storage	07/24/10	granted
<b>Nursing Care Facilities</b>				
Schuylkill Medical Center South	28 Pa. Code § 201.18(e)	management		Temp. granted
UPMC Horizon Transitional Care	28 Pa. Code § 201.18(e)	management		Temp. granted
UPMC Horizon Transitional Care	28 Pa. Code § 201.18(e)	management		Temp. granted
Washington Cty Health Center	28 Pa. Code § 205.19(b)	windows and windowsills		granted
Sherwood Oaks	28 Pa. Code § 205.67(k)	electric requirements		granted
Laurelwood Care Center	28 Pa. Code § 205.28(b)	nurse's station		granted
Laurelwood Care Center	28 Pa. Code § 205.33(a)	utility room		granted
Vincentian De Marillac	28 Pa. Code § 205.67(k)	electric requirements		granted
Courtyard Gardens Nursing and Rehab. Center	28 Pa. Code § 205.6(a)	function of building		granted
Valley View Nursing Center	28 Pa. Code § 205.6(a)	function of building		granted
Wallingford Nursing and Rehab.	28 Pa. Code § 211.7(c) and (d)	PAs and CRNPs		denied
Manorcare Health Services	28 Pa. Code § 211.7(c) and (d)	PAs and CRNPs		denied
Barbara J. Egan Nursing & Rehab	28 Pa. Code § 205.33(a)(b)	utility room		denied
Millcreek Community Hospital	28 Pa. Code § 211.12(b) and (c)	nursing services		denied
Millcreek Manor	28 Pa. Code § 211.12(b) and (c)	nursing services		denied
Golden Living Center Tunkhannock	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied

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Wayne Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Manorcare Health Services— Allentown	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Chapel Manor	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Garden Spring Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center—Oil City	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Harston Hall	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Liberty Court, Genesis ElderCare	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— King of Prussia	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Lansdale	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Devon Manor	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center—Kinuzua	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center— Phoenixville	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Hillcrest Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Lancaster	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Laureldale	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Mercy	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Mifflin Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Twinbrook Medical Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center— East Mountain	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center—Mansion	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Abington Manor	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Berkshire Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Laurel Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Yeadon	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Rittenhouse Pine Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Pottsville	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Lebanon	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Kingston	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Jersey	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services—W. Hampton House	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Old Orchard Health Care Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Liberty Nursing and Rehab Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied

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ManorCare Health Services— Pottstown	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Sanatoga Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Sinking	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Easton	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Yardley	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Sunbury	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Valley Manor Nursing & Rehab Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Millcreek Manor	28 Pa. Code § 201.18(e)	management		Temp. granted
Millcreek Community Hospital	28 Pa. Code § 201.18(e)	management		Temp. granted
Cherry Tree Nursing Center	28 Pa. Code § 205.67(k)	electric requirements		granted
Golden Living Center— Blue Ridge	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center—Hillview	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center— Meyersdale	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center—Richland	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center— South Hills	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center—Uniontown	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center— West Shore	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Golden Living Center— William Penn	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Bethel	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Camp Hill	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Carlisle	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Dallastown	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— Green	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— North	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
ManorCare Health Services— York	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Manor Care Health Services— York	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Donahoe Manor	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Heartland Health Care Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Shadyside Nursing & Rehab Center	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Sky Vue Terrace	28 Pa. Code § 211.7(c)(d)	PAs and CRNPs		denied
Greenleaf Nursing & Convalescent	28 Pa. Code § 201.3	definitions		granted
Cornwall Manor	28 Pa. Code § 205.6	function of building		granted
Church of the Brethren Home	28 Pa. Code § 205.28(c)(1)	nurses' station		granted
Meadowood	28 Pa. Code § 205.36(h)	bathing facilities		granted
St. Joseph Manor	28 Pa. Code § 211.7(c) and (d)	PAs and CRNPs		denied
The Lafayette—Redeemer	28 Pa. Code § 211.7(c) and (d)	PAs and CRNPs		denied
Sweden Valley Manor	28 Pa. Code § 211.3(a)	oral and telephone orders		granted
Peter Becker Community	28 Pa. Code § 205.10(c)	doors		granted
Asbury Health Center	28 Pa. Code § 205.6(a)	function of building		granted
Woodland Retirement Comm.	28 Pa. Code § 205.6(a)	function of building		granted
Paul's Run	28 Pa. Code § 205.67(k)	electric requirements		granted
Maple Farm	28 Pa. Code § 201.3	definitions		granted
Brookline Manor & Rehab Services	28 Pa. Code § 205.26(a)	laundry services		granted
Peter Becker Community	28 Pa. Code § 205.67(k)	electric requirements		granted
Mountain Top Senior Care & Rehab	28 Pa. Code § 201.3	definitions		granted
Dubois Nursing Home	28 Pa. Code § 205.6(a)	function of building		granted
John J. Kane Regional Center	28 Pa. Code § 201.3	definitions		granted
Slate Belt Nursing & Rehab Center	28 Pa. Code § 205.6	function of building		granted
Fairmount Homes	28 Pa. Code § 205.67(k)	electric requirements		granted
South Fayette Nursing Center	28 Pa. Code § 205.20(d)(f)	resident bedrooms		not required
Foxdale Village	28 Pa. Code § 205.6(a)	function of building		granted

Persons with a disability who require an alternative format of this notice, (for example, large print, audiotape, Braille), should contact the Division of Acute and Ambulatory Care or the Division of Nursing Care Facilities at the previously-referenced address, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1696. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Health Policy Board Meeting Cancellation

The Health Policy Board meeting scheduled for Wednesday, September 15, 2010, in Room 812, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 has been cancelled.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Linda Pavlesich, Bureau of Health Planning at (717) 772-5298, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 10-1697. Filed for public inspection September 10, 2010, 9:00 a.m.]



**Health Research Advisory Committee Meeting**

The Health Research Advisory Committee (Committee) of the Department of Health (Department) will hold a public meeting on November 2, 2010, from 9 a.m. to 4 p.m. at the Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA.

There are three primary aims for the meeting: (1) to hold workshops on commercialization of research; (2) to hear testimony from invited presenters on research needs and priorities; and (3) to discuss State Fiscal Year 2011-2012 health research priorities for the Commonwealth Universal Research Enhancement Program. Current and past State Fiscal Year priorities for both formula funded and nonformula funded health research are posted on the Department's web site (<http://www.health.state.pa.us/cure>).

The meeting is open to the public. No reservations are required to attend the meeting. Only those individuals who have previously submitted written testimony by the June 15, 2010, deadline may have the opportunity to address the Committee.

For additional information, contact Patricia W. Potrzebowski, Ph.D., Director, Bureau of Health Statistics and Research or Violet Witmer, Administrative Officer, Bureau of Health Statistics and Research, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914 or (717) 783-2548.

Persons with disabilities who wish to attend the meeting and requiring an auxiliary aid, service or other accommodation should contact Patricia W. Potrzebowski or Violet Witmer at (717) 783-2548, or for speech and/or hearing impaired persons at 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. 10-1698. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Health Research Advisory Committee Meeting**

The Health Research Advisory Committee (Committee) of the Department of Health (Department) will hold a public meeting on December 8, 2010, from 9 a.m. to 4 p.m. at the Bureau of Health Statistics and Research, Forum Place Building, 555 Walnut Street, 6th Floor, Harrisburg, PA.

There are two primary aims for the meeting: (1) to review the findings of the 2007 nonformula health research projects on violence prevention and regenerative medicine; and (2) to recommend State Fiscal Year 2011-2012 health research priorities for the Commonwealth Universal Research Enhancement Program.

The meeting is open to the public. No reservations are required. The meeting is not a public hearing and therefore public testimony or comments, or both, are not part of the meeting agenda.

For additional information, contact Patricia W. Potrzebowski, Ph.D., Director, Bureau of Health Statistics and Research or Violet Witmer, Administrative Officer, Bureau of Health Statistics and Research, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914 or (717) 783-2548.

Persons with disabilities who wish to attend the meeting and requiring an auxiliary aid, service or other accommodation should contact Patricia W. Potrzebowski or Violet Witmer at (717) 783-2548, or for speech and/or hearing impaired persons at 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. 10-1699. Filed for public inspection September 10, 2010, 9:00 a.m.]

**DEPARTMENT OF REVENUE**

**Mega Millions® Terminal-Based Lottery Game**

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 875.4 (relating to notice of terminal-based lottery game rules), the Secretary of Revenue hereby provides public notice of changes to the Mega Millions® terminal-based lottery game rules that were published at 40 Pa.B. 676 (January 30, 2010).

The following changes to the Mega Millions® terminal-based lottery game will be effective beginning with the September 14, 2010 drawing.

This amendment provides that the Mega Millions® cash and annuity jackpot category prize amounts will be determined by the MUSL Mega Millions® Product Group.

This amendment also enhances the Megaplier® promotion by fixing the second prize category Megaplier® number at a minimum of 4.

The correct version of this document is as follows, with ellipses referring to the existing text as it appeared at 40 Pa.B. 676 and 677:

\* \* \* \* \*

7. Prizes available to be won and determination of prize winners:

\* \* \* \* \*

(b) Determinations of the Mega Millions® prize winners for tickets correctly matching, in the same play, the winning numbers selected by the Mega Millions® drawing officials are:

(1) Holders of tickets upon which the player's five numbers selected from the field of numbers 1 through 56 and the player's one number selected from the field of numbers 1 through 46 matches the Mega Millions® winning numbers, in a single play, for the drawing in which the ticket is entered, shall be the winner of the jackpot category prize. Prize money allocated to the jackpot category prize will be divided into as many shares as there are winning jackpot category prize plays as provided in this section.

(i) The MUSL Mega Millions® Product Group shall determine the annuity jackpot category prize amount and the corresponding cash jackpot prize amount as those amounts are defined in the Product Group's rules.

(ii) The minimum Mega Millions® annuity jackpot category prize shall not be less than \$12 million divided by the number of plays entitled to a jackpot category prize.

(iii) If, in a Mega Millions® drawing, there are no winning Mega Millions® jackpot category prize plays, prize money allocated to that prize category will be carried forward and added to the amount allocated for the jackpot category prize in the next consecutive Mega Millions® drawing.

(iv) If the annuity jackpot category prize divided by the number of Mega Millions® plays matching all the Mega Millions® winning numbers, is equal to or greater than \$1,000,000, the jackpot category prize will be paid as an annuity as described in section 7(b)(1)(v) unless the winner elects to receive the jackpot category prize in a single cash payment provided the election is made by the player within 60 days of the date the Lottery determines that a player is entitled to the jackpot category prize.

(v) Annuity jackpot category prizes shall be paid in 26 consecutive annual installments. The initial payment shall be paid upon completion of internal validation procedures. The subsequent 25 payments shall be paid annually.

(vi) The amount of the jackpot category prize, if paid as a lump-sum cash payment, may be either the cash jackpot category prize amount as determined by the MUSL Mega Millions® Product Group, divided by the number of jackpot category prize winners, or the proceeds of the sale of bonds purchased to fund a particular winner's share of the annuity jackpot category prize amount. A winner has 60 days from the date the Lottery determines that a player is entitled to a jackpot category prize to elect in writing to irrevocably receive payment as a lump-sum cash payment.

(vii) In the event multiple Mega Millions® plays match all the Mega Millions® winning numbers in the same drawing, and the annuity Mega Millions® jackpot category prize divided by the number of winning jackpot category prize game plays is less than \$1,000,000, each Mega Millions® jackpot category prize winner shall be paid a lump-sum cash payment in an amount equal to the cash jackpot prize amount as determined by the MUSL Mega Millions® Product Group, divided equally by the number of jackpot category prize winners.

(viii) If individual shares of the cash held to fund an annuity are less than \$250,000, the MUSL Mega Millions® Product Group, in its sole discretion, may elect to pay the winners their share of the cash allocated for the payment of the jackpot category prize. Prize payments may be rounded to the nearest one thousand dollars.

(ix) In the event of the death of a lottery winner during the annuity payment period, the MUSL Finance & Audit Committee, in its sole discretion excepting a discretionary review by the MUSL Mega Millions® Product Group, may accelerate the payment of all of the remaining lottery proceeds to the estate of the lottery winner. The estate of the lottery winner shall petition the lottery of the jurisdiction in which the deceased lottery winner purchased the winning ticket to request acceleration. If such a determination is made, then securities and/or cash held to fund the deceased lottery winner's annuity prize may be distributed to their estate. The identification of the securities to fund the annuity prize shall be at the sole discretion of the MUSL Finance and Audit Committee or the MUSL Mega Millions® Product Group.

\* \* \* \* \*

10. *Megaplier® promotion.*

\* \* \* \* \*

(d) Mega Millions® tickets that contain the Megaplier® promotion and one or more plays eligible for Mega Millions® set prizes, but not the jackpot category prize, identified in section 7 (relating to prizes available to be won and determination of prize winners), shall be entitled to a total set prize calculated by multiplying each Mega Millions® set prize by the Megaplier® number selected for the drawing in which the ticket was entered. The second prize category Megaplier® number will be fixed at a minimum of 4.

\* \* \* \* \*

12. Claims arising from Mega Millions® sales occurring in the Commonwealth shall be resolved exclusively with the Pennsylvania Lottery according to the laws of Pennsylvania. Conflicts between the MUSL Mega Millions® Product Group rules and the Mega Millions® game rules as published in the *Pennsylvania Bulletin* shall be resolved in favor of the MUSL Mega Millions® Product Group rules.

\* \* \* \* \*

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1700. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Pennsylvania Monopoly™ 2010 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 Monopoly™ 2010.

2. *Price:* The price of a Pennsylvania Monopoly™ 2010 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Monopoly™ 2010 instant lottery game ticket will contain one play area containing twelve play symbols. The play symbols and their captions located in the play area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTY), 14 (FORTY), 15 (FIFTY), 16 (SIXTY), 17 (SEVENTY), 18 (EIGHTY), 19 (NINETY), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE), 24 (TWENTYFOUR), 25 (TWENTYFIVE), 26 (TWENTYSIX), 27 (TWENTYSEVEN), 28 (TWENTYEIGHT), 29 (TWENTYNINE), 30 (THIRTY), Top Hat (TOPHAT) symbol, 75 Burst (75ANV) symbol and a Money Bag (MNYBAG) symbol.

4. *Prize Symbols:* The prize symbols and their captions, located in the twelve "prize" areas are: \$5.00 (FIV DOL), \$10.00 (TEN DOL), \$15.00 (FIFTN), \$20.00 (TWENTY), \$25.00 (TWY FIV), \$75.00 (SVY FIV), \$100 (ONE HUN), \$300 (THR HUN), \$750 (SVNHUNFTY), \$1,000 (ONE THO), \$7,500 (SVNFIVHUN) and \$75,000 (SVYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$15, \$20, \$25, \$75, \$100, \$300, \$750, \$1,000, \$7,500 and \$75,000. The player can win up to 12 times on the ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Monopoly™ 2010 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$75,000 (SVYFIVTHO) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$75,000.

(b) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$7,500 (SVNFIVHUN) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$7,500.

(c) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$75<sup>.00</sup> (SVY FIV) appears in eight of the “prize” areas and a prize symbol of \$100 (ONE HUN) appears in four of the “prize” areas, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$750 (SVNHUNFTY) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$750.

(f) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in five of the “prize” areas and a prize symbol of \$100 (ONE HUN) appears in seven of the “prize” areas, on a single ticket, shall be entitled to a prize of \$750.

(g) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$20<sup>.00</sup> (TWENTY) appears in five of the “prize” areas, a prize symbol of \$75 (SVY FIV) appears in two of the “prize” areas, and a prize symbol of \$100 (ONE HUN) appears in five of the “prize” areas, on a single ticket, shall be entitled to a prize of \$750.

(h) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$300 (THR HUN) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$300.

(i) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in ten of the “prize” areas and a prize symbol of \$100 (ONE HUN) appears in two of the “prize” areas, on a single ticket, shall be entitled to a prize of \$300.

(j) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$25<sup>.00</sup> (TWY FIV) appears in twelve of the “prize” areas, on a single ticket, shall be entitled to a prize of \$300.

(k) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in ten of the “prize” areas and a prize symbol of \$25<sup>.00</sup> (TWY FIV) appears in two of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$75<sup>.00</sup> (SVY FIV) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$75.

(n) Holders of tickets with a 75 Burst (75ANV) symbol in the play area, on a single ticket, shall be entitled to a prize of \$75.

(o) Holders of tickets with a Money Bag (MNYBAG) symbol in the play area, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in nine of the “prize” areas and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in three of the “prize” areas, on a single ticket, shall be entitled to a prize of \$75.

(p) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$25<sup>.00</sup> (TWY FIV) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$25.

(q) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$20<sup>.00</sup> (TWENTY) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$15<sup>.00</sup> (FIFTN) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$15.

(s) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$10.

(t) Holders of tickets with a Top Hat (TOPHAT) symbol in the play area, and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in the “prize” area under that Top Hat (TOPHAT) symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Reveal A Top Hat Symbol, Win Prize Shown Under That Symbol. Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 7,200,000 Tickets</i>
\$5	\$5	8	900,000
\$5 × 2	\$10	40	180,000
\$10	\$10	30	240,000

Reveal A Top Hat Symbol, Win Prize Shown Under That Symbol. Win With Prize(s) Of:

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 7,200,000 Tickets	
\$5 × 3	\$15	200	36,000
\$10 + \$5	\$15	200	36,000
\$15	\$15	150	48,000
\$5 × 4	\$20	600	12,000
\$10 × 2	\$20	300	24,000
\$20	\$20	300	24,000
\$5 × 5	\$25	600	12,000
\$15 + \$10	\$25	600	12,000
\$20 + \$5	\$25	600	12,000
\$25	\$25	300	24,000
MONEY BAG w/(\$5 × 9) + (\$10 × 3)	\$75	100	72,000
\$15 × 5	\$75	600	12,000
\$25 × 3	\$75	600	12,000
\$75	\$75	300	24,000
MONEY BAG w/(\$5 × 10) + (\$25 × 2)	\$100	13,333	540
\$10 × 10	\$100	40,000	180
\$20 × 5	\$100	40,000	180
75 BURST w/\$75 + \$25	\$100	8,571	840
\$100	\$100	17,143	420
MONEY BAG w/(\$25 × 12)	\$300	40,000	180
MONEY BAG w/(\$10 × 10) + (\$100 × 2)	\$300	40,000	180
75 BURST w/(\$75 × 4)	\$300	40,000	180
\$100 × 3	\$300	60,000	
120			
\$300	\$300	40,000	180
MONEY BAG w/(\$20 × 5) + (\$75 × 2) + (\$100 × 5)	\$750	60,000	120
MONEY BAG w/(\$10 × 5) + (\$100 × 7)	\$750	60,000	120
75 BURST w/(\$75 × 6) + (\$100 × 3)	\$750	40,000	180
75 BURST w/(\$75 × 10)	\$750	60,000	120
\$750	\$750	60,000	120
MONEY BAG w/(\$75 × 8) + (\$100 × 4)	\$1,000	120,000	60
(\$25 × 10) + \$750	\$1,000	120,000	60
(\$100 × 4) + 75 BURST w/(\$75 × 4) + \$300	\$1,000	120,000	60
\$1,000	\$1,000	60,000	120
\$750 × 10	\$7,500	480,000	15
\$7,500	\$7,500	480,000	15
\$75,000	\$75,000	720,000	10

Get a "75 BURST" (75ANV) symbol, win \$75 instantly.

Get a "MONEY BAG" (MNYBAG) symbol, win all 12 prizes shown.

Non-winning Pennsylvania Monopoly™ 2010 instant lottery tickets may be entered in promotional drawings via the Lottery's web site (<http://www.palottery.com>) for a chance to win bonus prizes as determined by the Secretary and announced on the Lottery's web site. These prizes are not part of the Prize Structure and are provided to the Pennsylvania Lottery at no charge.

Entries submitted via the Lottery's web site must be submitted from a computer within Pennsylvania.

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 Monopoly™ 2010 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 Monopoly™ 2010, prize money from winning Pennsylvania Monopoly™ 2010 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 Monopoly™ 2010 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Monopoly™ 2010 or through normal communications methods.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 10-1701. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Pennsylvania Monster Cash Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Monster Cash.

2. *Price:* The price of a Pennsylvania Monster Cash instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Monster Cash instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR) and 25 (TWYFIV). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), Bat (BAT) symbol and Monster (MONSTER) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “YOUR NUMBERS” area are: \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$25<sup>00</sup> (TWY FIV), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000 and \$50,000. A player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 3,600,000 tickets will be printed for the Pennsylvania Monster Cash instant lottery game.

#### 7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Bat (BAT) symbol, and a prize symbol of \$500 (FIV HUN) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Monster (MONSTER) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Monster (MONSTER) symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Monster (MONSTER) symbol, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the Monster (MONSTER) symbol, on a single ticket, shall be entitled to a prize of \$250.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Bat (BAT) symbol, and a prize symbol of \$100 (ONE HUN) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$200.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Bat (BAT) symbol, and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Monster (MONSTER) symbol, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the Monster (MONSTER) symbol, on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Bat (BAT) symbol, and a prize symbol of \$25<sup>00</sup> (TWY FIV) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$50.

(n) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Monster (MONSTER) symbol, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under the Monster (MONSTER) symbol, on a single ticket, shall be entitled to a prize of \$50.

(o) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40<sup>00</sup> (FORTY) appears under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Bat (BAT) symbol, and a prize symbol of \$20<sup>00</sup> (TWENTY) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$40.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25.<sup>00</sup> (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Monster (MONSTER) symbol, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the Monster (MONSTER) symbol, on a single ticket, shall be entitled to a prize of \$25.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Bat (BAT) symbol, and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$20.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Bat (BAT) symbol, and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the Bat (BAT) symbol, on a single ticket, shall be entitled to a prize of \$10.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any Of Your Numbers Match Any Of The Winning Numbers, Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 3,600,000 Tickets:</i>
\$5	\$5	8.57	420,000
\$5 × 2	\$10	60	60,000
\$5 w/BAT	\$10	30	120,000
\$10	\$10	60	60,000
\$10 w/BAT	\$20	120	30,000
\$20	\$20	120	30,000
\$5 w/MONSTER	\$25	120	30,000
\$25	\$25	120	30,000
\$5 × 8	\$40	600	6,000
(\$5 w/MONSTER) + (\$5 × 3)	\$40	600	6,000
\$10 × 4	\$40	600	6,000
\$20 w/BAT	\$40	600	6,000
\$40	\$40	600	6,000
\$5 × 10	\$50	600	6,000
\$10 w/MONSTER	\$50	600	6,000
(\$20 × 2) + (\$5 × 2)	\$50	600	6,000
\$25 w/BAT	\$50	600	6,000
\$50	\$50	600	6,000
\$10 × 10	\$100	1,714	2,100
\$20 w/MONSTER	\$100	1,714	2,100
\$25 × 4	\$100	1,714	2,100
\$50 × 2	\$100	1,714	2,100
\$50 w/BAT	\$100	1,538	2,340
\$100	\$100	1,600	2,250
\$40 × 10	\$400	12,000	300
(\$50 w/MONSTER) + (\$50 × 3)	\$400	12,000	300
(\$100 w/BAT) + (\$100 × 2)	\$400	12,000	300
\$400	\$400	12,000	300
\$50 × 10	\$500	30,000	120
\$100 × 5	\$500	30,000	120
(\$100 w/BAT) + (\$100 × 3)	\$500	30,000	120
\$100 w/MONSTER	\$500	30,000	120
\$500	\$500	30,000	120
\$500 w/BAT	\$1,000	60,000	60
\$1,000	\$1,000	60,000	60
\$50,000	\$50,000	360,000	10

Reveal a "BAT" (BAT) symbol, win double the prize shown under it.

Reveal a "MONSTER" (MONSTER) symbol, win 5 times the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Monster Cash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Monster Cash, prize money from winning Pennsylvania Monster Cash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Monster Cash instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania Monster Cash or through normal communications methods.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 10-1702. Filed for public inspection September 10, 2010, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Pedalcycle and Pedestrian Advisory Committee Meeting

The Pedalcycle and Pedestrian Advisory Committee will hold a meeting on Thursday, September 23, 2010, from 1 p.m. to 3 p.m. in Conference Room 125D, Commonwealth Keystone Building, Harrisburg, PA. For more information, contact Brian Sanders at (717) 783-6193 or bsanders@state.pa.us.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 10-1703. Filed for public inspection September 10, 2010, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### 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

Reg. No.	Agency/Title	Received	Tolled	Resubmitted	Public Meeting
18-409	Department of Transportation Air Transportation	7/21/10	8/20/10	8/20/10	9/16/10

Reg. No.	Agency/Title	Received	Public Meeting
14-518	Department of Public Welfare Revisions to the Special allowance for Supportive Requirements; Road to Economic Self-sufficiency through Employment and Training (RESET) Program	8/25/10	10/7/10

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 10-1704. Filed for public inspection September 10, 2010, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Alleged Violation of Insurance Laws; Jay A. Cohen; Doc. No. SC10-08-013

Notice is hereby given of the Order to Show Cause issued on August 27, 2010, by the Deputy Insurance

Commissioner in the previously-referenced matter. Violation of the following is alleged: 40 P.S. § 310.11(2), (4), (7) and (20); and 40 P.S. § 625-3.

Respondent was ordered to file a written answer to the Order to Show Cause within 20 days. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and

701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the previously-referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Donna Fleischauer, Disability Services Coordinator at (717) 787-4298.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 10-1705. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Alleged Violation of Insurance Laws; William A. Burgunder; Doc. No. SC10-08-017**

Notice is hereby given of the Order to Show Cause issued on August 31, 2010, by the Deputy Insurance Commissioner in the previously-referenced matter. Violation of the following is alleged: section 611-A(1), (3), (7), (13) and (20) of The Insurance Department Act of 1921 (40 P. S. § 10.11(1), (3), (7), (13) and (20)); and 31 Pa. Code §§ 37.46 and 37.47 (relating to standards for denial of certificate/license; and revocation, suspension, nonrenewal of certificates and licenses).

Respondent was ordered to file a written answer to the Order to Show Cause within 20 days. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the previously-referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Donna Fleischauer, Disability Services Coordinator at (717) 787-4298.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1706. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Highmark Blue Shield; PPACA Reform Changes; Applicability—Medically Underwritten PPOBlue High Deductible Health Plan (Central Pennsylvania); Rate Filing**

On August 25, 2010, the Insurance Department (Department) received a filing from Highmark Blue Shield requesting approval to add a Tier 4 to its PPOBlue High Deductible Health Plan to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010. The filing will be effective November 1, 2010.

Unless formal administrative action is taken prior to November 24, 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."

Copies of the filing are 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 comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1707. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Highmark Blue Cross Blue Shield; PPACA Reform Changes; Applicability—Medically Underwritten PPOBlue High Deductible Health Plan (Western Pennsylvania); Rate Filing**

On August 25, 2010, the Insurance Department (Department) received a filing from Highmark Blue Cross Blue Shield requesting approval to add a Tier 4 to its PPOBlue High Deductible Health Plan to reflect the anticipated cost of the Patient Protection and Affordable Care Act, signed into law on March 23, 2010. The filing will be effective November 1, 2010.

Unless formal administrative action is taken prior to November 24, 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."

Copies of the filing are 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 comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1708. Filed for public inspection September 10, 2010, 9:00 a.m.]



**Highmark, Inc., d/b/a Highmark Blue Shield; Direct Pay Guaranteed Issue PPO High Deductible Health Plans (Central Region); Filing No. 1A-HDHP/CDP/GI-10-HBS; Rate Filing**

On August 30, 2010, the Insurance Department (Department) received from Highmark Blue Shield a filing for a rate increase and benefit changes for its Direct Pay Guaranteed Issue PPO High Deductible Health Plans (Central Region).

The company requests a 14.2% increase or \$78.31 per contract per month on average. This will affect about 1,200 contract holders and will produce additional income of about \$1,152,000 annually. The requested effective date of the change is January 1, 2011.

Unless formal administrative action is taken prior to November 17, 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 J. Sabater, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [jsabater@state.pa.us](mailto:jsabater@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1709. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Highmark, Inc., d/b/a Highmark Blue Shield; Direct Pay Guaranteed Issue PPO High Deductible Health Plans (Western Region); Filing No. 1A-HDHP/WDP/GI-10-HBS; Rate Filing**

On August 30, 2010, the Insurance Department (Department) received from Highmark Blue Shield a filing for a rate increase and benefit changes for its Direct Pay Guaranteed Issue PPO High Deductible Health Plans (Central Region).

The company requests a 14.2% increase or \$92.06 per contract per month on average. This will affect about 1,200 contract holders and will produce additional income of about \$1,344,000 annually. The requested effective date of the change is January 1, 2011.

Unless formal administrative action is taken prior to November 17, 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 J. Sabater, Insurance Department, Insurance Product Regulation,

1311 Strawberry Square, Harrisburg, PA 17120, [jsabater@state.pa.us](mailto:jsabater@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1710. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Independence Blue Cross; Rate Increase Filing for Medicare Supplement Form**

By filing No. 12-P-10, Independence Blue Cross requests approval to increase its premium rates for its Security65 Plan C product for issues prior to June 1, 2010. The filing requests an overall increase of about 6.7% or \$6.90 PMPM. This will affect about 32,600 members and produce additional premium income of about \$225,000 per month. The requested effective date of these changes is January 1, 2011.

Unless formal administrative action is taken prior to November 24, 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). Under the tab "How to Find . . ." click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1711. Filed for public inspection September 10, 2010, 9:00 a.m.]

**Independence Blue Cross; Rate Increase Filing for Medicare Supplement Form**

By filing No. 12-P-10, Independence Blue Cross requests approval to increase its premium rates for its Security65 Plan H (without Rx benefits) product for issues prior to June 1, 2010. The filing requests an overall increase of about 7.2% or \$7.25 PMPM. This will affect about 2,200 members and produce additional premium income of about \$16,000 per month. The requested effective date of these changes is January 1, 2011.

Unless formal administrative action is taken prior to November 24, 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). Under the tab "How to Find . . ." click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120,

mgurgiolo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1712. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Independence Blue Cross; Rate Increase Filing for Medicare Supplement Form

By filing No. 13-P-10, Independence Blue Cross requests approval to increase its premium rates for its Medigap Security Plan C product for issues on or after June 1, 2010. The filing requests an overall increase of about 6.7% or \$7.80 PMPM. This will affect about 900 members and produce additional premium income of about \$7,000 per month. The requested effective date of these changes is January 1, 2011.

Unless formal administrative action is taken prior to November 24, 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). Under the tab "How to Find . . ." click on the link "Current Rate Filings."

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Actuary, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, mgurgiolo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1713. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Insurance Services Office, Inc.; Homeowners Loss Cost Revision; Rate Filing

On August 23, 2010, the Insurance Department (Department) received from Insurance Services Office, Inc. a filing for a proposed loss cost level change for homeowners insurance.

The advisory organization requests an overall 6.4% increase in loss costs effective March 1, 2011.

Unless formal administrative action is taken prior to October 22, 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."

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

ROBERT L. PRATTER,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 10-1714. Filed for public inspection September 10, 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 27, 2010. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

**A-2010-2195541. Discount Cab Service, LLC** (6000 Chambers Hill Road, Apt. 2, Harrisburg, Dauphin County, PA 17111)—a limited liability corporation of the Commonwealth—in call or demand service, in Berks County. *Attorney:* Matthew Totino, 800 North 3rd Street, Suite 101, Harrisburg, PA 17102-2025.

**A-2010-2196309. M&M Limousine Service, Inc.** (451 Stoystown Road, Somerset, Somerset County, PA 15501)—persons, in group and party service, in vehicles seating 11 to 15 passengers, from points in the Counties of Cambria, Somerset and Westmoreland, to points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Steven K. Haas, Hawke, McKeon & Sniscak, LLP, 100 North Tenth Street, Harrisburg, PA 17101.

#### Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.

**A-2010-2195556. Pranzare, LLC** (2132 Ferncraft Lane, Chester Springs, Chester County, PA 19425), a limited liability company of the Commonwealth—for the right to transport, as a common carrier, by motor vehicle, persons in paratransit service, between points in the Township of Uwchlan, Chester County, and within an airline distance of 30 statute miles of the limits thereof; which is to be a transfer of all of the operating rights under the certificate issued at A-00118512, F.1, Am-A, to Restaurant Valet, LLC, subject to the same limitations and conditions. *Attorney:* David P. Temple, Esquire, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

#### 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-2010-2195224. McHenry's Transportation, LLC** (220 Reinaker Road, Danville, Montour County, PA 17821) discontinuance of service—persons, in paratransit service, from points in the Counties of Montour and Columbia, to

points in Pennsylvania, and return, subject to the following condition: (1) Each vehicle on each trip shall contain not less than six passengers and not more than 14 passengers, excluding the driver and shall be to a single destination located outside the Counties of Montour and Columbia.

*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Atibas Taxicab Co.;  
Doc. No. C-2010-2128639, A-00103391*

#### 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 Atibas Taxicab Co., Respondent, maintains a principal place of business at 5029 Cedar Avenue, Philadelphia, PA 19143.

2. That Respondent was issued a Certificate of Public Convenience by this Commission on April 11, 1988, A-00103391.

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 Atibas Taxicab 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.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1715. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195555. Citizens Telephone Company of Kecksburg and CTC Communications Corporation.** Joint petition of Citizens Telephone Company of Kecksburg and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Citizens Telephone Company of Kecksburg and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Citizens Telephone Company of Kecksburg and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1716. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195534. Citizens Telephone Company of Kecksburg and Choice One Communications of Pennsylvania, Inc.** Joint petition of Citizens Telephone Company of Kecksburg and Choice One Communications of Pennsylvania, Inc., for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Citizens Telephone Company of Kecksburg and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Citizens Telephone Company of Kecksburg and Choice One Communications of Pennsylvania, Inc., joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1717. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195518. Hickory Telephone Company and CTC Communications Corporation.** Joint petition of Hickory Telephone Company and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Hickory Telephone Company and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Hickory Telephone Company and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1718. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195406. Hickory Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Hickory Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Hickory Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Hickory Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1719. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195690. Ironton Telephone Company and CTC Communications Corp.** Joint petition of Ironton Telephone Company and CTC Communications Corp. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Ironton Telephone Company and CTC Communications Corp., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Ironton Telephone Company and CTC Communications Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1720. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195263. Ironton Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Ironton Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Ironton Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Ironton Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1721. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195503. Lackawaxen Telecommunications Services, Inc. and CTC Communications Corporation.** Joint petition of Lackawaxen Telecommunications Services, Inc. and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Lackawaxen Telecommunications Services, Inc. and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Lackawaxen Telecommunications Services, Inc. and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1722. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195468. Lackawaxen Telecommunications Services, Inc. and Choice One Communications of Pennsylvania, Inc.** Joint petition of Lackawaxen Telecommunications Services, Inc. and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Lackawaxen Telecommunications Services, Inc. and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Lackawaxen Telecommunications Services, Inc. and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1723. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195489. Laurel Highland Telephone Company and CTC Communications Corporation.** Joint petition of Laurel Highland Telephone Company and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Laurel Highland Telephone Company and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Laurel Highland Telephone Company and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1724. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195455. Laurel Highland Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Laurel Highland Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Laurel Highland Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Laurel Highland Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1725. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195692. North Penn Telephone Company and CTC Communications Corp.** Joint petition of

North Penn Telephone Company and CTC Communications Corp. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

North Penn Telephone Company and CTC Communications Corp., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the North Penn Telephone Company and CTC Communications Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1726. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195480. North Penn Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of North Penn Telephone Company and Choice One Communications of Pennsylvania, Inc., for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

North Penn Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the North Penn Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1727. Filed for public inspection September 10, 2010, 9:00 a.m.]

### Telecommunications

**A-2010-2195481. Palmerton Telephone Company and CTC Communications Corporation.** Joint petition of Palmerton Telephone Company and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Palmerton Telephone Company and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Palmerton Telephone Company and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1728. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195428. Palmerton Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Palmerton Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Palmerton Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Palmerton Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1729. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195425. Pennsylvania Telephone Company and CTC Communications Corp.** Joint petition of Pennsylvania Telephone Company and CTC Communications Corp., for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Pennsylvania Telephone Company and CTC Communications Corp., by its counsel, filed on August 23, 2010, at

the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Pennsylvania Telephone Company and CTC Communications Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1730. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195420. Pennsylvania Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Pennsylvania Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Pennsylvania Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Pennsylvania Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1731. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195530. Pymatuning Independent Telephone Company and CTC Communications Corporation.** Joint petition of Pymatuning Independent Telephone Company and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Pymatuning Independent Telephone Company and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility

Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Pymatuning Independent Telephone Company and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1732. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195601. Pymatuning Independent Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Pymatuning Independent Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Pymatuning Independent Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Pymatuning Independent Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1733. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195502. South Canaan Telephone Company and CTC Communications Corp.** Joint petition of South Canaan Telephone Company and CTC Communications Corp., for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

South Canaan Telephone Company and CTC Communications Corp., by its counsel, filed on August 23, 2010, at

the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the South Canaan Telephone Company and CTC Communications Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1734. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195456. South Canaan Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of South Canaan Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

South Canaan Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the South Canaan Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1735. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195482. Venus Telephone Corporation and CTC Communications Corporation.** Joint petition of Venus Telephone Corporation and CTC Communications Corporation for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Venus Telephone Corporation and CTC Communications Corporation, by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission



(Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Venus Telephone Corporation and CTC Communications Corporation joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1736. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195435. Venus Telephone Corporation and Choice One Communications of Pennsylvania, Inc.** Joint petition of Venus Telephone Corporation and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Venus Telephone Corporation and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Venus Telephone Corporation and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1737. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195408. Yukon-Waltz Telephone Company and CTC Communications Corp.** Joint petition of Yukon-Waltz Telephone Company and CTC Communications Corp. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Yukon-Waltz Telephone Company and CTC Communications Corp., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Yukon-Waltz Telephone Company and CTC Communications Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1738. Filed for public inspection September 10, 2010, 9:00 a.m.]

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### Telecommunications

**A-2010-2195728. Yukon-Waltz Telephone Company and Choice One Communications of Pennsylvania, Inc.** Joint petition of Yukon-Waltz Telephone Company and Choice One Communications of Pennsylvania, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Yukon-Waltz Telephone Company and Choice One Communications of Pennsylvania, Inc., by its counsel, filed on August 23, 2010, at the Pennsylvania Public Utility Commission (Commission), a joint petition for the approval of the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Yukon-Waltz Telephone Company and Choice One Communications of Pennsylvania, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 10-1739. Filed for public inspection September 10, 2010, 9:00 a.m.]

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## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 10-058.P, Mustin Field Housing Demolition Site Clean-Up until 2 p.m. on Thursday, October 14, 2010. All information concerning this project can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) under Procurement, or call the Procurement Department at (215) 426-2600.

JAMES T. McDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 10-1740. Filed for public inspection September 10, 2010, 9:00 a.m.]

## STATE BOARD OF COSMETOLOGY

**Bureau of Professional and Occupational Affairs v.  
Dawn B. Yost; Doc. No. 1304-45-10; File 10-45-  
05745**

On July 7, 2010, Dawn B. Yost, license no. CO269730 of Mount Joy, Lancaster County, was suspended under the Order of the Court of Common Pleas of Lancaster County dated June 29, 2010, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

SUSANNE M. PHILO,  
*Chairperson*

[Pa.B. Doc. No. 10-1741. Filed for public inspection September 10, 2010, 9:00 a.m.]

## STATE BOARD OF DENTISTRY

**Bureau of Professional and Occupational Affairs v.  
Cheron K. Griffin; Doc. No. 1359-46-10; File  
10-46-06045**

On July 14, 2010, Cheron K. Griffin, license no. DH011544L of Brooklyn, NY, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated July 8, 2010, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

JOHN V. REITZ, D.D.S.,  
*Chairperson*

[Pa.B. Doc. No. 10-1742. Filed for public inspection September 10, 2010, 9:00 a.m.]

## STATE BOARD OF MEDICINE

**Bureau of Professional and Occupational Affairs v.  
Esther Lapena Foliente, MD; Doc. No. 0817-49-10**

On July 15, 2010, Esther Lapena Foliente, MD, license no. MD033231L, of Chicago, IL, had her Pennsylvania license indefinitely suspended based on disciplinary action taken against her license by the proper licensing authority of another state.

Individuals may obtain a copy of the final order by writing to Sabina I. Howell, Board Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the State Board of Medicine's (Board) final decision in this matter. It may be

appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court, must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

CAROL E. ROSE, MD,  
*Chairperson*

[Pa.B. Doc. No. 10-1743. Filed for public inspection September 10, 2010, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v.  
Elizabeth P. Landis; Doc. No. 1246-51-10; File  
10-51-05573**

On June 30, 2010, Elizabeth M. Landis, license no. RN334327L of Philadelphia, Philadelphia County, was suspended under the Order of the Court of Common Pleas of Philadelphia County dated June 25, 2010, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

ANN L. O'SULLIVAN, Ph.D., FAAN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 10-1744. Filed for public inspection September 10, 2010, 9:00 a.m.]

## STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

**Bureau of Professional and Occupational Affairs v.  
Robert A. Snaveley; Doc. No. 1358-60-10; File  
10-60-06084**

On July 14, 2010, Robert A. Snaveley, license no. MV161580L of Harrisburg, Dauphin County, was suspended under the Order of the Court of Common Pleas of Dauphin County dated July 7, 2010, which the court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649.

KENNETH GLOTFELTY,  
*Chairperson*

[Pa.B. Doc. No. 10-1745. Filed for public inspection September 10, 2010, 9:00 a.m.]

# STATE CHARTER SCHOOL APPEAL BOARD

## Schedule of Meetings

The State Charter School Appeal Board (Board) will meet as follows:

September 28, 2010	11 a.m.	Honors Suite
October 26, 2010	1 p.m.	Honors Suite
December 14, 2010	1 p.m.	Honors Suite
January 25, 2011	1 p.m.	Honors Suite
March 29, 2011	1 p.m.	Honors Suite

April 26, 2011	1 p.m.	Honors Suite
June 7, 2011	1 p.m.	Honors Suite

Unless due and timely notice to the contrary is given, these meetings will be held in the Honors Suite on the First Floor or Heritage Room A, Lobby Level of the Education Building, 333 Market Street, Harrisburg, PA.

Persons with disabilities needing special accommodations to attend the meetings may contact Ernest Helling, Counsel to the Board, at the 9th Floor, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-5500 or Pennsylvania AT&T Relay Service, (800) 654-5984 at least 24 hours in advance so that arrangements can be made.

ERNEST N. HELLING,  
*Board Counsel*

[Pa.B. Doc. No. 10-1746. Filed for public inspection September 10, 2010, 9:00 a.m.]

## STATE CONSERVATION COMMISSION

### Action on Odor Management Plans for Concentrated Animal Operations, and Concentrated Animal Feeding Operations and Volunteers Complying with Pennsylvania's Facility Odor Management Program

The State Conservation Commission has taken the following actions on previously received applications for Odor Management Plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), 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, so individuals interested in challenging this action 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.

#### Odor Management Plan—Public Notice Spreadsheet—Actions

<i>Ag Operation Name, Address</i>	<i>County/Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New or Amended</i>	<i>Action Taken</i>
Philadelphia Park Casino and Racetrack 3001 Street Road Bensalem, PA 19020	Bensalem Township Buck County	0	Horse	New	Approved
Clair Martin 354 Oak Haven Road Fleetwood, PA 19522	Richmond Township Berks County	177.3	Broilers	New	Approved
Ben and Becky Spickler Hunter's Junction Road Dornsife, PA 17823	Washington Township Northumberland County	160.27	Broilers	New	Approved
W. Kreider & Sons, LLP 1461 Lancaster Road Manheim, PA 17545	Lower Swartara Township Dauphin County	6,911	Layers	New	Approved

JOHN HANGER,  
*Chairperson*

[Pa.B. Doc. No. 10-1747. Filed for public inspection September 10, 2010, 9:00 a.m.]

